

# The Private Endowment in Hanbali Jurisprudence: “Its Reality, Legitimacy, And Purposes” Comparison to the System of the General Authority of Endowments in the Kingdom of Saudi Arabia

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## Abstract

Research topic: The private endowment in Hanbali jurisprudence, “its reality, legitimacy, and purposes” comparison to the system of the General Authority for Endowments in the Kingdom of Saudi Arabia. The aim of the research: to explain the reality of private endowments, the evidence of its legitimacy, and its objectives according to what is stated in the books of Hanbali jurisprudence, and to compare that with the system of the General Authority for Endowments.

Research method: inductive, analytical, comparative method.

Most important results:

- 1- The endowment, which is: the confinement of the asset and the granting of the benefit, is divided according to the type of endowment into: a general endowment, private endowment, and a joint endowment, which is what is included in the system of the General Authority for Endowments.
- 2- The private endowment is: that the donor allocates the revenue of the endowment to a specific person, whether to his children or to others, and is close to what is stated in the system of the General Authority for Endowments: “A conditional endowment to be given to a specific person, including offspring and relatives, by person or by description.”
- 3- The legality of a private endowment if it is on a legitimate authority, and that it is desirable, and thus follows the system of the General Authority for Endowments.
- 4- The multiple purposes and virtues of private endowments, as stated in the books of Hanbali jurisprudence and the system of the General Authority for Endowments, including: getting closer to God Almighty, maintaining ties of kinship, achieving mutual love, compassion, and sympathy between the donor and those to whom it is made an endowment, and preserving money from being squandered by the heirs.
- 5- The agreement between what is stated in the books of Hanbali jurisprudence and what is stated in the system of the General Authority for Endowments, whether in defining the private endowment, its legitimacy, or explaining its purposes and virtues, and this is indicated by what is stated in the comprehensive guideline for all types of endowments, citing the sayings of Hanbali jurists.

Most important recommendations:

- 1- Paying attention to the jurisprudential rooting of what is stated in the regulations, to demonstrate their originality and authenticity.
- 2- Spreading awareness of the legitimacy of private endowments and its purposes among members of society through modern means.

**Keywords:** endowment, private, purposes, system, authority, public, endowments.

Praise be to God, we seek His help and seek His forgiveness, and we seek refuge in God from the evils of ourselves. Whoever God guides, there is no one who can mislead him, and whoever He leads astray, there is no guide. I bear witness that there is no god but God, and I bear witness that Muhammad is His servant and Messenger. As for what follows:

The endowment is considered one of the most prominent characteristics of Islamic legislation. Al-Dahlawi - may God have mercy on him - says: "Among the donations is the endowment, and the people of pre-Islamic times did not know it, so the Prophet, may God's prayers and peace be upon him, legislated it for interests that are not found in other charity. A person may spend a lot of money for the sake of God, and then it perishes." Then those poor people need another time, and other poor people come and remain deprived. There is nothing better or more beneficial for the public than for something to be reserved for the poor and the wayfarers, with its benefits distributed to them, and its origin remaining on the property of the donor. (And among the types of endowments: private endowments, Which was stipulated by the Hanbali jurists - as will come - and included in the system of the General Authority for Endowments in the Kingdom of Saudi Arabia , and because the private endowment is something whose truth, legitimacy and purposes are hidden from many people, whether in jurisprudence or the system, the research problem was formed, from which a number of questions branched out. , of which:

1- What is the reality of the private endowment according to the Hanbalis, what is

the evidence of its legitimacy, and what are its purposes.

2- What is the extent of compatibility between what is stated in the books of Hanbali jurisprudence and what is stated in the system of the General Authority for Endowments.

The importance of the topic and the reasons for choosing it lie in the following:

First: Private endowments are among the types of endowments included in the system of the General Authority for Endowments, and since the prevailing doctrine in the Kingdom of Saudi Arabia is the Hanbali doctrine, there was a need to clarify the extent of compatibility between what was stated in the system and what is in Hanbali jurisprudence. Because it is the root of what is in the system.

Second: The private endowment benefits a specific person, whether he is a descendant or someone else, but the lack of knowledge of its truth, the evidence of its legitimacy, and its purposes may have an impact on the text of the donor, which may make it an endowment of bias and sin.

Therefore, in this research, I wanted to explain the reality of private endowments, their legitimacy, and their objectives in Hanbali jurisprudence, and the extent to which this is compatible with the system of the General Authority for Endowments, and I called it:

The private endowment in Hanbali jurisprudence: "its reality, legitimacy, and purposes"

Comparison to the system of the General Authority of Endowments in the Kingdom of Saudi Arabia

God bless and guider to the straight path.

