

**THE POSITION OF ISLAMIC LAW AND LEGISLATION ON ATTRACTING
FOREIGN CAPITAL FOR INVESTMENT IN ISLAMIC COUNTRIES: AN
ANALYTICAL STUDY**

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Abstract	<p><i>In order to effectively strike a balance between adhering to Sharia law and promoting foreign investment as a vital tool for economic growth, this research paper will examine and evaluate the legal position of foreign capital entering the investment sector in Islamic nations. Given its significance as a key source of funding for economic development in these nations, the study emphasizes the Islamic viewpoint on foreign investment. The initial segment of the research delineates foreign direct investment and its principal forms, whilst the subsequent segment examines the Sharia perspective on this investment type, including a discourse on the involvement of non-Muslims in Muslim investment initiatives. The document highlights the Sharia regulations governing foreign direct investments in Islamic nations. In conclusion, solutions grounded in Sharia and local legislation will be proposed to improve the investment climate in these nations.</i></p> <p>Keywords: <i>Foreign, Investment, Economic, Growth, Capital.</i></p>
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INTRODUCTION

Investment is seen as the foundation of economic development and financial stability worldwide, as it fosters economic growth, increases employment possibilities, and improves social welfare. In this framework, foreign capital serves as a crucial element bolstering national economies and facilitating the transfer of technology and knowledge. Islamic countries encounter distinct hurdles in attracting foreign capital due to their adherence to Islamic Sharia principles, which impose certain norms and laws on business.

This study paper seeks to provide a thorough examination of the interplay between Islamic law and national legislation regarding foreign investments in Islamic nations, emphasizing the attainment of a balance that allows these countries to leverage foreign money while adhering to Sharia principles. The study will examine the strategies that Islamic nations can implement to attract capital in accordance with local laws and Sharia principles, while also offering recommendations for governments and investors to foster a stable investment climate that advances sustainable development objectives.

This study is particularly pertinent due to the substantial economic and social transformations occurring in the Islamic world, necessitating a deliberate and sustained strategy to ensure that foreign investment fosters growth and fits with the objectives of

Islamic societies. This study aims to address the fundamental question: How can a balance be attained between attracting foreign investment in Islamic countries and maintaining adherence to Islamic Sharia and local regulations?

THE ISLAMIC PERSPECTIVE ON INVESTMENT CONTRACTS

Investment practices are shaped by the dominant ideologies of societies and nations. In capitalism systems, investment processes are influenced by capitalist philosophy, whereas in communist systems, investment methods are dictated by communist ideology, as exemplified by the former Soviet Union and other socialist-oriented countries.

In this setting, Islamic thought employs a distinctive investment framework grounded in the belief that ownership and wealth are divine, with humans serving as custodians. This ideology posits that a Muslim investor is dedicated to adhering to the principles of Islamic law (Sharia) in their investments and aims to foster global development with fairness and righteousness. (Ali Muhiuddin, 2005, p. 64) .

Grounded in this belief, a Muslim's financial dealings seek to satisfy ALLAH, in contrast to non-Muslims, whose objectives may focus on personal or national interests. In the Quran, it is stated by Allah:

﴿وَيُطْعَمُونَ الطَّعَامَ عَلَىٰ حُبِّهِ مِسْكِينًا وَيَتِيمًا وَأَسِيرًا ۚ إِنَّمَا نُطْعِمُكُمْ لِوَجْهِ اللَّهِ لَا نُرِيدُ مِنْكُمْ جَزَاءً وَلَا شُكْرًا﴾

Which means, "And they give food in spite of love for it to the needy, the orphan, and the captive, [saying], 'We feed you only for the countenance of Allah. We wish not from you reward or gratitude.'" (Al-Quran. Al-Insan: 8).

According to these beliefs, Muslims consider interest (riba) to be prohibited, as they believe it diminishes wealth, whereas generosity is seen as a source of blessings that enhances it. As Allah says:

﴿يَمْحَقُ اللَّهُ الرِّبَا وَيُزِيلُ الصَّدَقَاتِ ۗ وَاللَّهُ لَا يُحِبُّ كُلَّ كَفَّارٍ أَثِيمٍ﴾

Which means, "Allah destroys interest and gives increase for charities." (Al-Quran. Al-Baqarah: 276).

Thus, Muslim investors refrain from engaging in banned activities and exclusively engage in permissible avenues, following divine directives in their commercial pursuits. Muslims are distinguished by their gratitude in profit and their patience in misfortune, as observed in,

﴿لِكَيْلَا تَأْسَوْا عَلَىٰ مَا فَاتَكُمْ وَلَا تَفْرَحُوا بِمَا آتَاكُمْ ۗ وَاللَّهُ لَا يُحِبُّ كُلَّ مُخْتَالٍ فَخُورٍ﴾

Which means, "So that you will not grieve for what has escaped you, nor exult [in pride] for what He has given you." (Al-Quran. Al-Hadid: 23).

