

INVESTMENT IN THE LIGHT OF QURAN, SUNNAH, AND ISLAMIC JURISPRUDENCE

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Abstract

Purpose: To ensure the compliance of market players with Shari'ah, it remains imperative to understand the concept of Islamic investment as established in Islamic primary sources. Accordingly, this study aims to achieve this objective by reviewing the concept of investment based on the textual evidence of Quran, Sunnah and scholars' thoughts. Further, this paper strives shed light on the Fiqh guidelines monitoring investment in Islam. **Methodology:** The current research is conceptual in nature. In the realization of it, an exhaustive survey of the Islamic primary sources is conducted. Therefore, the literature review includes the Quran and Sunnah texts, and the contemporary Islamic economics textbooks discussing the concept of Islamic investment. These key sources are extensively reviewed in order to highlight the Islamic principles underlying Islamic investment. **Findings:** After reviewing Islamic primary sources, this research concludes that Islam does not restrained individuals from acquiring wealth. More so, Islam encourages Muslims to obtain wealth to further reach the state of Falah in the life and hereafter. However, Muslims are subjected to specific rules and Fiqh guidelines in their investment endeavor to ensure the compliance with Islam. **Research Limitations:** The investigation does not address a specific Islamic investment product but rather discuss the concept of Islamic investment principle. Further, this research does not assess how Islamic or Fiqh principles are observed in actual Islamic investment practice. Accordingly, future research can investigate on how Fiqh guidelines are being employed in Islamic investment scenario. **Practical Implication:** This study hopes to enrich the existing literature on investment by underlining the principles governing Islamic investment as described in Islamic primary sources and will, therefore, be used as a guideline for investors and financial institutions carrying Islamic investment. **Social implications:** The last financial crisis has substantially triggered people desire for alternative investment approach. Indeed, an investment model solely builds on financial consideration may threaten the stability of a nation, and will also widen the gap between high and low-income individuals in the society. Therefore,

*Islamic investment emerges as a vital instrument to sustain capital growth alongside with social equilibrium. **Originality/Value:** This investigation provides more insight into a field little explored. The current study contributes to the existing body of knowledge by providing a comprehensive review of the principles and Fiqh guidelines underlying Islamic investment while previous literature focuses on the profitability of Islamic investment products. Thus, the current research will enhance the body of knowledge pertaining to Islamic investment.*

Keywords: Islamic investment, textual evidence, Quran, Sunnah, *Fiqh* guidelines, Muslim scholars.

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1. Introduction:

Supported by a strong global need of more than 1.6 billion Muslims, Islamic investment is becoming increasingly important. Currently, there is over US\$260 billion invested in Islamic funds through 300 active global Islamic institutions. More so, the investor base looking to invest in Sharia-compliant instruments was estimated at about \$500 billion worldwide (S&P Global, 2017).

Beside financial objectives, the emergence of Islamic investment as a viable alternative to conventional investment arose from the Islamic investors' dear need to earn halal profits. Hence, in contrast to conventional investors that consider investment as a way to generate more materialistic profit, Islamic investors perceive Islamic investment as an act of worship (Choudhury, 2016). Accordingly, there is a number of unique features arising from the religion of Islam governing investment. However, a number of scholars have refuted the practices of Islamic investment lately. Such evaluation involves a wide range of issues related to the practice of this industry (Farooq, 2011; Salleh, 2012).

Given the above, the aim of this paper is to outline the concept of Islamic investment found in Islamic primary sources and to highlight key principles that govern Islamic investment. Aligned with these objectives, this paper starts by defining the concept of Islamic investment and its contemporary understanding. The paper continues by identifying the principles governing Islamic investment with the description of the *Ḍawābiṭ Shari'ah* or Islamic legal restriction governing Islamic investment concept. The last section concludes the paper.

2. Analysis of Islamic Investment

Literally, investment in Arabic is known as *Al-Istithmar*. The word *Al-Istithmar* is derived from the word *Tamrah* which mean seeking a certain fruit production (Manzûr, 1955). Technically, the terminology " *Al-Istithmar* " was absent from the classical *Fiqh* textbooks Sano (2000). Instead, other terms were used interchangeably to express the meaning of *Al-Istithmar*. For instance, Imam *Kassani* used the term "استثمار" *Istinm'a* while referring to investment (Kasaani, 1986). Similarly, XX used the word التنمية " *Tanmi'ah* " while discussing investing in '*Aqad Mudâraba* (al-Dardir, 1989). Further, Imam *Shirazi* referred to the word "نماء" "*Nam'a*" while elaborating on the legality to invest the money derived from *Mokaradah* (Shirazi, 1959).