#### Research Aims:

1- Explaining the truth of the private endowment.

2- Mentioning the evidence of its legitimacy and its objectives.

3- Clarifying the extent of the relationship between what is stated in Hanbali jurisprudence and the system of the General Authority for Endowments.

Previous studies: After researching, I did not find an independent study that studied the private endowment in Hanbali jurisprudence and compared it to the system of the General Authority for Endowments.

Research Methodology: I proceeded in this research according to the inductive approach of the words of the Hanbali jurists, then I used the analytical approach to what I found from their words, and compared it to what was stated in the system of the General Authority for Endowments

Search procedures: were as follows:

1- I collected the scientific material from its references and original sources, then distributed it into topics and requirements .

2- I knew about related issues to research in language and terminology, and explained what needed explanation.

3- Attributing the Qur'an verses to their Surahs and indicating their number, and that is at the core of the research.

4- The Prophetic hadiths were extracted, and if the hadith was in the two Sahih books or in one of them, I would suffice with grading it from them, and if it was not in them, I would extract it from the approved books of hadith, mentioning the sayings of the scholars in judging the hadith, if any.

5- I mentioned the texts of the scholars and attributed them directly to their books, and I did not resort to intermediary except when the original was not possible.

6- When documenting linguistic meanings, I relied on language books, and when documenting terminological meanings, I relied on art books related to it.

7- When quoting in the text, I mentioned the name of the source, the part number, and the page, and in the case of taking the meaning, I mentioned the name of the source preceded by the word "to be considered."

8- I took care of the punctuation marks and placed them in their correct places.

Research plan: I divided the research into: an introduction, two topics, and a conclusion.

Introduction: It included: the research problem, its questions, the importance of the topic, the reasons for choosing it, its objectives, previous studies, the research methodology, procedures, and plan.

Topic one : The reality of the endowment, and its sections, taking into account the type of those who are subject to the endowment.

It has two requirements:

Requirement one : the reality of the endowment.

Requirement two : Sections of the endowment, taking into account the type of beneficiaries of the endowment.

The second topic: The legitimacy of the endowment

Topic two: The legitimacy of private endowment.

Topic three: The purposes of the private endowment.

It has two requirements:

Requirement one : What are the objectives?

Requirement two : the purposes of the private endowment.

Conclusion: It contains the most important results.

This is what I followed in this research. Whatever was right in it is from God alone, and whatever was wrong in it is from me and from Satan, and I ask forgiveness from God Almighty, and it suffices me that I have exerted my effort and exhausted my effort, and my success is only in God, in whom I trust and to whom I repent.

#### TOPIC ONE

The reality of the endowment, and its divisions, taking into account the type of those subject to the endowment

It has two requirements:

Requirement one : the reality of the endowment.

The reality of the endowment becomes clear through its definition in language and terminology, as follows:

Waqf in the language: the source of confinement something, and its plural is waqf, and it has several meanings , the closest to the conventional meaning:

confinement, it is said: "endowing the land to the poor," meaning withholding it.

Prevention: It is said: "I stopped the man from something," meaning I prevented him from doing it, and it is not said: "I stopped him" except in bad language .

The endowment, in the terminology of jurists , was known by several definitions , perhaps the clearest of which is the definition of Abu Al-Khattab - may God have mercy on him - in brevity, where he defined it as: "Confinement of the asset and granting of benefit .

Sheikh Ibn Uthaymeen - may God have mercy on him - said in explaining the definition: "His statement: "Confinement of the asset," meaning: preventing it.

And "the asset" means: the eye, such as a house, for example, a tree, the land, a car, and the like, because the endowment is in movable and real estate.

His saying: "and granting benefit" means giving it a general meaning, and we know that giving way means giving it a general meaning, because he originally said: It is "confinement," so its opposite is generalization.

The meaning is that the donor withholds the asset from everything in which ownership is transferred, and takes away the benefit - meaning the produce - such as the rent of the house, for example, the fruit, the crops, and the like .

Requirement two : Sections of the endowment, taking into account the type of people benefiting from the endowment.