Investment contracts in Islamic law are based on ethical principles that forbid fraud, dishonesty, and exploitation. The Prophet Muhammad (ﷺ) said:

{ مَنْ غَشَّنَا فَلَيْسَ مِنَّا }

Which means, "Whoever cheats us is not one of us" (Al-Qazwini, Muhammad, n.d).

Islam advocates for transparency in commerce and intervenes solely to safeguard the vulnerable and enforce Sharia principles, as demonstrated by the institution of "hisba" to ensure economic justice. The term "investment" is absent in classical Islamic jurisprudence literature; rather, scholars employed synonymous phrases such as "istinma" (growth) and "tanmiyya" (progress).

For instance, "istinma" was employed in the context of "mudaraba" (profit-sharing) to signify capital expansion. (Bagas Anuraga & Muhammad Subhi, 2022), Imam Al-Dardir

employed the term "tanmiyya" to characterize investment within the Maliki jurisprudential framework. (Al-Dardir, 1989). Tahami characterized investing in Islamic economics as the augmentation of capital through its utilization in alignment with Islamic investment principles to achieve Sharia objectives. (Tahami, 1996). The Encyclopedia of Islamic Banking defines investment as the allocation of capital to augment it in accordance with Sharia rules. (Ajil, 2009).

THE SHARIA FRAMEWORK FOR INVESTMENT CONTRACTS

Allah designed the planet to require human endeavor and diligence to utilize its resources. The Earth does not possess finished things; rather, it contains raw elements that necessitate conversion into goods and services through the application of machinery and expertise. This process requires ongoing work to extract the resources that ALLAH has provided within the earth as nourishment for humanity. (Dunya, 2005,; Al-Ghazali, 1988)

Upon examining the Quran and Sunnah in conjunction with modern circumstances, we discover significant evidence affirming the need to allocate surplus income by those with excess resources, to the best of their capacity and in accordance with Sharia principles. Esteemed intellectuals, such as Abdul Salam Al-Abadi and Wahbah Al-Zuhayli, have asserted the necessity of investing, emphasizing its advantages for both individuals and society. Investment cultivates economic equilibrium and stimulates progress. (Al-Zuhayli, n.d.)

Quranic Guidance on Investment Contracts

While the phrase "investment" is not directly mentioned in the Quran, the word "thamar" (fruit) signifies the yield of agriculture and trees, tacitly alluding to the notion of investment and the utilization of money to generate returns. Allah says:

﴿انظُرُوا إِلَى ثَمَرِهِ إِذَا أَثْمَرَ﴾

Which means, "Look at its fruit when it yields" (Al-Quran. Al-An'am: 99), and Allah says:

﴿كُلُوا مِنْ ثَمَرِهِ إِذَا أَثْمَرَ وَآتُوا حَقَّهُ يَوْمَ حَصَادِهِ وَلَا تُسْرِفُوا ۚ إِنَّهُ لَا يُحِبُّ الْمُسْرِفِينَ﴾

Which means "Eat of their fruit when they bear fruit, and give its due on the day of harvest, and do not be wasteful. Indeed, He does not like the wasteful" (Al-Quran. Al-An'am: 141).

These lyrics underscore the significance of leveraging resources and wealth to generate production and returns that advantage both the individual and society (Miqdam and Layla, 2022).

Obligation to Invest Orphans' Wealth

Allah prohibited the allocation of riches to individuals likely to squander it, underscoring the necessity of safeguarding and investing resources to guarantee returns. Allah says:

﴿وَلَا تُؤْتُوا السُّفَهَاءَ أَمْوَالَكُمُ الَّتِي جَعَلَ اللَّهُ لَكُمْ قِيَامًا﴾

Which means, "Do not give the weak-minded your property, which Allah has made a means of sustenance for you." (Al-Quran. An-Nisa: 4).

Additionally, Allah says:

﴿وَابْتَلُوا الْيَتَامَىٰ حَتَّىٰ إِذَا بَلَغُوا النِّكَاحَ فَإِنْ آنَسْتُمْ مِنْهُمْ رُشْدًا فَادْفَعُوا إِلَيْهِمْ أَمْوَالَهُمْ﴾

Which means, "Test the orphans until they reach marriageable age; then if you perceive in them sound judgment, hand over their wealth to them." (Al-Quran. Al-Jumu'ah: 10).

Al-Nasafi asserts that the objective of investing orphans' assets is to utilize the gains to meet their expenses, rather than depleting the principle amount (Al-Nasafi, n.d.,).

The Duty to Seek Livelihood on Earth

The Quran advocates for Muslims to pursue sustenance as an initial measure in investment. Allah states:

﴿هُوَ الَّذِي جَعَلَ لَكُمُ الْأَرْضَ ذُلُولًا فَامشُوا فِي مَنَاكِبِهَا وَكُلُوا مِن رِّزْقِهِ ۗ وَإِلَيْهِ النُّشُورُ﴾

Which means, “He brought you forth from the earth and made you inhabit it.” (Al-Quran. almulk: 15). And Allah states:

﴿فَإِذَا فُضِّيتِ الصَّلَاةُ فَانْتَشِرُوا فِي الْأَرْضِ وَابْتَغُوا مِن فَضْلِ اللَّهِ وَاذْكُرُوا اللَّهَ كَثِيرًا لَّعَلَّكُمْ تُفْلِحُونَ﴾

Which means, “When the prayer is concluded, disperse throughout the land and seek of Allah’s bounty, and remember Allah often so that you may succeed” (Al-Quran. Al-Jumu’ah: 10).