Lately, a number of contemporary scholars' tried to define Islamic investment. For instance, Taqi Usmani suggested that, Islamic investing is employing the surplus money for the purpose to earn halal profits in strict conformity with the precepts of Islamic Shariah (Usmani, 2007). In its broader meaning, *Al-Istithmar* includes any activity leading to the increase of capital as long as it complies with Islamic principles (Mashore, 1991). In line with the above mentioned, Islamic investment can be defined as using a certain asset in accordance with *Sharī'ah* to generate profit in this world and in the hereafter to the investors and the *Ummah* as well.

3. Maqasid Sharī'ah

Islamic finance is considered as a socio-economic model promoting ethical and moral values derived from the Maqasid *Sharī'ah* principle (Chapra, 1985; Siddiqi, 2004). Imam Al Ghazali defines *Maqasid sharia* as the protection of the five fundamental interests or also known as " *Masalih* ". According to the same scholar, *Maqasid Sharī'ah* is meant to protect the person religion, life, reason, progeny, and property (Siddiqi, 2004). However, *Al Ghazali* classification's is not considered to be restrictive. Thus, a number of Islamic scholars like *Ibn Taymiya* claimed that the general scope of *Maqasid Sharī'ah* can include additional principles such as safeguarding people from harm. Further, this point of view was also supported by Imam *Ibn-Aashur* who included additional elements under the *Maqasid Sharī'ah* scope such as, improving the world and removing corruption (Siddiqi, 2004).

Aligned with the above, Islamic investors must consider the inclusion of ethical standards, such as fairness and justice in the investment decision to fulfill the objectives of *Sharia*. That is to say, Islamic investment aims to provide a fair circulation of the wealth, enhance employment rate, and to maintain the stability of the economy.

4. Prohibition of Riba

Riba is an Arabic term that denotes a rise or growth (Siddiqi, 2004). From the *Sharia* point of view, *Riba* is defined as any additional amount of money asked by the lender in a loan (Usmani, 2002). This definition was formulated based on the prophet *Mohammed* narration, who said (Peace Be Upon Him):

"A loan from which some benefits occur to the creditor is one of the many different forms of Riba". (Siddiqi, 2004)

The trading in *Riba* was prohibited based on both the prophet narrations (Peace Be Upon Him) and the Quran verses; for instance, verse number 278 Surah *Al-Baqarah* reported that:

"O you who believe! Be careful of (your duty to) Allah and relinquish what remains (due) from usury, if you are believers (27). But if you do (it) not, then be apprised of war from Allah and His Messenger; and if you repent, then you shall have your capital; neither shall you make (the debtor) suffer loss, nor shall you be made to suffer loss."

Surah Al Baqaraha (2:278-279)

Additionally, it is stated under Surah Al-Baqarah (2:280):

"And if (the debtor) is in the straitness, then let there be postponement until (he is in) ease; and that you remit (it) as alms is better for you if you knew."

In consequence, prominent contemporary scholars like Mufti *Taqi Usmani* ruled that all *Riba*-based loans and financial transaction involving *Riba* are not permitted (Usmani, 2007). The prohibition also involves investing in conventional financial products such as bonds (Elfakhani, Hassan, & Sidani, 2005). Thus, it is strictly prohibited to invest in any deal including *Riba*.

5. Prohibition of Gharar

Literarily, *the term Gharar* refers to fraudulence or uncertainty (Obaidullah, 2005). Technically, *Gharar* is the unknown surrounding a financial transaction (reference). Muslims scholars have identified two categories of *Gharar*, the first category is excessive and totally forbidden to deal with in Islamic transactions. The second category is minor, thus *Shariah* scholars tolerate this kind of *Gharar* (Dhareer, 1997; Obaidullah, 2005). The excessive *Gharar* was ruled as haram by many *Hadiths*, for example, *Abu-Huraira* reported that:

"The Prophet has forbidden the pebble sale and the Gharar sale".

Gharar can take place in the contract itself or, under the contract subject matter (Dhareer, 1997). Firstly, *Gharar* can occur in the contract when the contracting parties do not discern if the investment will take place. Secondly, the *Gharar* in the contract subject matter will arise when there is an ignorance of the goods sold, or the product characteristics such as the sort, amount, and

identity are not identified (Dhareer, 1997). *Gharar* can also occur when there is uncertainty in the subject matter delivery or the sale of non-existent goods (Dhareer, 1997).

Due to the *Gharar* prohibition, Muslim investors are not allowed to invest in derivatives, forwards and options sales since these transactions involve price differences, without real subject matter delivery (Dhareer, 1997; Obaidullah, 2005; Usmani, 2007).