The endowment is divided in jurisprudence according to multiple considerations , which is related to the research, which is the division of

the endowment according to the type of people benefiting from the endowment , and with this consideration it is divided into three categories, as appears from following the words of the Hanbali jurists - may God have mercy on them - :

Public endowment, private endowment, and joint endowment, and their explanation is as follows:

Public endowment , which is: for the donor to devote the revenue of the endowment to an uninterrupted charitable cause, whether it is specific persons, such as the poor and needy, or general charitable causes, such as mosques, schools, and hospitals. Ibn Qudamah said: "The endowment is only valid for charitable purposes: such as mosques, arches, poor, and relatives, or a specific human being" . Al-Hijjawi said, "If the endowment is for someone who is not specific, such as the poor, or for someone from whom it is not expected to be accepted, such as mosques and arches, then it does not lack acceptance from its supervisor" .

The private endowment is: when the donor allocates the revenue of the endowment to a specific person, whether to his children or to others. Ibn Qudamah said:

The endowment is not valid except on the basis of righteousness...or a specific human being" . Al-Hijjawi said: "The same applies [i.e., it does not lack acceptance] if it is owed by a specific human being .

A joint endowment is: that in which the donor allocates the revenue of the endowment to a specific person and to a charitable cause together. Ibn Qudamah said in Al-Mughni : "And if he endows his house in two different directions, such as if he endows it to his children, and to the poor, in halves, or thirds, or however it may be." It is permissible." Al-Hijjawi said: "And if he said, 'I endow it on my children and on the poor,' then it is between the two sides in two halves, as the addition requires equalization .

With this division of the endowment, the system of the General Authority for Endowments

was taken, as stated in its first article, the three types of endowments, with a statement of what is meant by each one of them, as stated in the comprehensive guide to classifying the types of endowments issued by the General Authority for Endowments, a simplified explanation of each of these types based on the statutory references. : Legitimacy and legality, and this is explained as follows:

First: Public endowment: an endowment that is conditional on certain general aspects of righteousness, specifically or by description” .

“What is meant by it is: for the donor to allocate the revenue of the endowment or its benefits to public philanthropic bodies, such as saying: I endow this land and its benefits for associations for memorizing the Holy Qur'an, or I endow this land and its benefits for the benefit of widows, divorcees, and the like .

Second: “Private (Ahli) Endowment : An endowment that is conditional on a specific descendant or relative, specifically or by description .

Third: Joint endowment: an endowment whose condition is shared by more than one type of endowment .

What is meant by joint-venture banks are: those banks, some of which are charitable and some of which are private, and examples include: the donor endows his money to his descendants, and at the same time allocates a certain share of it to a general charitable cause, or he endows his money to public charitable cause and at the same time stipulates that it be for his descendants, or for a specific person a specific share of it, and so on.

Through this explanation of the types of endowments in Hanbali jurisprudence and its comparison with what is stated in the system of the General Authority for Endowments, we notice agreement in the division between them, and this is supported by the fact that the guideline for all types of endowments in its explanation is based on the sayings of Hanbali jurists, including: citing the words of Al-Bahuti regarding the two types of endowments, public

and private. And Ibn Qudamah's previous statement about the joint endowment .

## TOPIC TWO

The legitimacy of private endowments

Hanbali jurists stipulated the legitimacy of endowment of both public and private types if it is based on a lawful purpose , and that it is desirable , and this includes the words of Abu Al-Khattab: “It is not permissible to endow anything except for what is of merit and benefit to Muslims, such as endowment to the poor, the needy, jurists, and reciters. And the mosque, mosques, arches, Bimaristans, relatives, and the like”.

Ibn Qudamah said: “Waqf is recommended .

His saying : “The endowment is only valid for an act of righteousness: such as mosques, arches, the poor, relatives, or a specific human being, whether Muslim or non-Muslim, because he is in a position of closeness, and for this reason it is permissible to give him charity .

And Zain al-Din al-Munja said: “It is from the closeness to which it is recommended .

They supported this with a number of of evidence, including the following:

The first evidence: What was narrated by Ibn Omar - may God be pleased with them both -: “Umar bin Al-Khattab acquired land in Khaybar, so he came to the Prophet, may God's prayers and peace be upon him, to ask him for advice about it, and he said: O Messenger of God, I acquired land in Khaybar, and I have never acquired more money than I have in my possession. What do you command? He said: (If you wish, you can keep its roots and give it in charity.) He said: So Omar gave it in charity, and it cannot be sold, given away, or inherited. He gave it in charity to the poor, to relatives, to slaves, for the sake of God, to the wayfarer, and to the guest, no. It is a sin for the one who is in charge of it to eat from it in a reasonable manner, and to feed it without being greedy .