These passages emphasize the significance of labor and the quest for sustenance as a type of investment, indicating that humans are fundamentally accountable for expanding efforts to attain advantages and nourishment, while devotion is intertwined with work.

Prohibition of Hoarding Wealth

The ban on wealth accumulation emphasizes the imperative of investing rather than passively retaining it. Allah declares:

﴿وَالَّذِينَ يَكْنِزُونَ الذَّهَبَ وَالْفِضَّةَ وَلَا يَنْفِقُوهَا فِي سَبِيلِ اللَّهِ فَبَشِّرْهُمْ بِعَذَابٍ أَلِيمٍ﴾

Which means, “And those who hoard up gold and silver and spend it not in the way of Allah, give them tidings of a painful punishment” (Al-Quran. At-Tawbah: 34).

The admonition against accumulating riches underscores the necessity of investing it in socially beneficial manners. The Quran’s focus on ensuring sustenance and accumulating riches even allows for trading during pilgrimage, enabling Muslims to experience Allah’s favor, as Allah states:

﴿لَيْسَ عَلَيْكُمْ جُنَاحٌ أَنْ تَبْتَغُوا فَضْلًا مِّن رَّبِّكُمْ﴾

Which means, “There is no blame upon you for seeking bounty from your Lord” (Al-Quran. Al-Baqarah: 198).

PROPHETIC GUIDANCE ON INVESTMENT CONTRACTS

The Prophetic tradition includes numerous hadiths that advocate for the investment in the riches created by Allah for the benefit of humanity and the advancement of a cooperative and stable society (Albkri, 2014). Rafi’ ibn Rafi’ conveyed that the Messenger of Allah, peace be upon him, was inquired, “What is the most commendable method of earning?” He stated:

﴿عَمَلُ الرَّجُلِ بِيَدِهِ، وَكُلُّ بَيْعٍ مَبْرُورٍ﴾

Which means, “A man’s labor with his own hands and every lawful transaction.” (Hadis. Al-Bukhari. Bab al-Tijarah al-Mabrurah).

This hadith promotes industriousness in work and the efficient utilization of natural resources. Furthermore, Az-Zubayr ibn al-‘Awwām (may Allah be pleased with him) reported that the Prophet:

﴿لَأَنْ يَأْخُذَ أَحَدُكُمْ أَحْبُلَهُ ثُمَّ يَأْتِيَ الْجَبَلَ، فَيَأْتِي بِحُرْمَةٍ مِنْ حَطَبٍ عَلَى ظَهْرِهِ فَيَبِيعُهَا، فَيَكْفَى اللَّهُ بِهَا وَجْهَهُ، خَيْرٌ لَهُ مِنْ أَنْ يَسْأَلَ النَّاسَ، أَعْطَوْهُ أَوْ مَنَعُوهُ﴾

Which means, “That one of you takes his rope, goes to the mountain, cuts some firewood, carries it on his back, and sells it, thereby Allah saves his face (his dignity) is better for him than to ask people and they either give him or deny him” (Hadis. Al-Bukhari).

This hadith emphasizes the value of self-reliance and hard work, underscoring that it is better to earn one's sustenance through personal effort, even in modest tasks, than to depend on others for charity. This hadith underscores the significance of labor for attaining self-sufficiency. Furthermore, it is believed that the Prophet, peace be upon him, stated:

عَنْ حُدَيْفَةَ بْنِ الْيَمَانِ رَضِيَ اللَّهُ عَنْهُ قَالَ: قَالَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ: {مَنْ بَاعَ دَارًا وَلَمْ يَجْعَلْ ثَمَنَهَا فِي مِثْلِهَا لَمْ يُبَارَكْ لَهُ فِيهِ}

Which means, “Whoever sells a house and does not use its price to buy a similar one will not be blessed in it” (Hadis. Ibn Majah. No. 2482).

The Prophet also advocated for legitimate investment; for instance:

عَنْ عُرْوَةَ بْنِ أَبِي الْجَعْدِ الْبَارِقِيِّ قَالَ: {أَعْطَاهُ النَّبِيُّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ دِينَارًا يَشْتَرِي بِهِ أُضْحِيَّةً - أَوْ شَاةً - فَاشْتَرَى شَاتَيْنِ، فَبَاعَ إِحْدَاهُمَا بِدِينَارٍ، فَأَتَاهُ بِشَاةٍ وَدِينَارٍ، فَدَعَا لَهُ بِالْبَرَكَةِ فِي بَيْعِهِ، فَكَانَ لَوْ اشْتَرَى تَرَابًا لَرَبِحَ فِيهِ}

Which means, “Urwah ibn Abi al-Ja’d al-Bariqi reported that the Prophet ﷺ gave him a dinar to buy a sacrificial animal. He purchased two sheep, sold one for a dinar, and returned with a sheep and the original dinar. The Prophet ﷺ invoked blessings upon his trade, saying that if he were to buy even dust, he would profit from it” (Hadis. Ibn Majah. No. 2402).

