



A STUDY OF THE FEASIBILITY OF EQUIPPING FINANCIAL RESOURCES FOR INTEREST-FREE FACILITIES THROUGH ENDOWMENT

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Abstract:

In the Islamic banking system, giving interest-free loans which is aimed at the improvement of the livelihood and economy of the needy strata requires sufficient financial resources. Considering the large numbers of applicants of interest-free loans coupled with the shortage of financial resources, we must begin to think towards the strengthening of the mentioned resources. On the other hand, the financial institute of endowment which pursues a goal similar to interest-free facilities', and both official and nonofficial reports give an indication of undesirability of the efficiency of endowed resources in Islamic societies (due to various reasons including different cultures and systems of administration and exploitation of endowments) can support interest-free-loan affairs. As the results of various studies in various societies show that nowadays in some Islamic societies, the highness of the efficiency of endowed resources is considered as a column of research advances and, growth of welfare and economic indices as well. on this basis, in the present study we have tried to identify certain ignored capacities such as endowment as well as investigating them in the forms of following subjects in order to both be able to prevent the loss of endowed resources, and to take a positive step towards the improvement of effectiveness of endowment and interest-free-lending: using the sales price of endowed properties in the interval between the sale of old endowed properties and procurement of new endowed properties in interest-free-loan section, endowment of the interests of financial properties such as stocks, and nonfinancial properties for interest-free-loan purposes,

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endowment of monetary interests for good and interest-free-lending purposes, and exploitation of another series of endowed financial resources in interest-free-lending.

Keywords: endowment, interest-free-loan, equipment of financial resources, endowment of interests, endowment of stocks, endowment of money, endowed resources and revenues

1. Introduction

By reviewing the religious verses and references in the domain of economy it becomes clear that elimination of poverty and social injustices are considered as two crucial goals of Islamic systems. On this basis, in every Islamic society, there is a need to adjust the entire economic and financial relations in a way that they are enabled to move towards the satisfaction of the goals of Islam; in addition, an Islamic economy cannot be indifferent to these goals. Islamic banking and financing must pay special attentions to social goals such as elimination of poverty and empowerment of low income groups (Chapra, 1985).

During the past few decades a beneficial experience namely as "micro financing" has been emerged in the context of providing financial services to low income groups. Because of having lower creditworthiness, low income individuals (industrialists, farmers, small contractors, etc.) do not get much attention from banks and financial institutions.

Due to the high costs of supervision and evaluation in the context of small loans in addition to challenges relating to collaterals and the high probability of failure for poor individuals, banks and financial institutions are usually reluctant of giving small loans to the mentioned individuals (Kaleem and Ahmad, 2009: 3).

It is a fact that Islamic micro financing has been following a growth during the past few decades. Ever since Professor Muhammad Yunis and the Grameen bank received the Nobel peace prize because of their activities in the context of micro financing, the experience of micro financing has been subjected to a significant growth in Bangladesh and other developing countries. For instance; with a 113.5% increase in the number of given loans, the total amount of given small loans of the Grameen Bank reached 448.41 million dollars in 2007 from its previous record of 229.14 million dollars in 2001 (Ahmad, 2007).

However, there are two primary challenges in the context of micro financing for the management of which there is a need to think of certain measures. One of these challenges is the issue of interest and the other is funds (financial resources) for micro financing. It should also be pointed out that the standard operation of financial intermediation is founded on these two primary pillars. For instance, in the country of Bangladesh which is a pioneering country in the context of micro financing, most banks impose interest rates of 25 to 30 percent on poor people (Hassan & Almagir, 2002; Sadeq, 2007).