The second evidence: What was narrated by Abu Hurairah - may God be pleased with him - that the Messenger of God, may God's prayers and peace be upon him, said: (If the son of Adam

dies, his work comes to an end except for three: ongoing charity, or knowledge that will benefit those after him, or a righteous child who prays for him) .

The third evidence: What was narrated by Jabir - may God be pleased with him - who said: "None of the Companions of the Messenger of God, may God bless him and grant him peace, had the ability but he allocates endowment." Ibn Qudamah said after quoting it: "And this is a consensus among them, for the one among them who was able to endowment he did . This became well known and no one denied it, so it was a consensus.

Among the endowments that were reported from the Companions - may God be pleased with them - are the following:

1- What Al-Khallal narrated on the authority of Hanbal on the authority of Imam Ahmad, that he said: "The companions of the Messenger of God, may God's prayers and peace be upon him, made endowments in Medina, and this is their endowment in Medina: Abu Bakr, Omar, and Al-Zubayr, and the companions of the Messenger of God, may God's prayers and peace be upon him, made their endowment in Medina clearly known, so whoever rejects the endowment is rejecting the Sunnah that was approved by the Messenger of God, may God bless him and grant him peace, and which his companions did during the lifetime of the Messenger of God, may God bless him and grant him peace, and after his death, the people of Medina and the people of Hijaz continued to do so, and I see it as permissible.

2- And what he narrated on the authority of Hanbal - also - on the authority of Abu Bakr Al-Humaydi that he said: "Abu Bakr gave alms in his house in Mecca on his son, and it remains until today, and Omar ibn Al-Khattab gave his revenue at Al-Marwah and Al Bania on his son, and it remains until today, and Ali ibn Abi Talib gave alms on his land in Yanbu, so it remains until today." Today, Al-Zubayr bin Al-Awwam gave alms in his house in Mecca in Al-Kharjiyah and his house in Egypt and his money in Medina

on his son, and that is to this day. And Saad bin Abi Waqqas gave in charity in his house in Medina and his house in Egypt on his son, and that is to this day, and Uthman bin Affan in Brome, and that is to this day, and Amr bin Al-Aas in Al-Waht from Taif and his house in Mecca to his son, and that remains to this day, and Hakim bin Hizam is in his home in Mecca, and Medina is to his son, and that is to this day, and what I do not mention is much, he will be rewarded with less than this .

3- And what also narrated - on the authority of Nafi', that Hafsa bought jewelry for twenty thousand and kept it with the women of the Al-Khattab family, so she did not pay Zakat on it .

4- What was reported by Ibn Qudamah is that Al-Zubayr took care of his son and allowed the returned one of his daughters to live without harm, and no one would harm her, and if she marry, she had no right to him .

With this statement, the Hanbali jurists adopted the system of the General Authority for Endowments, and this is clear from the following:

1- What was stated in Article /1 about dividing the types of endowments into public, private (Ahli) and joint .

2- What is stated in Article /4 regarding the Authority's supervision of all public, private (Ahli) and joint endowments .

3- What was stated in Article /5 regarding a statement of the Authority's tasks, including: Supervision of public, private (Ahli) and joint endowments, unless the donor stipulates that the endowment's supervisors be assumed by an unspecified person or entity .

4- What was included in the comprehensive guideline for classifying types of endowments, including a statement of the advantages of private endowments (Ahli), and an explanation of its definition contained in the Authority's system, and a mention of private banks, and the forms of private endowments .

This revealed the legitimacy of private endowments. Rather, the system stipulated what constitutes a call for all types of endowments, as

in its fifth article, which includes the tasks of the General Authority for Endowments, and among what was mentioned in the tasks:

Taking the necessary measures to develop endowment work through the following:

A- Calling for the endowment, facilitating its procedures, and providing information, advice, and possible support to the endowors, the overseers, and everyone who desires the endowment.

B- Developing existing endowment formulas, seeking to find new endowment formulas, and coordinating this with the relevant authorities.

C- Contributing to the establishment of endowment projects and scientific and research activities, in a way that enhances community development, achieves the conditions of the endowments, and the purposes of the endowment, in coordination with governmental and non-governmental agencies.

D- Spreading awareness in society of the importance of endowments and its social and economic role, holding seminars, conferences and other educational activities, and conducting studies and research in the field of endowments.

### TOPIC THREE

The purposes of the private endowment

It has two requirements:

Requirement one : What are the purpose?