In a similar manner, when a man approached him with merely garments and a bowl, the Prophet directed him:

{اشْتَرِ لِأَهْلِكَ بِإِحْدَاهُمَا قُوتًا وَبِالْآخَرَى فَأُنْبِي}

Which means, “Buy food for your family with one item and a tool with the other, and bring it to me” (Hadis. Abu Dawud).

This exhortation to labor and invest illustrates the Prophet's focus on capital investment rather than dependence on others. These teachings emphasize the value of self-sufficiency, hard work, and the wise use of resources to generate profit. The Prophet, peace be upon him, stated:

{إِنْ قَامَتِ السَّاعَةُ وَفِي يَدِ أَحَدِكُمْ فَسِيلَةٌ فَلْيَغْرِسْهَا إِنْ اسْتَطَاعَ}

Which means, “If the Hour is about to be established and one of you has a sapling in his hand, let him plant it if he can” (Hadis. Ahmad).

This hadith emphasizes the importance of making use of available opportunities and time, even in the face of significant events. It encourages taking action, highlighting that even in the most pressing circumstances, investing and contributing to growth and progress remains an important responsibility when possible. The Prophetic tradition underscores that investment is crucial for fostering a collaborative society and a robust economy. Islam advocates for legitimate investment to foster economic development and safeguard communal assets (Abu Zayd, 2006).

PROPHETIC GUIDANCE ON INVESTMENT CONTRACTS

The Prophetic tradition includes numerous hadiths that advocate for the investment in the riches created by Allah for the benefit of humanity and the advancement of a cooperative and stable society (Albkri, 2014). Rafi' ibn Rafi' conveyed that the Messenger of Allah, peace be upon him, was inquired, “What is the most commendable method of earning?” He stated:

{قَالَ: عَمَلُ الرَّجُلِ بِيَدِهِ وَكُلُّ بَيْعٍ مَبْرُورٍ}

Which means, “A man's labor with his own hands and every lawful transaction” (Hadis. Al-Bukhariyy. Bab al-Tijarah al-Mabrourah).

This hadith promotes industriousness in work and the efficient utilization of natural resources. Furthermore, Abu Huraira conveyed that the Prophet, peace be upon him, declared:

{وَالَّذِي نَفْسِي بِيَدِهِ لِيَأْخُذَ أَحَدُكُمْ حَبْلَهُ فَيَحْمِلُ فَحْمًا عَلَى ظَهْرِهِ خَيْرٌ لَهُ مِنْ أَنْ يَسْأَلَ النَّاسَ أَيُّؤْتُونَهُ أَوْ يَحْرُمُونَهُ}

Which means, “By the One in Whose hand my soul is, it is better for one of you to take a rope and carry firewood on his back than to go to a man and beg him, whether he gives or refuses” (Hadis. Al-Iraqi).

This hadith emphasizes the value of self-reliance and hard work, underscoring that it is better to earn one's sustenance through personal effort, even in modest tasks, than to depend on others for charity. This hadith underscores the significance of labor for attaining self-sufficiency. Furthermore, it is believed that the Prophet, peace be upon him, stated:

{مَنْ بَاعَ دَارًا أَوْ مَلَكًا وَمَ يُعِدُّ فِي مِثْلِهِ فَلَا يَجِدُ فِيهِ بَرَكَةً}

Which means, “Whoever sells a house or property and does not reinvest the proceeds in something similar will not find blessing in it” (Hadis. Ahmad).

This hadith demonstrates the imperative to utilize wealth for its growth, as neglecting it may result in the forfeiture of blessings. The Prophet also advocated for legitimate investment; for instance, ‘Urwah ibn Abi al-Ja’d al-Bariqi recounted that the Prophet, peace be upon him, entrusted him with a dinar to procure a sacrificial animal. He acquired two sheep, sold one for a dinar, and returned with a sheep and the initial dinar.

{قَالَ: فَجَاءَ بِشَاةٍ وَدِينَارٍ}

Which means, “He acquired two sheep, sold one for a dinar, and returned with a sheep and the initial dinar” (Hadis. Al-Bukhariyy).

The Prophet invoked blessings upon him, stating:

{إِنْ اشْتَرَى حَتَّى التُّرَابَ لَرَجَعَ بِهِ رَاجِحًا}

Which means, “If he bought even dust, he would profit from it.” (Hadis. Al-Bukhariyy).