Now it seems that one can overcome the mentioned two challenges in the form of Islamic banking and with the support from Islamic financial institutions, resulting in the provision of a better aid to the weaker (poor) strata of the society. On one hand, following the holy Quran, Islamic banking follows the interest-free lending as a tool for elimination of poverty throughout the society, and on the other hand there are independent and yet powerful institutions such as the Endowment Institution that possess certain great sources of national wealth for charitable purposes. In fact both legal and Islamic basics also allow for the proper management of, and as much income-generation as possible from this wealth. By taking into account these two primary components, we are trying to persuade the huge resources of the Endowment Institution towards equipping the financial resources of Islamic banking in order to be able to overcome the second challenge in a way that the weaker strata of the society are better profited by interest-free facilities. Here an important bi-sectioned question will be raised whether can endowed properties be lent or not? Our answer to this question is that some jurists may consider that endowed properties are lendable, but this does not satisfy our minds and this question is in need of fundamental and legal investigation. Because if the lender commits to reimburse the property and the lender bank also commits to refund the endowed property to the property trustee on demand, a doubt raises in the minds of the author and the readers regarding the expressed opinions of mentioned jurists.

In order to explore the question and get a better understanding of the subject matter, in the following we have stated two of the opinions of jurists:

“According to Imam Khomeini and the leader of I.R.I; if someone endows something, that thing would no longer be in his/her possession (he/she will have no right to seize); and it also cannot be given away neither by him/her or anybody else. For example if a carper is endowed to a Husseinieh board, it cannot be taken to a mosque for prayers even if the mosque is close by. Hereby it is concluded that endowed properties cannot be lent.”

Now let's pay attention to the following opinion in the treatise of Ayatollah Khamenei:

“Question 2080: an old religious school building has become unexploitable due to penetration of humidity and oldness of the structure. The incomes of the properties of the school have been collected and are kept in a bank. We are now intended to renew the school's structure with those incomes, but it would take a long time to obtain a license for the building process. Is it okay to invest the money in a bank and receive a certain percentage of profits in the interest of the endowed property during this time?

Answer: what is obligatory on Sharia for the legit trustee of the endowed property regarding the incomes of the property is the sole consumption of the incomes for endowment purposes; however if the trustee is not able to consume the incomes for endowment purposes, not at least before a long time, if investing the incomes in a bank

will not interfere with the timely consumption of the incomes in endowment purposes it would be okay to invest the incomes in a bank and use the profits for the good of the endowed property."

In the upper Sharia opinion, one thing that is strictly clear is that when an endowed property is invested in a bank through a legit contract, the property practically enters the bank's activity cycle. With no doubt Ayatollah Khamenei considered this fact while permitting the trustee to act in the favor of the endowed property. By taking into account this Sharia assumption, the author was given hope that the research is not vain.

Though, if it is concluded that the endowed properties cannot be lent, the second section of the previously mentioned bi-sectional question raises whether the profits and interests of endowed properties can be lent or not? It seems that answering this section of the question is not as problematic as the first section. Because when it is stated that the purpose of endowment in Islamic societies is to eliminate poverty, one obvious instance of realization of this purpose is lending from the profits of the endowed properties to the weaker strata of the society. Although spending the profits of endowed properties would be done according to the letter of endowment of that property and if the letter does not explicitly point to the lending of revenues of the endowed property, one cannot lend the revenues of that property; but it must be said that certain conditions have been envisaged for in the law of endowments which give the trustee the authority to determine the manners of spending the revenues of endowed properties irrespective of the properties' letters of endowment. However it must be taken into account that with the novice function of interest in the present study, the old traditions of the administration of endowments will get updated and the goodwill purposes of endowers would be realized with more stability, while also the beneficiary strata would be benefitted by the blesses of the endowed properties better than before.

Anyways, now that the banking system of Iran is taking steps towards interest-free banking in order to be able to realize the primary objective of pure Islamic banking; the upcoming problems including operational costs and various risks such as inflation, investment, and etc. must be planned for. These challenges must be mitigated and managed so that this valuable Islamic movement does not run into a stalemate. Once more it is emphasized that endowments is a highly valuable resources with several inexpensive potentials in the Islamic society of Iran, but it is based on the existing stats in the trusteeship of entirely governmental institutions in an inefficient manner. However, through the proper conduction of endowments and through transforming certain old endowments into other types of endowments according to legal and judicial principles in addition to prioritization of preservation of economic values of endowed properties, not only the purposes of the endowers will be realized more desirably, but also the challenge of shortage of financial resources for interest-free banking will be dealt with.