6. *Ḍawābiḥ* or Regulation Rules of Investment in Islam

In addition to the mentioned principles, Islamic investors need to comply with *Ḍawābiḥ* Shariah (Sano, 2000). The word “*Ḍawābiḥ*” is usually used to describe a certain control, restriction or regulation. Literally, the term “*Ḍawābiḥ*” refers to firmly protecting something from any foreign elements (Manzûr, 1956). Technically, *Ḍawābiḥ* connotes the rules that shape the behavior (al-Zubaidi, 1965). From the *Fiqh* perspective, *Ibn-Taymiyyah* defined *Ḍawābiḥ* as a general rule of jurisprudence that applies to all related branches (Al-Maiman, 2005).

In the investment context, *Ḍawābiḥ* refers to a set of principles derived from Sharī‘ah teaching that shape the investment behavior of Muslim investors (Salami, 2008). Further, a number of experts suggested that *Ḍawābiḥ* Sharī‘ah is in fact formed by a number of dimensions.

6.1 *Aqida* or Belief Regulations of Investment

The Ḍawābiḥ Aqida refers to the fixed dogmatic principles that guide the beliefs of Muslim investor. The application of this regulation is characterized by the constancy and permanence through time and geographical location. The utmost objective of this regulation is to promote social welfare (Sano, 2000). Accordingly, *al Ḍawābiḥ Aqida* includes the following principles.

6.1.1 *Al-Istikhlaf* or Vicegerency

According to *Al-Tabari*, *Al-Istikhlaf* is a noun derived from the word *Khalifa*. The broad meaning of *Khalifa* is 'one who succeeds another'. the term *khalifah* is usually used when describing people succession, or the generation sequence (Mashore, 1991). Thus, the term *khalifah* refer to the action of replacing a person in authority and take his place (al-Tusi). From the *Fiqh* perspective, *Shariah scholars* refer to *khalifah* to designate the vicegerent statute of human beings on earth (al-Tabari, 2000). The jurist arrived at this conclusion based on the following Quran ayat:

“*And when your Lord said to the angels, I am going to place in the earth a khalif, they said: What! wilt Thou place in it such as shall make mischief in it and shed blood, and we celebrate Thy praise and extol Thy holiness? He said: Surely I know what you do not know.*”

Surah Al Baqara (2:20)

“But they rejected him, so We delivered him and those with him in the ark, and We made them rulers and drowned those who rejected Our communications; see then what was the end of the (people) warned”

Surah Yunus (10:73)

“What! do you wonder that a reminder has come to you from your Lord through a man from among you that he might warn you? And remember when He made you successors after Nuh’s people and increased you in excellence in respect of make; therefore remember the benefits of Allah, that you may be successful.”

Surah Al A'raf (7:69)

“And thus did We give to Yusuf power in the land-- he had mastery in it wherever he liked; We send down Our mercy on whom We please, and We do not waste the reward of those who do good”

Surah Yusuf (12:56)

“Surely We established him in the land and granted him means of access to everything”

Surah Al Kahef (18:84)

“Those who, should We establish them in the land, will keep up prayer and pay the poor-rate and enjoin good and forbid evil; and Allah’s is the end of affairs”

Surah Al-Hajj (22:41)

“It is He who hath created for you all things that are on earth; Moreover, His design comprehended the heavens, for He gave order and perfection to the seven firmaments; and of all things He hath perfect knowledge”

Surah Al-Baqarah (2:29)

“Believe In Allah and His apostle, and spend [in charity] out of the [substance] whereof He has made you heirs [mustakhlafina]. For, those of you who believe and spend [in charity], for them is a great reward”

Surah Al-Hadid (57:7)

“And He it is Who has made the stars for you that you might follow the right way thereby in the darkness of the land and the sea; truly We have made plain the communications for a people who know”

Surah Al An'am (6:97)

In accordance with the above mentioned, a number of Islamic finance experts considered that the philosophical tenet of Islamic investment is built upon the Istikhlaf statute of the investors. Therefore, investors are regarded as a vicegerent of Allah (Khalifa) entitled to a restricted form of ownership. From these, we can emphasize that Islam gives great importance to investment decision to help achieve a socio socio-economic vision as underlined in the following surat:

“And do not eat up your property among yourselves for vanities, nor use it as bait for the judges, with the intent that ye may eat up wrongfully and knowingly a little of [other] people’s property”.

Surah Al-Baqara (2:188)

6.1.2 Restricted Ownership

Islam is built upon the *Tawhid* principle or the oneness of Allah. This fundamental principle implies that Allah is the sole wealth owner who has the supreme authority and unrestricted ownership of all the wealth. Thus, Muslim investors are entitled to a restricted ownership over a limited time frame. This regulation is supported by a number of Quranic. For instance, the Quran revealed the following:

“And if you do not, then be informed of a war [against you] from Allah and His Messenger. But if you repent, you may have your principal - [thus] you do no wrong, nor are you wronged”.