In a similar manner, when a man approached him with merely garments and a bowl, the Prophet directed him:

{اشْتَرِ لِأَهْلِكَ بِأَحَدَاهُمَا قُوتًا وَبِالْآخَرَى قَاتِنًا}

Which means, “Buy food for your family with one item and a tool with the other, and bring it to me” (Hadis. Abu Dawud. 1644).

This exhortation to labor and invest illustrates the Prophet's focus on capital investment rather than dependence on others. These teachings emphasize the value of self-sufficiency, hard work, and the wise use of resources to generate profit.

The Prophet, peace be upon him, stated:

{إِنْ قَامَتِ السَّاعَةُ وَفِي يَدِ أَحَدِكُمْ فَسِيلَةٌ فَلْيَغْرِسْهَا إِنْ اسْتَطَاعَ}

Which means, “If the Hour is about to be established and one of you has a sapling in his hand, let him plant it if he can” (Hadis. Ahmad. No. 12512).

This hadith emphasises the importance of making use of available opportunities and time, even in the face of significant events. It encourages taking action, highlighting that even in the most pressing circumstances, investing and contributing to growth and progress remains an important responsibility when possible.

The Prophetic tradition underscores that investment is crucial for fostering a collaborative society and a robust economy. Islam advocates for legitimate investment to foster economic development and safeguard communal assets. (Abu Zayd, 2006).

JURISPRUDENTIAL GUIDANCE ON INVESTMENT CONTRACTS

Classical Islamic law did not utilize the term "investment" in its contemporary definition; rather, it adopted phrases such as *istinma'* (growth), *tanmiyah* (development), and *nama'* (increase) in many circumstances. (Qutb, 1420 AH). This was attributable to the lack of a clearly defined concept for "investment" in the Arabic language of that era, alongside the utilization of terminology that conveyed associated behaviors and notions regarding the enhancement and augmentation of wealth.

As a result, Islamic jurisprudence did not establish a definitive idea of "investment" as it is currently understood. It focused on various economic operations in accordance with Islamic law, emphasizing fundamental concepts such as the prohibition of *riba* (usury), the avoidance of illicit financial transactions, and the adherence to principles of ownership and profit-and-loss sharing.

The legitimacy of contemporary investments is evaluated based on the principles and rulings of Islamic law, in conjunction with local legislation recognized by scholars and experts in Islamic jurisprudence. From this viewpoint, ascertaining the legal status of direct foreign investments from an Islamic jurisprudential perspective necessitates examining the following issues:

NON-MUSLIM RESIDENCY IN ISLAMIC NATIONS AND THE PERSPECTIVE OF ISLAMIC JURISPRUDENCE

Islamic jurisprudence allows non-Muslims to settle in Muslim territories, with limitations for certain restricted regions, including Mecca. This decision is founded on the Quranic verse:

﴿يَا أَيُّهَا الَّذِينَ آمَنُوا إِنَّمَا الْمُشْرِكُونَ نَجَسٌ فَلَا يَقْرَبُوا الْمَسْجِدَ الْحَرَامَ بَعْدَ عَامِهِمْ هَذَا ۗ﴾

Which means, "O you who believe! Indeed, the polytheists are impure, so let them not approach Al-Masjid Al-Haram after this year" (Al-Quran. Al-Tawbah. 28).

The predominant interpretation is that this restriction pertains exclusively to the Sacred Mosque region in Mecca, without extending to all Muslim territories. Imam Al-Ghazali further asserted that non-Muslims may inhabit various areas of Islamic territories, with the exception of the Hijaz region. (Al-Ghazali, 1317H).

Ibn al-Humam states that in Muslim regions beyond the Arabian Peninsula, non-Muslims are permitted to reside. This perspective is broadly endorsed by academics. (Ibn al-Humam, 1316 AH, p. 379). Imam Rashid Rida agreed, highlighting that non-Muslims might inhabit Muslim territories outside the Arabian Peninsula under a treaty or security agreement (Rashid Rida, 1349 AH.). The Sunnah explicitly corroborates this restriction, particularly in the Hijaz region, as articulated by the Prophet (ﷺ):

{ لَا يَجْتَمِعَانِ دِينَانِ فِي جَزِيرَةِ الْعَرَبِ }

Which means, "Two religions shall not coexist in the Arabian Peninsula" (Hadis. Muslim).

The Arabian Peninsula, as referenced by Ibn Qudamah, pertains to the Hijaz region, encompassing Mecca, Medina, and Yamama. (Ibn Qudamah, N.d). Imam Al-Shafi'i elucidated that the designation "Arabian Peninsula" is confined to the Hijaz region and excludes Yemen, as Caliph Umar did not drive the Jews from Yemen (Rashid Rida, 1349H).

Consequently, we deduce that Islamic doctrine permits non-Muslims to inhabit Muslim territories, excluding the Hijaz region. Consequently, foreign investments may occur in Islamic countries, excluding certain prohibited regions. Regarding the involvement of foreign firms in investments in these regions utilizing Muslim labor, some scholars propose that it may be acceptable if the workforce comprises Muslim professionals and laborers (Al-Harbi, N.d).