Endowment funds with a similar function to the subject matter of the present study have been successfully active in developed countries for decades. These funds not only provide a thorough coverage for the target groups, but also are great help for the socioeconomic development of their countries. In fact the transparent activities of these funds have increased the number of endowers throughout the societies. These funds receive the cash and non-cash endowments of people and give them to endowment management services an instance of which in the present study is interest-free banks. While being assured of preservation of economic value of the endowed properties, the huge revenues yielding from the proper investment and management of endowed properties are collected back every year and spent for predetermined social and charity purposes.

2. Methods

The main method employed in the present study is library studying of written references and jurisprudential and legal books, as well as making queries in authentic websites. Through these studies, the famous opinions and the required legal and theoretical basics for the study were collected. In the following, in addition to analysis and comparison of similar models of functions of endowment with socioeconomic purposes in Islamic and non-Islamic developed countries, we will deduce the maxim with reference to famous jurisprudential opinions. However approving the correctness of the mentioned maxim is the task of expert jurists. Throughout the research, we have made use of inductive methods for the purpose of transferring of the capacities of the domain of endowment to the domain of Islamic banking and interest-free lending. In this regard we have firstly considered the general principle obtained from juridical texts and jurists' opinions as the primary hypothesis, and afterwards we have considered the legal articles in the context of endowment as the secondary hypothesis of the study. When the primary and secondary hypotheses are put alongside each other and bonded, the applicable desired goals defined in the study would be concluded, which in turn facilitate the obtaining of an economic understanding of the potentials of the domain of endowment in consistence with the goodwill purposes of the endowers. In addition it creates a way for entangling the Islamic endowment with Islamic economy in the domain of Islamic banking and interest-free lending. If the results were desirable, then through the application of the findings of the study one can witness the maximum effectiveness of endowment on the economy of the society, as well as successfulness of Islamic banking, and especially interest-free banking.

3. Results

3.1 Juridical and legal analysis of using the profits of non-financial properties for interest-free lending purposes

Prior to entering the juridical and legal debates on endowment of profits of properties, first of all there is a need to have a general familiarity with the context of endowment in terms of definitions and juridical and legal conditions. Afterwards, endowment is divided into three pillars namely as the endower, the endowed property, and the endowment beneficiary. Here we have not put much focus on the endower and endowment conditions. The main axes of our debate are the endowed property and the endowment beneficiary. In the following we will investigate the conditions of consumption of revenues of endowed properties in affairs close to the intention of the endower, and we will also suggest that considering its goodwill foundations, interest-free lending must be added as a new count close to the intention of the endower to the article 91 of the civil code, the article 8 of the law of organization and authorities of the department of Haj and endowments and charities, and other similar legal articles regarding the consumption of certain profits of endowed properties in affairs close to the intention of the endowers.

Proper and legit endowment is conducted with the intention of affinity. When a property is endowed, it is no longer in the possession of the endower and it finds a dependent legal personality in which not even the endower him/herself has any right to seize.

In this regard, Sheikh Mofid writes: *"while endowing, it must be done with the intention of affinity and proximity to god. Otherwise, the endowed property will not be considered as permanently endowed."* (Almaqna, 655)

On the other hand, Sheikh Toosi has stated in the book of Alnahaye: endowment and alms are the same and none of them would be proper without the intention of proximity to god. If the intention behind endowing is not affinity, then the endowment is not proper (Alnahaye, 569).

Endowing is conducted under the will of the endower and by stating clear expressions, which is known as the endowment contract. Endowment contract has been defined as what the endower uses to unveil his/her will (Almostalahat Alwaqfiya, 160; Elam al-Moqeine: 3:105; Albedae, 2:213-229).

Iran's civil code states explicitly that once the endowment is done properly, the endower cannot reverse it or change it or exclude anybody from being the beneficiary of the endowment, and or involve anybody else with the property (article 61 of the civil code).

