

**Exploiting endowment properties to activate halal tourism in
Algeria**

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Abstract:

This research paper aims to study the possibility of investing endowment properties in activating halal tourism in Algeria, especially in light of the trend of many countries towards this type of tourism, which has proven its effectiveness in generating important resources for the countries that adopt it, whether by attracting hard currency or even its contribution to revitalizing the country's economic development, and also by investing in endowment properties, noting that Algeria has recently sought to exploit them by introducing legislative texts that protect these properties and specify the conditions and manner of investing in them, which allows these properties to be invested in the halal tourism sector.

The study concluded that Algeria possesses a huge wealth of unexploited endowment properties, which can be exploited and invested in the halal tourism sector, especially since the latter follows Islamic religious principles.

Keywords: tourism ; Halal tourism ; endowment ; Endowment properties ; investment.

Résumé:

Cet article vise à étudier la possibilité d'investir des biens de dotation dans l'exploitation du tourisme halal en Algérie, en particulier avec de nombreux états ayant recours à ce type de tourisme, qui s'est avéré efficace pour obtenir des ressources importantes pour les états qui l'adoptent, que ce soit en sollicitant des devises fortes ou même en contribuant au dynamisme du développement économique du pays, par le biais de l'investissement de biens de dotation, l'Algérie a récemment cherché à les exploiter en développant des textes juridiques protégeant ces biens et en définissant les conditions et les moyens d'y investir, lui permettant ainsi d'investir dans le secteur du tourisme halal. Cette étude a révélé que l'Algérie possède une énorme richesse de dotations inexploitées, qui peuvent être exploitées et investies dans le secteur du tourisme halal, d'autant plus que ce dernier suit les principes de la charia islamique.

Mots-clés: Tourisme; Tourisme halal; Donation; Propriété de dotation; Investissement.

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1. INTRODUCTION

Tourism is one of the lofty goals of Islam, and it is also one of the means of spiritual education for humans, as it is considered a means of recreation, keeping boredom away, and regaining mental and physical activity. However, Islamic tourism - or as most researchers call it halal tourism - has conditions and foundations that distinguish it from conventional tourism in its general sense, as it must be compatible with the requirements of the Islamic religion, through tourist facilities and the excursion program in addition to the services provided.

In order to activate halal tourism activity, there are several areas that can be invested in to revitalize this sector on the one hand, and to achieve important economic resources on the other hand, which is the endowment sector, as endowment properties are considered a fertile field for investing in and developing them and making them an important source in serving the community to achieve social solidarity, and also Converting it into a source of income for a large group of families, and to serve the country's economy.

Importance of the study:

The importance of the study is evident in highlighting Algeria's wealth of endowment properties that enable it to promote tourism in the country, and contribute to economic development by revitalizing this sector.

Problematic study:

From what was mentioned above, the features of the study's problem are evident through the following fundamental question: To what extent is it possible to activate the investment of endowment properties in the halal tourism sector to achieve economic development in Algeria?

Study Methodology:

In this study, we relied on the descriptive approach in order to present the theoretical aspects related to the subject, in addition to the analytical approach in order to analyze the legal texts related to the endowment and exploit it through investment and development.

Division of study:

We divided this study according to the following two axes:

- The first topic: The concept of halal tourism
- The second topic: The concept of endowment and its legitimacy

2. The concept of halal tourism

Before talking about the concept of halal tourism, we turn to the concept of tourism in general, and then to the concept of halal tourism in particular as a subject of study.

2.1 Definition of tourism and halal tourism

Before discussing the definition of halal tourism, it is important to define tourism in general:

2.1.1 Definition of tourism

According to Hensker and Carpet's definition of tourism, it is: "a set of relationships and phenomena resulting from the travel and stay of people, where the place of residence is not their original and permanent residence, and not their primary place of work"¹.

This definition defined the concept of tourism by considering it an activity outside a person's place of residence, while neglecting an essential element for whether this activity is considered touristic or not, which is the element of time, as it did not specify a maximum period of stay.

As for the definition of the German researcher Goeber Freuler, he defined it as: "A phenomenon of our time, emerging from the increasing need for comfort, change, feeling the beauty of nature, a sense of joy and pleasure, residing in areas that have their own nature, and also the growth of communications, especially between peoples and different circles of human groups"².