Scholars have asserted that non-Muslims are prohibited from owning property in the Hijaz, either through direct ownership or leasing, as prolonged residency in the region is forbidden for them. This position is examined in the writings of Yusuf Abdul Maqsood and Nasr Wasel concerning Islamic relations (Abdul Maqsood & Wasel,). Al-Ghazali said that the production or sale of prohibited things is forbidden, as it promotes immoral conduct. (Al-Ghazali, 1317H).

Collaborations between Muslim and Non-Muslim Entities in Investment Initiatives and the Perspective of Islamic Jurisprudence

Islamic jurists concur that religious equality is not a precondition for establishing a partnership, allowing a Muslim to collaborate with a non-Muslim in investment ventures despite their religious disparities. This stance is supported by the Hanafi, Hanbali, and Zahiri schools (Jabr, 1421H). Nonetheless, an exception is observed with “*mufawadah*” (full authority) relationships between Muslims and non-Muslims, which the Hanafi school prohibits.

Abu Hanifa and Muhammad ibn al-Hasan forbade it due to the absence of religious parity, although Abu Yusuf permitted it with hesitation. (Salih, 1406H). The Shafi'i school disapproved such partnerships with non-Muslims due to apprehensions of potential usury and their perception of non-Muslim money as impure. (Al-Shirbini, 1398H). A precedent for Muslim-non-Muslim collaborations and foreign investments in Islamic nations is established by the Prophet's ﷺ interactions with the Jews of Khaybar, wherein he permitted them to cultivate and invest in Khaybar's land in return for half of the produce (Ibn Hajar, N.d).

This event illustrates the acceptability of agricultural collaborations between Muslims and non-Muslims without any reservations. Had there been any disagreement, the Prophet ﷺ would have abstained from engaging the Jews in the cultivation of Khaybar. (Salih, 1406H). This facilitates collaborative economic initiatives between Muslims and non-Muslims across many industries, contingent upon compliance with Islamic jurisprudence.

Islamic jurisprudence is based on the notion of optimizing advantages and mitigating harm. This principle affirms the acceptability of direct foreign investments and partnerships between Muslims and non-Muslims when they enhance economic development and national welfare, provided that Islamic norms, including the prohibition of interest and illicit transactions, are adhered to. (Salih, 1406H). The verse:

﴿وَمَا لَكُمْ أَلَّا تَأْكُلُوا مِمَّا ذُكِّرَ اسْمُ اللَّهِ عَلَيْهِ﴾

Which means, “*And why should you not eat of that (meat) on which Allah's Name has been pronounced (at the time of slaughtering the animal)?*” (Al-Quran. Al-Ma'idah: 5) indicates that non-Muslim wealth is acceptable provided it does not contain prohibited components.

Furthermore, the Prophet ﷺ procured food from a Jewish merchant and left his shield as security, signifying the acceptability of lawful financial transactions with non-Muslims (Ibn Qudamah,). Islamic jurisprudence allows direct foreign investments in Muslim countries, contingent upon adherence to Islamic principles and local legislation, thus promoting the interests of the Islamic state and facilitating economic growth and development.

The Legal Categorization of Foreign Investment Agreements

Islamic law underscores the need of securing foreign investment to fulfill the requirements of the Islamic state and attain economic advancement. Nevertheless, this cannot transpire

without particular Islamic directives aimed at safeguarding the interests of the Muslim community (Mohammad, 1999). Therefore, each proposed investment contract must comply with established standards that protect the interests of the state and the Muslim community.

Permitting foreign investment without Islamic supervision may result in the illicit monopolization of critical economic sectors or cause the Islamic state to forfeit sovereignty over its economy. (Salih, 2020). To guarantee that foreign investments comply with the norms of Islamic law, the following factors must be evaluated:

The Authentic Necessity for Foreign Direct Investment

The critical necessity for foreign investment is a primary consideration in the acceptance of such ventures within the Islamic state. Islamic law illustrates the endorsement of utilizing external resources and knowledge to meet the urgent needs of the society. In the prophetic era, the Islamic state confronted the challenge of ensuring food security for its populace and combatants due to material and human constraints in land utilization, prompting it to seek the expertise and capital of non-Muslims to enhance agricultural production and food supply.

These examples demonstrate that Islamic law recognizes the essential requirement for collaboration with non-Muslims when necessary to fulfill the community's requirements (Amer, 1999). Abu Ubaid cites a historical instance in which Prophet Muhammad (ﷺ) allocated agricultural grounds to both Muslims and non-Muslims, permitting them to cultivate it under a sharecropping arrangement, so underscoring the responsiveness of Islamic law to pressing needs (Ubaid, 1988).

In the era of the Prophet (ﷺ), a shortage of Muslim laborers necessitated leasing land to the Jews in return for half of the harvest. As the economic power and workforce of Muslims grew, they attained self-sufficiency. Upon the completion of this task, Caliph Umar ibn al-Khattab (may Allah be pleased with him) evicted the Jews from these territories, underscoring that "no two religions can coexist in the Arabian Peninsula" (Ubaid, 1988,).