Almost all Imami jurists believe that one necessary condition for the validity of endowment is its continuity. In other words, there should be no time-limit. Sheikh Toosi (Khalaf, 3:54; Almabsoot, 3:299): if someone says that I have endowed this property for one year, the endowment would be void.

In the book of Mokhtalef, Alameh writes: one of the conditions required for endowment is approval and hence if a property is endowed to mortal beings such as the children or grandchildren instead of leaving the property for the poor at the end, Sheikhan, Ibn-Joneid, Salar Ghazi, Ibn Boraj, and Ibn Edris believe that the endowment is valid. Despite the fact that in the books of Khalaf and Mabsoot, Sheikh believes that temporary endowment is void, Ibn-Edris has clarified that temporary endowing is traditionally void (Alsaraer, 3:156).

The appearance and in some cases, the explicitness of the expressions of some previous jurists say that temporary endowment is proper. In the book of Mokhtalef, Alameh writes about endowing to people who naturally die:

I believe that the necessary condition is correctness. Because this is some sort of ownership of alms and allocation of it is in the hands of the owner. In addition, for ownership of a certain group there is no precondition regarding the ownership of another group, otherwise there would be a need for precedence of the caused over the effect. In addition, we have seen that her holiness Zahra (AS) endowed the seven-fold to her children, though they were to be extinct (Mokhtalef Al-Shia, 492).

Shahid Sani, and among the contemporary jurists, Imam Khomeini believed that endowing to persons who naturally die is correct (Tahrir al-vasileh, 2:65). It is worthy of mentioning that time bound endowment is void in the views of all jurists and those who have stated that it is correct to do so have been referring to cases in which the endower has endowed a property to entities exposed to extinction. Among Islamic religions, Maleki jurisprudence clearly states that endowment is condition to verification and continuity. In the book of Ashal al-madarek we have: verification is not a condition for endowment and one can endow a property for a determined amount of time such as a year or more and as soon as the time is over, the property would be back in the possession of the endower (Ashal al-madarek, 3:102). However in another narrative of Malik it has been quoted that if a property is endowed to children and no successors are determined after them, once the children are dead the property would be left for the poor relatives of the endower and it would not be considered as a legacy (Al-madoona Al-Akbari, 4:343).

However, the clear opinion of Maleki jurisprudence is that in case of temporary endowment, at the end of the time of endowment, the property would be returned to the endower and if he/she was dead, it would be inherited by the inheritors (Al-Sharh Al-Saqir VA Balqe Alsalek, 4:27).

Considering the above mentioned content, it can be stated that what is inconsistent with verification is determining a limited time for endowment. However if the property is endowed to entities exposed to extinction, it seems that the views held by Shahid Sani and Imam Khomeini are more defensible.

Another point: whether in cases jurists have talked about void of endowment, they meant absolute void or only void as an endowment but proper as a consecrate? The difference between endowment and consecration is that in endowment the ownership of the owner is completely removed and hence the endowed property would

never be inherited by the inheritors of the endower. But in consecration, the ultimate ownership of the consecrated property is with the owner and at the end of the consecration time; the consecrated property would be returned to the consecrator or his/her inheritors (Alfeqh Ale Al-mazahb Al-khamse, 586). In the book of Tazkareh, Alameh has predicted that consecration is valid (Meftah Alkarama, 9:16). Meftah Alkarama believes that the reason for appropriateness of consecration is existence of contract. Existence of a contract is necessary for consecration too, because in vocabulary consecration and endowment are the same and hence the contracts of consecration and endowment can be used interchangeably (Meftah Alkarama, 9:16). In the book of Ghavaed, Alameh believes that temporary endowment is consecration in which the property will be returned to the consecrator after the time of the consecration is finished (Jame Al-Maqased, 9:16).