What is notable about this definition is that it focuses on the social aspect of tourism, neglecting an important aspect, which is the economic aspect.

In contrast to this, we find Chollard's definition, which gave his definition of tourism as an economic dimension, saying: "It is the sum of operations of an economic nature, which are directly related to the entry, stay, and movement carried out by foreigners inside or outside a specific country, city, or region"³.

The World Tourism Organization defines it as: "an activity related to an individual's departure from the environment in which he resides, for a continuous period not exceeding one year, for entertainment and enjoyment or otherwise, provided that it is not linked to engaging in an activity to obtain money"⁴, which is considered a comprehensive definition because it includes the element of time, as well as its focus on the social and economic aspects.

2.1.2 Definition of Halal Tourism

Before discussing the concept of halal tourism, it must be pointed out that it is necessary to differentiate between the terms religious tourism and halal tourism, as the first concept is not limited to Islam only, but includes other religions such as Christianity, Judaism, Hinduism, Buddhism, and others..

While the concept of halal tourism is limited to the Islamic religion, as it is considered a new model and modern concept in the tourism sector, it came to fulfill the desires of Muslim tourists, especially with the increase in their number and their tourism needs that are compatible with the Islamic religion, as this type of tourism seeks to provide tourism services that suit the needs of conservative Muslim families, and compatible with Islamic Sharia jurisprudence⁵.

Returning to the beginning of the emergence of the term halal tourism, it appeared after a series of Arab revolutions in a number of countries at the beginning of the second decade of the current century, after the liberals exploited the tendency of the peoples of those countries to support Islamic movements and consider them

an alternative to the fallen regimes. The liberal currents deliberately intimidated the Islamic trend and its advocates on the pretext that they would prohibit tourism, close beaches and prevent everything that tourists need due to the prohibition⁶, and from there tourism, which is considered in several countries one of the pillars of the economy, will collapse. However, the Islamic movement took advantage of this point and worked to preserve and activate this activity in accordance with the rules of the Islamic religion.

From this standpoint, the definitions of halal tourism according to most researchers are almost compatible and similar in their fields, objectives, and methods of practice, including the definition of the Organization of Islamic Cooperation, which defines it as: “a tourism product and process that follows the values and principles of the Islamic religion⁷”.

There is a more detailed and comprehensive definition, which defines it as: “Practicing various tourism activities in a manner that does not conflict with the values and principles of Islamic Sharia, by ensuring that tourist destinations such as hotels, resorts, and parks are free of dance halls and the sale of alcoholic beverages and gambling halls, and that their restaurants do not serve forbidden foods of all kinds, and it is also necessary to separate the areas designated for families from those available to men and to allocate swimming pools for women, whether closed or on the beaches, separately and out of the sight of men. The service provider in the areas designated for women should be provided by women only, and the same applies to men, with providing mosques for both genders to perform prayers”⁸.

2.2 Characteristics of halal tourism

Halal tourism includes the following characteristics⁹:

- Halal transportation: means of transportation must have good hygiene standards, serve halal drinks, and must not display publications or offers that conflict with the principles of Islamic legislation, with separate seats for men and non-mahram women;
- Tourist sites must be compatible with Islamic principles, enabling them to enhance the spiritual values of tourists.
- Halal consumption: All types of dishes served in restaurants must be halal, and alcoholic beverages should be avoided, as food plays a central role in the tourist's choice;
- Hotel services: Services are not limited to transportation and food, but there are also facilities provided, such as health resorts and gymnasiums, as the genders must be separated and the supervisory staff in them must be of the same gender;
- Financing the financial management of hotels, restaurants, tour operators and service providers must be in accordance with the Islamic principle,

prohibiting interest in financing, as it is considered forbidden in Islamic law.

Also among these characteristics, some researchers have included factors to measure halal tourism, mainly represented in management and organization conditions, including:

- The services provided to tourists must comply with the principles of Islamic law;
- Guides and staff adherence to discipline and respect for Islamic principles;
- Restaurants follow international standards in providing halal services;
- Providing areas or places for all Muslim tourists who perform religious activities;

Buildings comply with Islamic Sharia principles through separation, privacy, etc.