This Islamic attitude underscores the imperative of modifying foreign investments in response to evolving conditions and the community's requirements, while upholding Islamic tenets and emphasizing the national interest of the Muslim community above all else.

Mitigating Dependence on Foreign Nations in International Investment

According to Islamic law, a basic requirement for foreign investment is that it must be strategically structured to benefit the Islamic nation, avoiding dependency and preserving its sovereignty and independence. Foreign investment must enhance national growth and economic autonomy by explicit policies and legal restrictions that safeguard the sovereignty of the Islamic state from external intrusion or economic domination, guaranteeing substantial economic advantages for the Muslim population (Al-Nabulsi, 1411H).

These restrictions are founded on the divine assertion:

﴿وَلَنْ يَجْعَلَ اللَّهُ لِلْكَافِرِينَ عَلَى الْمُؤْمِنِينَ سَبِيلًا﴾

Which means, "And never will Allah grant the disbelievers a way over the believers" (al-Quran. Al-Nisa'. 141).

This verse underscores the imperative of preserving national sovereignty and averting foreign domination. Furthermore, the esteemed prophetic hadith asserts:

{الإسلام يعلو ولا يُعلى}

Which mean "Islam is paramount and nothing surpasses it" (Hadis. Al-Daraqutni).

This hadith emphasizes the necessity for the Islamic state to maintain power and authority, ensuring that foreign investments bolster the sovereignty of the Islamic state rather than undermine it.

This guidance emphasizes the necessity for the Islamic state to maintain power and authority, ensuring that foreign investments reinforce the state's sovereignty rather than compromise it. To mitigate dependency, the Islamic state can orchestrate foreign investments by mandating local capital involvement in strategic projects, establishing limits and specific ratios to retain control over national resources, and preventing economic exploitation that may lead to subjugation by foreign interests.

The Imperative for Islamic States to Maintain Distinct Circumstances and Unique Privileges

The Islamic state must uphold extraordinary standards and unique privileges while engaging in contracts with international investors. The agreement with the Jews in Khaybar was historically regarded as an extraordinary arrangement, incorporating unique conditions set by the Islamic state to fortify its power and safeguard its interests. The Prophet Muhammad (ﷺ) possessed the unilateral ability to dissolve the contract without requiring the foreign partner's consent, underscoring the need of preserving the Islamic state's preeminent status in all commercial dealings (Al-Nabulsi, 1411H).

The noble hadith:

{أَفْرِكُمْ فِيهَا عَلَى ذَلِكَ مَا شِئْنَا}

Which means, "*I will allow you to remain there in as long as we wish*" (Hadis. Abu Dawud) emphasizes the significance of sovereignty and the ability to make autonomous decisions within economic dealings. In contemporary contexts, it is fundamental that the Islamic state supervises direct foreign investments within its territories, necessitating financial and administrative participation alongside foreign investors.

It is required that the local capital's share does not fall below 51% of the investments that include foreign elements. This condition aims to ensure complete local control over investments and to avoid any transfer of management or direction to foreign entities, thereby contributing to the protection of the national economy and enhancing independence (Yasri,).

These conditions reflect the Islamic state's commitment to safeguarding its interests and achieving sustainable development, ensuring that it does not fall into the trap of economic dependency.

Imposition of Foreign Investment Under the Principle of Commitment to Halal Products and Services

Foreign capital is essential for augmenting profitability in investment activities within a capitalist economy, serving as the principal motivator for their development. However, such investments frequently disregard the principles of halal (permissible) and haram (forbidden) in the production of goods and services within the host economy. These investments are marked by an exclusive emphasis on financial economic factors, overlooking ethical and religious values (Ghanem, 1986).

Investors in the traditional economic system depend on market developments and demand magnitude as principal indicators for selecting their assets. If there is substantial demand for gaming services, they may endeavor to develop casinos to satisfy this demand. Should there be a demand for alcohol, they will consequently create bars and production facilities.

In this setting, investors do not differentiate between permissible and impermissible items from a religious standpoint; rather, they prioritize profitability irrespective of the nature of the goods or services offered. Consequently, they may develop a chicken farm, a pig farm, or a brewery based on their assessments of economic prospects. (International Union of Islamic Banks, 1982).

Conversely, the Islamic economy is distinguished by its adherence to ethical principles and religious values in economic decision-making. The Islamic economy promotes profit and individual achievement while imposing ethical and legal limitations on the methods of attaining such profit. Actions and dealings that inflict harm on others or transgress the boundaries of Islamic law are eschewed.

Consequently, the utilization of detrimental or illicit methods to attain profits is forbidden, and investment should be focused towards endeavors that yield genuine advantages for individuals and society, in accordance with Islamic beliefs and ethics. The Islamic economy aims to attain profit and individual prosperity while enforcing ethical and legal limitations on the means of achieving such profit, promoting investment in activities that align with Islamic ideals. (Dunia, 1984).