Regarding the subject matter, Sahib Riyadh believes that all those who have considered it proper, have been trying to state that it is proper as consecration rather than endowment (Riyadh Al-Masael, 2:18). In addition, Sahib Arveh believes that validity of endowment is the purported and he also further strengthens his view and reasons that there is no other reason for validity of continuity other than collective consensus, which does not include temporary endowment (Molhaqat Al-Arveh, 2:194). It seems that the collective opinion is as it was mentioned. In other words, those who have considered temporary endowment as void are talking about cases that have been bound to certain time limits; and those who have believed that temporary endowment is proper have been talking about cases in which the property is endowed to entities exposed to extinction.

Who will be the owner of these properties after the extinction?

With no doubt, if we have considered temporary endowment proper in the form of consecration, the property would be returned to the owner eventually because it never left his/her possession in the first place. But if we were talking about endowment to people who have gone extinct, who would be the next owner?

In Kashf-Alromooz it has been stated that since by endowment the property has been excluded from the ownership of the owner, it would not be returned to him/her. In Nahayeh, Sheikh writes: the property would be returned to the inheritors of the endower; however, the only narrative in this regard is the narrative of Jafar Ibn-Hanan about Imam Sadeq in which the property is returned to the relatives of the endower (Kashf Alromooz, 2:45-46).

Mohaqqeq Corky Writes: traditionally, whether the endowed property is inherited by the inheritors of the endower or the inheritors of the endowment beneficiary is a question pointed out by Mofid and Ibn-Edris: the property will be inherited by the inheritors of the endowment beneficiary. Ibn-Zohre says: the property will be spent for goodwill purposes because it has been excluded from the ownership of the endower and on the other hand, the closest way to the intention of the endower is to spend the property for goodwill purposes. Sheikh also believes that the property will be inherited by the inheritors of the endower, and points to a narrative of Imam Sadeq (Jame Al-

Maqased, 9:16). Ultimately, Mohaqeq Sani believes that the basic solution is to not consider it as endowment and to verify it as consecration.

It seems that if it is considered as endowment, the closest purport to the intention of the endower is to spend the property for goodwill purposes; because the property is no longer possessed by the endower and its return to him/her requires a new reason. Here the priority is with spending the property in the favor of the relatives of the endower.

Once the legal and juridical properness of endowment of money are investigated, it is necessary to extract the existing legal articles for the purpose of studying the feasibility of yet another theoretical goal of the present study (endowment of money in Islamic banking with the aim of granting interest-free loans). Due to lack of explicit legal articles regarding endowment of money, we have only stated certain legal articles that are helpful with proving the validity and advantageousness of the subject of endowment of money in the framework of the present study.

3.2 Civil Code

3.2.1 Article 55 of the Civil Code

Endowment means detention of the property and spending the interests in goodwill purposes. Considering the word 'property' it is concluded that the property to be endowed must be visible and other types of properties are not to be endowed (Aminian Modares, 2010:22).

By detention, it is referred to prevention of transferring and or seizing by which the property would be wasted (not exploited for endowment purposes). This is because by endowment it is referred to the permanent benefaction of the endowment beneficiary (previous, 22).

So detention must be permanent; temporary detention is not of interest.

By spending in goodwill purposes in the upper article it is referred to the fact that the endower has banned the exploitation of the property for personal benefits and has state that the property must be exploited for charity and public affairs. Hence in the endowment contract no conditions can be changed, and no termination option could be given.

Regarding these debates, there is a point worthy of mentioning. If the property itself is of interest, it should be said that it would not be permanent, because as time passes, the endowed property would deteriorate. For examples, structures would become worn out and depreciated. So it is better to rethink about the phrase of property and avoid considering it as merely physical, rather the economic aspect of the property must be considered for. Hereby it seems that in this way the endower's purposes would be better fulfilled as well.

The issue is to keep the efficiency of the property, but with no doubt when the property is deteriorated, nothing as valuable as it can be found and replaced with it; hence there is no way other than accepting to maintain the economic value of the property. Undoubtedly it is more desirable than selling the deteriorated endowed

property and buying a smaller or less functional (in terms of the purpose of the endower) property which ultimately ends where nothing of the endowed property or its value is left.