2.3 The economic importance of halal tourism

The importance of halal tourism as an economic activity within the economic components of countries, regardless of their forms and political or even economic systems, cannot be neglected, as it has shown today that it constitutes an ideal and profitable trend for the tourism sector in particular, and in its support for the national economy in general, for countries that have adopted this type of tourism.

Where halal tourism can¹⁰:

- Increases job opportunities and diversifies sources of livelihood for many families, by stimulating commercial activity in the country;
- It contributes to increasing the gross domestic product, which provides the state with diversified resources, which reflects positively on its economy;
- Increasing and intensifying flights to and from countries that adopt this type of tourism, with increased demand for hotel reservations, restaurants, entertainment venues, and historical and archaeological sites;
- It contributes to building a human dialogue between individuals and civilizations, while giving a true and honorable image of the Islamic religion and the Islamic nation, and correcting the distortion that has been caused by some extremists;
- Develop rapprochement and cooperation between Muslims and other nations, making Islamic countries that are full of all tourist potentials a tourist destination.

3. The concept of endowment and its legitimacy

To research the issue of endowment, it is necessary to understand its concept by defining it linguistically, terminologically, and legally, and then the basis for its legitimacy is from the Holy Qur'an, the Noble Prophet's Sunnah, the consensus of jurists, and analogy.

3.1 The concept of endowment

To understand the concept of endowment, we review its definition linguistically, terminologically, and legally.

3.1.1 Definition of waqf linguistically

Endowing something means locking it up, locking it up, and they are pluralized as endowments, and it is called endowment because the money is withheld for the benefit of a specific party.

As for confinement in language, it is the opposite of release, and it is also used to refer to the place of confinement. Its owner's endowment is an ihram endowment, meaning it cannot be inherited or sold, whether it is agricultural or residential land, palm trees, vineyards, or anything else. It is exploited, its origin is imprisoned forever and its fruit is distributed as an approach to God Almighty.

3.1.2 The terminological definition of endowment

Islamic jurists have provided different definitions of endowment depending on the opinions and doctrine of each jurist.

According to the Malikis, we find the definition of Ibn Arfa, which states: "Giving something for the duration of its existence requires that it remain in the possession of its recipient, even if it is a speculative measure"¹¹.

According to the Shafi'is: "Withholding property that can be used while its assets remain, without disposing of it, in a permissible manner"¹².

According to the Hanbalis: "withholding the property, and granting the benefit"¹³.

According to the Hanafi school of thought, it is: "withholding the property from the donor and giving in charity its benefit to a charitable cause, in both the situation and the future"¹⁴.

3.1.3 Definition of endowment legally

The Algerian legislator was keen to consecrate and protect endowment properties constitutionally, through successive constitutions of the Republic of Algeria, the most recent of which was the 2020 Constitution, which stipulated in Article 60/1 that: "Endowment properties and the properties of charitable organizations are recognized, and the law protects their allocation"¹⁵.

As for the Endowments Law of 2020, the endowment is defined in Article 6 as: "It is what has been reserved for charitable organizations from the time of its establishment, and its proceeds are allocated to contribute to charitable activity".

It has two sections:

- An endowment in which a specific disbursement of its proceeds is determined, so it is called a general endowment with a specific destination, and it is not permissible to spend it on other charitable causes unless it is exhausted¹⁶.
- An endowment in which the face of the good intended by the donor is not known, so it is called a general endowment whose destination is not specified, and its proceeds are spent on spreading knowledge, encouraging research in it, and in various charitable activities.

3.2 The legitimacy of the endowment and its importance

God Almighty legislated the endowment, recommended it, and made it one of the close ties by which one draws closer to Him. The basis of its legitimacy from the Holy Qur'an is the generality of the Qur'anic verses that urge spending and charity, and the same applies to the honorable Sunnah of the Prophet through the honorable hadiths of the Prophet in this regard, and through all of this it becomes clear to us the importance of the endowment from a social and economic perspective.

3.2.1 Legitimacy of endowment

Endowment is legitimate according to the consensus of Islamic jurists, because it is a form of charity, and the legitimacy of charity in general has been proven, and its recommendation is in the Holy Qur'an and the noble Sunnah of the Prophet, consensus, and analogy.