Surah Al-Baqara (2:279)

“And do not give the weak-minded your property, which Allah has made a means of sustenance for you, but provide for them with it and clothe them and speak to them words of appropriate kindness”.

Surah Al-Nisa (4:5)

“Indeed, those who devour the property of orphans unjustly are only consuming into their bellies fire. And they will be burned in a Blaze. “Honesty was preserved in the roots of the hearts of men (in the beginning) and then they learnt it (honesty) from the quran, and then they learnt it from the (Prophet’s) Sunna (tradition)”

Surah Al-Nisa (4:10)

6.2 Ethical Control of Investment

Basically, Islam encourages embodying values and ethics in investment. Accordingly, investors involved in Islamic investment need to consider the *Ḍawābiṭ al Sharīʿya*. This restriction represents a set of ethical principles governing Islamic investors. Not only this restriction aims to ensure that investment activity is not harming the welfare of the society, but it also intends to promote values in the trading place (Salami, 2008).

6.2.1 Honesty

Honesty is one of the most important values in Islam. Accordingly, prophet (Peace Be Upon Him) has made a special emphasize on the role of honesty in financial dealing, whereby, Muslim investor must always be honest while carrying on investment activities, in this respect Hudhaifah bin Al-Yaman reported that Allah messenger said:

“Honesty was preserved in the roots of the hearts of men (in the beginning) and then they learnt it (honesty) from the quran, and then they learnt it from the (Prophet’s) Sunna (tradition)” (Al-Bukhari, 1996)

Moreover, the glorious Quran has specifically compliment honest people, and ordered Muslims to be honest with others in their dealings:

“And give full measure and weight in justice. We do not charge any soul except [with that within] its capacity. And when you testify, be just, even if [it concerns] a near relative. And the covenant of Allah fulfill. This has He instructed you that you may remember”

Surah Al-An'ama (6:152)

6.2.2 Righteousness (*Justice*)

Investment in Islam is built upon justice and righteousness. Further, financial activities involved with *Riba*, gambling, monopoly and *Ghrare* features, are prohibited due to the existence of injustice and oppression features. In this regard, Ibn-Taymiyyah has suggested that the contractual relationships must always be based on justice, due to the clear emphasize made by the prophets (Peace Be Upon Him). Indeed, the necessity to implement justice in financial matters was specifically addressed in various Quranic text; for instance, the following Surat;

“And the heaven He raised and imposed the balance (7) That you not transgress within the balance (8) And establish weight in justice and do not make deficient the balance (9)”.

Surat Al-Rahman (55:7-9)

6.2.3 Respect for Contractual Engagement

In Islam, the investors are bound to respect their contractual obligation as long as they are not contradicting the shariah. This principle is in fact supported by a number of Quran and sunnah texts that ordered the fulfillment of the contract. For instance, the first verse of Al-Ma'idah emphasized the importance of fulfilling the contractual duties when two parties enter into a contract.

“O you who have believed, fulfill [all] contracts”.

Surat Al-Ma'idah (5:1)

Similarly, Prophet (Peace Be Upon Him) also stressed the importance of respecting the contractual terms and condition in a hadith reported by Sulayman ibn Dawud:

“Muslims are on (i.e. stick to) their conditions”.

6.3 Economic Regulations

Dābiṭ Iqtisadi or economic regulations represents a set of Islamic economic principles. According to (Sano, 2000), this regulation was founded on the broad *Sharī‘ah* objectives. Accordingly, the economic regulations emphasize on Muslim investors responsibility to invest in ventures that help wealth circulation in the society. Further, this rule compels Muslim investor to take reasonable precautions to ensure the wealth protection (Salami, 2008). Finally, this *Sharī‘ah* restriction is relatively flexible when compared with other *Sharī‘ah* restrictions. In other words, the economic regulations can evolve as time changes.

7. Conclusion

Islam does not restrain the nature of humanity in investing and acquiring wealth. In fact, the teaching derived from the Quran and the Sunnah encourage Muslims to invest their wealth to achieve *Al-Falah* which is also known as a successful life and hereafter. Hence, to achieve the *Falah* statute the Muslims need to comply with a number of rules and regulations. For instance, it is strictly prohibited for Muslims to generate profit from illegal investment activities. Thus, it is of a certain importance to ensure that Islamic investment activities are based on *Sharī‘ah* principles to achieve the positive change in the world. Being a complete way of life, Islamic investment is committed to generating a comprehensive benefit to the investors and the society in general.

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