3.2.2 Article 58 of the civil code

A property is proper for endowment only if one can benefit from its survival, whether the property is movable or immovable.

As it was mentioned earlier, the above article infers that non-objective properties cannot be endowed. In addition it is inferred that the property must be profit bearing. In other words, a movable property that has no benefits or a salt marsh that is not exploitable, or a property whose benefits have already been transferred to another person and has no benefits left cannot be endowed. In addition, the benefits and or interests of the property must be legitimate and rational. For example, pigs, stray dogs, or gambling instruments cannot be endowed. A property that is gradually deteriorated due to exploitation, such as fruits or bread is not to be endowed. However, properties such as buildings or chairs are validly endowed. In some other cases, the endowed property may be free of profits at the time of endowment but become profitable later, such as seedlings.

By objective survival, it is referred to the traditional survival of the property, not everlasting survival. There is also no difference between movable and immovable properties in this article. It is also necessary to take it into account that since once endowed, the property will no longer be possessed by the endower, it must be transferable, otherwise similar to public properties it cannot be endowed. Considering the interpretations provided in articles 55 and 58 of the civil code, is money anything other than a profitable movable property? There is no doubt regarding the transferability of money, and it has also been already reasoned that one can act in a way that the money is preserved while its profits keep adding up to it. We have also reasoned that endowment is not exclusive to physical properties; rather financial properties can be endowed too. For example, it can be pointed to corporate stocks. So, considering the movability of money, endowing it would be legally approved and if the value of money is considered as the objective profitability of it rather than its appearance, then the money can be spent for lending purposes without any legal barriers. The next question that comes up is: isn't it better for the endowed property to have a longer life-span? The question to this answer is undoubtedly yes. In this regard, in the articles after the article 43 of the statute of organization and authorities of the department of Haj and endowments there is some sort of emphasis on the long-term-ness of the traditional; survival of endowed properties as well as long-term-ness of the efficiency of the endowed properties. Because when the issue of price of deteriorated endowed properties comes up, the next issue would be procurement of a new endowed property, and this means to give continuity to the life of endowment contract.

A point worthy of consideration here is that when endowment of money is accepted as a form of endowment of property in a way that the primary money is

preserved and also interests are added to it, there is no longer a need to transform the primary money into another money because of deterioration. The only factor of deterioration effective on money endowment is financial inflation which is also effective on other types of endowments. In fact controlling inflation and reducing its effects on endowment depend on the managerial abilities of the trustee.

3.3 Applied analysis of management of endowed money in the section of interest-free lending

As it was mentioned earlier, the present study considers a specific function (application) for endowment of money. This section elaborates on this phrase. According to the framework of the study, the resources yielded by endowed money which is kept in an Islamic bank in the form of deposits, can be used for equipment of financial resources aiming to grant interest-free loans. In order to put the applied analysis in simpler ways it is better to divide the issues related to endowed money into two separate categories. As it was mentioned earlier, when the endowed properties are sold, in fact the properties are transformed into money and we have already reasoned that money in this case is an endowment and hence it enters the debates of this chapter too. Instead of endowing properties, structures, cares and alike, people with different income levels can endow money for charitable purposes.

We have already discussed the first category in details in chapter 2. Hence the following elaborates on the manner of operationalization of the second category. In one scenario, the endower can go to the endowment and charity department and endow as much money as he/she tends to. This is done following the specific protocols of the department of endowment and charity. In fact the endowments organization collects the endowed fees and the transfers them as deposits to an Islamic bank.

In another scenario, the endower can go to an Islamic bank and endow as much money as he/she desires. In return the banks issues two sheets of receipt which would be considered as letter of endowment. One of the receipts is kept by the endower and the other should be handed to the department of endowment and charity as the main trustee of endowments. As it was mentioned earlier, the Islamic bank works as the deputy trustee. One important point here is that the money that the endower directly hands to the bank is deposited in which type of bank's accounts? The answer is that this would be determined according to a prior agreement between the department of endowment and charity and, the Islamic bank.