These ideas are revealed in various Quranic texts, exemplified by Allah's declaration:

﴿يَا أَيُّهَا الَّذِينَ آمَنُوا كُلُوا مِنَّمَا فِي الْأَرْضِ حَلَالًا طَيِّبًا وَلَا تَتَّبِعُوا خُطُوَاتِ الشَّيْطَانِ إِنَّهُ لَكُمْ عَدُوٌّ مُّبِينٌ﴾

Which means, "O you who have believed, eat from that which is lawful and good on the earth, and do not follow the footsteps of Satan. Indeed, he is to you a manifest enemy." (Al-Quran. Al-Baqarah: 168).

Additionally, his assertion:

﴿وَكُلُوا مِمَّا رَزَقَكُمُ اللَّهُ حَلَالًا طَيِّبًا وَاتَّقُوا اللَّهَ الَّذِي أَنْتُمْ بِهِ مُؤْمِنُونَ﴾

Which means, "Eat from what Allah has provided for you, [that is] lawful and good, and fear Allah, in whom you are believers." (Al-Quran. Al-Ma'idah: 88).

Additionally:

﴿فَكُلُوا مِمَّا رَزَقَكُمُ اللَّهُ حَلَالًا طَيِّبًا وَاشْكُرُوا نِعْمَتَ اللَّهِ إِنْ كُنْتُمْ إِيَّاهُ تَعْبُدُونَ﴾

Which means, "So eat from what Allah has provided for you, that is lawful and good and be grateful for the favor of Allah upon you." (Al-Quran. Al-Nahl: 114).

Consequently, foreign investments in Islamic countries are prohibited from engaging in ventures that lack legitimate benefit, such as the production of statues or other deemed worthless items, activities that squander economic resources without enhancing the nation's productive efficiency, or any illicit endeavors. (Amir).

CONCLUSION

The Islamic perspective on investment contracts offers a comprehensive and ethical framework that guides Muslim investors in their financial endeavors. This methodology, based on the belief that all money ultimately belongs to ALLAH, emphasizes stewardship, accountability, and a commitment to justice and equity in all economic activities.

Unlike secular investment systems that prioritize personal gain, Islamic investment principles incorporate spiritual and ethical factors, promoting Muslim engagement in transactions that yield financial returns while also enhancing social welfare and community development. The Quran and Hadith clearly stress the necessity of investing excess wealth and highlight the importance of ethical conduct, particularly the prohibition of *riba* (interest) and the practice of hoarding.

The teachings of Prophet Muhammad (ﷺ) highlight that investment goes beyond individual gain and is a duty that promotes communal prosperity. By following these principles, Muslim investors can foster economic balance, enhance community welfare, and uphold the values of transparency and accountability. The Islamic framework for investment contracts emphasizes that financial transactions are fundamentally connected to moral and ethical principles, which are essential in the pursuit of a just and equitable society.

Muslim investors, despite maneuvering through the complexities of modern economic landscapes, can harmonize their commitment to these principles with sustainable and meaningful investing strategies that embody their beliefs and meet community requirements. Moreover, the legal tenets concerning investment contracts in Islamic law underscore a nuanced understanding of economic activities, particularly in relation to modern investment practices.

Classical Islamic law lacked a contemporary understanding of "investment," yet established a framework that emphasizes ethical principles, social responsibility, and adherence to Sharia. This foundation enables the assessment of modern investment strategies in alignment with Islamic principles, ensuring that transactions conform to the core tenets of avoiding *riba*, promoting equity, and enhancing communal welfare.

The approval of foreign investments in Islamic countries, albeit with certain restrictions, signifies a broader acceptance of diverse economic collaboration, including partnerships between Muslims and non-Muslims. This transparency is grounded in historical antecedents and recognizes that such collaborations can positively influence economic development, provided they adhere to Islamic legal and ethical standards.

The rhetoric of non-Muslims residing in Islamic nations underscores a feeling of tolerance, fostering collaboration and investment that benefits society. The adaptability of Islamic law to contemporary economic realities, while maintaining fundamental principles, underscores its relevance in the modern period. The legal classification of foreign investment contracts under Islamic law is governed by essential principles designed to safeguard the welfare of the Muslim community and foster economic progress.

The incorporation of foreign investment into the Islamic economy must comply with established rules that preserve Islamic principles, safeguard national sovereignty, and prevent reliance on other entities. This includes recognizing the genuine need for foreign investment to meet urgent community needs, strategically organizing foreign investments to serve the Islamic state's interests and maintaining control over these contracts to safeguard local interests.

Investments must comply with Islamic ethical standards, forbidding haram activities and directing funds toward industries that embody Islamic principles. By adhering to these regulations, Islamic governments can effectively integrate foreign investments into their economies, guaranteeing that such operations enhance the overall welfare of their population while aligning with the fundamental tenets of Islamic law. The integration of Islamic principles into investment practices guarantees compliance with religious obligations while promoting a sustainable economic structure that prioritizes social justice and ethical dealings.

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