It becomes clear by explaining its meaning in language and terminology, as follows:

Maqasid in the language is the plural of "maqsid", and "maqsid" is a name for what is intended, an act is intended, and it comes in the language with several meanings , the closest of which is to the conventional meaning:

Mother, dependence, and direction, including his intention, intention for him, and intention for him: if he relies on him and directs toward him.

And the straightness of the path, and from that is the Almighty's saying: And upon Allāh is the direction of the [right] way,)Al Nahil/9) That is: God must clarify the straight path and call to it with clear arguments and proofs.

The objectives in terminology are defined by Professor Dr. Abdul Aziz Al-Rabiah as: "what is intended by the legislation of rulings, or is the will to achieve what is intended by the legislation of rulings .

Accordingly, what is meant by objectives here is what is intended to be achieved by legislating rulings, whether they Legal provisions or statutory provisions.

Requirement two : the purposes of the private endowment.

The private endowment has great purposes, whether it returns to the donor or to the recipients of the endowment. Zaid bin Thabit, may God be pleased with him, said: "We have not seen any good for the dead or the living from this confinement of endowments. As for the dead, its reward is paid to him, and as for the living, it is withheld from him, and it is not given or is not inherited and he cannot consume it.

By following what the Hanbali jurists mentioned about this, it can be summarized in the following points:

1- Getting closer to God Almighty, by obeying His command - Glory be to Him - to spend, give in charity, and give in the face of righteousness, as in the words of God Almighty: "ever will you attain the good [reward] until you spend [in the way of Allah] from that which you love. (Al Imran: 92), and the Almighty said: And they will do good.,( Al Hij/77( whether the one who is performing the endowment, they have a general duty of righteousness, such as mosques and the poor, or a specific one, such as offspring and relatives. Because their connection is righteousness, Imam Ahmad said: "I do not know how to endow anything except what I give to God, or endow it to the poor".

2- Obtaining the reward and continuing it after death, as was reported from the Prophet, may God bless him and grant him peace: (If the son of Adam dies, his work ceases except for three: ongoing charity, or knowledge that will benefit those after him, or a righteous child who will pray for him).

3-it is a means of achieving mutual love, compassion, bonding, and sympathy between the donor and the descendants and relatives to whom the endowment has been given.

4- It is a means of preserving the endowed money and protecting it from being sold and its price destroyed after the death of the donor.

The comprehensive guidelines for classifying the types of endowments mentioned the purposes and advantages of private endowments, including: "permanent benefit from the retention of money, and disbursing the benefits of the endowment to the classes of the recipients of the endowment, whether descendants or relatives, or those appointed by the endowment based on his condition, and it is the perpetuation of good work." And the continuation of the reward and wage after death. It also serves as a connection to the family and preserves the legacy from being squandered by the heirs."

## Conclusion

At the conclusion of this research, I mention the most important results and recommendations, which are the following:

First: the results, the most important of which are the following:

1- Endowment is: the confinement of the asset and the granting of the benefit.

2- The endowment is divided according to the type of endowment into: public endowment, private endowment, and joint endowment, which is what is included in the system of the General Authority for Endowments.

3- A private endowment is: for the donor to allocate the revenue of the endowment to a specific person, whether to his sons or to others, and approximates to it what is stated in the system of the General Authority for Endowments: "A conditional endowment to be

given to a specific person, including offspring and relatives, by person or by description."

4- The legality of a private endowment if it is on a legitimate authority, and that it is desirable, and thus follows the system of the General Authority for Endowments.

5- The multiplicity of the purposes and virtues of the private endowment, including: getting closer to God Almighty, maintaining family ties, achieving mutual love, compassion and sympathy between the endowment and those to whom it is made endowment, and protecting the money from being squandered by the heirs.

6- The agreement between what is stated in the books of Hanbali jurisprudence and what is stated in the system of the General Authority for Endowments, whether in defining private endowments, its legitimacy, or explaining its purposes and virtues, and this is indicated by what is stated in the comprehensive guideline for all types of endowments, citing the sayings of Hanbali jurists.

Second: Recommendations, the most important of which are the following:

1- Paying attention to the jurisprudential rooting of what is stated in the regulations, to demonstrate their originality and authenticity.

2- Spreading awareness of the legitimacy of private endowments and its purposes among members of society through modern means.

This, and God knows best, and our last supplication: Praise be to God, Lord of the Worlds, and may God's blessings and peace be upon our Prophet Muhammad and his family and companions and whoever is guided by his guidance until the day of judgment.

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