Some critics may pose the question that can Islamic banking receives cash directly from people?

The answer we will provide to this question is based on the section c of the article 7 of the regulation of the central bank of Iran regarding the manner of activity of Interest-free funds (article 7: the financial resources of the fund are financed from the following sources: endowed properties, wills, consecrated properties, and charities provided for the fund by charitable persons).

4. Discussion and Conclusion

Considering the mentioned content in juridical and theoretical debates and debates related to the management of endowed money we have witnessed that the capacities of endowment of money can be exploited for equipment of financial resources of Islamic banking, especially interest-free lending without any legal barriers. The only serious barrier can be the juridical doubt regarding the endowment of money. However based on mentioned legal and juridical reasoning, we observed that these doubts require reviewing. Regarding the management of endowed money by Islamic banks, some of the content has already been stated in section 2, and therefore they are not stated here. As it was mentioned in the history of endowment of money, in Islamic countries the primary function of endowment of money was redistribution of capital. Most of the loan takers are small consumers and the capitals of endowments were not used in large commercial transactions, the reason for which was described as high risk of capital bailment investments.

The similarity between endowments and banks is that none of them have any motivation to have active presence in the capital market and that none of them are eager to use new financial instruments. The reason for this must be sought for in the financial and management domains:

In terms of the managerial aspect, banks and trustees of money endowment believe that controlling and conducting the investors is extremely hard. In fact it is the high cost of capital management in these cases that prevents them from entering this arena. In addition, in terms of the financial aspect, it is the high risks and low efficiency of investment that makes banks find it inefficient to have an active participation in capital market. Hence the banks would believe that credit based loan giving is of higher overall confidence and efficiency. What must be currently important for the economists of Islamic societies is that endowment of money and banks must be more and more participated in the process of national investments. For this purpose, the endowment of money must be revived in a way that the banks and the endowment administration not only take part in wealth distribution, but also enter the domains of wealth accumulation and or investment (Chizakcha, 2004:117-118).

Considering the fact that the endowed money given to the banks is considered as the financial lending of the administration of endowment and charity to the bank. However, by the expert management of the money by the bank, not only the endowment and charity administration would receive interests, but also the poor and needy individuals in the society would be supported in the form of interest-free facilities. On this basis, the assumed risks are the ones elaborated on in details in the second chapter of the present study.

How can endowment be used as a source for equipment of resources required for giving interest-free loans?

- a) Any movable or immovable property that can bear certain benefits can be endowed if the property itself does not deteriorate due to exploitation. So such a

property can be endowed and its profits can be used for charitable purposes. On the other hand, interest-free lending is also a charitable affair which is also stressed out by the religion of Islam. Hence, it can be considered as consistent with the goodwill purposes of the endowers.

Is it possible to transform the endowed properties into other forms in order to maintain their economic values?

- b) Every specific physical property has a specific economic value; therefore, when a specific property is endowed, in fact a certain amount of economic value is endowed. By transforming the endowed property into money we are trying to maintain the physical property as well as maintaining the economic value of the property as well. Hence, it can be said that endowed properties are transformed into other properties in order to maintain their economic value.

Can the price of endowed property be exploited for equipment of interest-free lending resources?

- c) By the survival of the endowed property, it is referred to the traditional and or customary survival of the property and once the property deteriorates, its traditional survival is over. When the deteriorated endowed property is sold, the property is in fact transformed into money. With no doubt, the yielding money maintains the nature of endowment because when the new endowed property is procured, the money is in fact transformed to a new physical endowed property with a new traditional survival. Hence it can be concluded that the physical being of the endowed property is not something other than the financial value. In fact when the physical being of the endowed property is damaged, its economic value would be damaged too. On this basis, the conditions that hold for the physical being of the property hold for its financial value too. In the other words, when the physical property can be endowed for charitable purposes such as providing interest-free loans, then the paid price of the endowed property can be exploited for charitable purposes such as giving interest-free loans.

Is it feasible to endow money and stocks? Can endowment of money and stocks be used for equipment of resources of interest-free lending?