- In the Holy Qur'an: Among the evidence of the legitimacy of endowments in the Holy Qur'an is the saying of God Almighty in the meanings of the verses: **((Never will you attain the good [reward][138] until you spend [in the way of Allāh] from that which you love. And whatever you spend - indeed, Allāh is Knowing of it))**¹⁷.

And the Almighty says: **((O you who have believed, bow and prostrate and worship your Lord and do good - that you may succeed))**¹⁸, and the Almighty says: **((And whatever you spend of good[109] - it will be fully repaid to you, and you will not be wronged))**¹⁹.

These verses and many others motivate believers to compete in giving and doing good in order to obtain reward and rewards from God Almighty, and endowment is one of these ways.

- In the Prophetic Sunnah: There are many hadiths mentioned in the noble Prophetic Sunnah that call for goodness and giving and encouraging spending for the sake of God Almighty, among them what was reported on the authority of Abu Hurairah that the Prophet Mohammed, May the blessings of Allah be upon him, said: **((If the son of Adam dies, his work ceases, except for those who Three things: ongoing charity, beneficial knowledge, or a righteous child who prays for him))**²⁰.

And in Sahih Elbokhari, it is reported that Omar bin Elkhattab, may God be pleased with him, 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. He said: O Messenger of God, I have acquired land in Khaybar -I have never acquired money more precious to me than it- so what do you command? The Prophet said: **((If you wish, make it an endowment, and give it in charity))**. He said: So Omar gave it in charity so that it cannot be sold, not given away, or inherited, and he gave it in charity to the poor, to relatives, to slaves, for the sake of God, to the wayfarer, and to the guest. And there is no sin. Whoever is in charge of it must eat from it in a reasonable manner and feed others without compensation.²¹

- **in consensus:** More than one of the jurists stated that the consensus of the Prophet's companions was based on the validity of the endowment, as the author of Al-Mughni mentioned that Jabir, may God be pleased with him, said: "All of the companions of the Prophet, may God bless him and grant him peace, who are able to make endowments, made an endowment. This is a consensus among them." This became known and no one denied it, so it was a consensus.)²²

- **In analogy:** Since the endowment is a type of charity and a donation, they are all permissible and recommended according to many texts, and nothing has come to prevent it, so it was recommended according to analogy, so this is its original ruling, and an emergency may occur to the endowment that deviates from its original ruling to It is disliked, forbidden, or obligatory. Whereas if a vowed person vows to him, then as if he said: "If my son returns from his journey safely, then I must endow this house for a wayfarer". And it may be permissible if it is not intended to be closer to God Almighty, and therefore it is valid for a non-Muslim to endow it and there is no reward for it, and it is forbidden as if it were to endow A Muslim commits a sin, such as stopping at a church, for example²³.

3.2.2 The importance of endowment

The endowment is one of the characteristics of Islam, the features of its general system, and signs of its pioneering civilization, as it is considered one of the greatest social laws that influenced the development of Islamic countries and the morals of its people. It is also one of the greatest and holiest paths of goodness, and the most beneficial paths of righteousness, and the endowment seeks to deliver goodness and benefit to those for whom it is endowed and to carry out public work aimed at benefiting everyone. Hence, the importance of the endowment is evident in²⁴:

- Providing ongoing charity, the good of which is invested for the owner of the endowment;
- Securing a permanent resource for many of the poor and needy who benefit from the endowment;
- Fulfilling the donor's desire to transfer the benefit of his endowed funds to whomever he wants and for the destination he desires, given that the endowed money is outside the inheritance, and is paid only to the recipients of the endowment;
- Depriving ignorant and foolish heirs of wasting their inheritance, as if they found before them this impenetrable barrier, which is the endowment, as this would soften their nature and reduce their extravagance;
- Providing a permanent resource for public charitable and religious bodies, to facilitate their work in the field of charitable work.