- d) As it was clarified in the section three, endowment of stocks of commercial corporations for charitable purposes has no legal or juridical barriers. In addition the article 44 of the statute of organization and authorities of the administration of Haj and endowments and charity, states the same. The majority of contemporary jurists agree with endowment of stocks.
- e) Regarding endowment of money, in fourth chapter, we have stated that there have been major differences between Sunni and Shia jurists regarding endowment of money for a long time. Because of this lack of agreement, no clear and explicit legal article has been developed regarding the correctness of endowment of money. In spite of the existing disagreements, ancient Muslims were familiar with the endowment of money which was also of a very high efficiency. One reason was that it was beneficial for the entire Muslims. In the

present era, although there are several various disagreements, in most international and gatherings on endowment, endowment of money has been considered correct. In legal reasoning we have seen that endowment of money has no interference with the legal conditions of the endowed property (because money is a movable property that is profitable too); therefore the majority of Shia contemporary jurists believe that endowment of money is incorrect (based on the following two reasons: 1) benefiting from money is equal to spending it; 2) currency value is not fixed and it may deteriorate in time. in the following, we concluded that: 1) money can have benefits in a way that the primary money is left or kept intact; 2) because of the need of the society for endowment of money, it can be considered as a new type of contract; 3) every property's value will degrade in time and it is not exclusive to money; therefore it is better that the contemporary jurists review their opinions with respect to the proposed reasons. If the endowment of money is considered as correct, then interest-free lending too can be considered as a charitable affair consistent with the goals of endowment of money.

What are the juridical challenges (including endowment rent income and etc.) equipment of resources of interest-free lending? What are the legal challenges of using endowed resources for giving interest-free facilities?

- f) According to juridical and legal reasons, the revenues of endowed properties that are unused or unusable, and the revenues of endowed properties whose endowment beneficiaries have passed away, and or the revenues of consecrated properties which lack the title of endowment but are used for public purposes, will be used for affinity or approximation to god. With regard to its nature, interest-free lending can also be considered as a count of public good will or a count of affinity.

What are the possible risks in using endowed properties for giving interest-free loans?

- g) Islamic banking which is considered as the host of endowed resources and revenues as a financial mediator, according to the framework of the present study must use the mentioned resources for granting interest-free loans. Therefore, the conventional risks prevalent in banking operations such as risk of liquidity, credit risk, operational risk, investment risk, and the risk of misuse of endowed resources must be anticipated by the bank and the required measures for management of the risks will be taken.

References

Al-jarhi, Mabid Ali. (2002). "Islamic Finance: An Efficient and Equitable option," Jeddah, Islamic Research and Training Institute, Islami Development Bank, Mimio.

- Algari, M. (1992). "Relevance of Ottoman Cash Waqf for the Modern Islamic Countries," Conference papers, Kuala Lumpur.
- Aminian Modares, Mohammad. (2009). Waqf in terms of rights and laws. Tehran: Publication of the side.
- Chapra, M; Umer. (1985). "Towards a just Monetary System," The Islamic Found ation, Leicester.
- Cizaka, M. (1998). "Waqf and its Implications" Islamic Economic Studies. Vol, 6. No, 1.
- Foruze, Rohollah. (2010). Collection of rules of endowments. Tehran: Khorsandi Publishing.
- Haeri Yazdi, Mohammad Hassan. (2001). Waqf in Islamic jurisprudence and its role in the flourishing of Islamic economics. Mashhad: Astan Quds Razavi Publishing House, Islamic Studies Foundation.
- Kaleem, A and Ahmed. S. (2009). "The Quran and Poverty Alleviation: A Theoretical Model for Charity- Based Islamic Microfinance Institutions," Non Profit and Voluntary Sector Quarterly. Vol, 9. No, 4.
- Mesbahi Moghadam, Gholamreza; Sajjad, Sayyah and Mohammad Mehdi, Naderi Noorani. (2009). "Economic researches: feasibility study of stock and money waqf (stock and money waqf model in Iran)." Year 6, No 12.

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