3.3 Investing endowment properties in halal tourism

Investing the endowment means using the endowment's money to obtain the benefits that are spent on charitable purposes for which the endowment is given,

and here the endowment becomes financed. In this regard, the Forum for Endowment Issues indicated in the decisions and fatwas related to the investment of endowment funds that the concept of investing endowment funds is: “Developing endowment funds, whether assets or rents, by means and areas of investment that are permissible in the religion of Islam.”²⁵

The decision of the Islamic Endowment Academy stipulated, in investing the endowment, that the following controls be respected²⁶:

- The investment formulas must be legitimate, and in a legitimate field;
- Taking into account the diversity of investment fields to reduce risks, take guarantees, document contracts, and conduct the necessary economic feasibility studies for investment projects;
- Choosing the safest investment methods and avoiding high-risk investments, as required by commercial and investment customs;
- Investing endowment funds in legitimate forms appropriate to the type of endowment money, to achieve the interests of the endowment and preserve the endowment asset, as well as the interests of the recipients of the endowment. Accordingly, if the endowed assets are tangible objects, then their investment must not lead to the loss of their ownership, and if they are money, they can be invested through all legitimate investment means;
- Periodically disclosing investment operations, publishing information, and announcing them according to current customs;

Perhaps one of the aspects of the necessity of investing endowments and endowment properties in Algeria in particular and in Islamic countries, in general, is the field of halal tourism, as it is a profitable activity and is receiving increasing demand. Many countries have succeeded in investing and exploiting it in a way that benefits the endowment funds - that is, ensuring the circulation and increase of these funds - and also achieving an economic resource for the country by activating the tourism process, with the various components it requires and multiple means, each of which achieves its benefit according to its activity.

3.3.1 Investment of endowment properties in Algerian law

In order to optimally exploit endowment properties in Algeria, as they are a large unexploited wealth, the Algerian legislator sought to introduce legislative texts that strengthen the position of the endowment, provide it with the necessary protection, while exploiting and investing it to contribute to local development.

Since this sector was subjected to great neglect after independence, and this neglect continued until the issuance of the 1989 Constitution coinciding with the period of openness that Algeria experienced, the real beginning was the first legal texts regulating this sector, starting with Executive Decree No. 14-70 related to the rental of endowment agricultural properties, followed by After that, Executive Decree No. 18-213 related to the investment of built and buildable endowment

properties, followed by legal texts strengthening the status of the endowment to exploit and invest in it to serve the public interest²⁷.

3.3.2 Conditions and methods for exploiting endowment properties intended for the implementation of investment projects

Executive Decree No. 19-213 specified the conditions and methods for exploiting endowment properties intended for the implementation of investment projects²⁸, and their distribution was between the second and third chapters, respectively.

3.3.2.1 Conditions for exploiting endowment properties intended for the implementation of investment projects

Executive Decree No. 19-213 regarding the conditions and modalities for the exploitation of endowment properties directed to the completion of investment projects, devoted its second chapter to the conditions for the exploitation of endowment properties directed to the completion of investment projects, as Article 5 of it indicated that: “The process of exploiting endowment real estate to implement investment projects is carried out through an administrative contract between the authority in charge of endowments and the investor”²⁹.

As for Article 6, it indicated who could benefit from this, as it stipulated: “All natural and/or legal persons subject to Algerian law may apply to benefit from endowment real estate intended for investment with the aim of exploiting it.”³⁰

Hence, the persons mentioned in this article can exploit and invest endowment properties in the field of halal tourism, especially since Article 4 of this decree emphasized the necessity of this investment conforming to the purposes of Islamic law, as it stipulated that: “The process of exploiting endowment properties to accomplish investment projects, within the meaning of this decree, aims to ensure the valuation and development of these properties in accordance with the will of the donor, and in accordance with the purposes of the Islamic religion in the field of endowments, and in accordance with applicable legislation and regulation”.

Regarding the identification of endowment properties intended for investment, they are³¹:

- Unbuilt lands intended to receive investment projects;
- Built real estate, ready to receive investment projects;
- Built-up properties that need to be rehabilitated, expanded, improved, or demolished for the purpose of rebuilding or changing their initial use to receive investment projects;
- In all cases, the investment project's annexes are included within the public endowment properties.
- As for the rights to exploit endowment properties intended for investment, they are paid according to the following stages:
- During the completion stage: the investor pays an annual rent, starting from the date of signing the contract, and the rent value is determined according to the requirements of the real estate market;

- During the exploitation stage: paying a percentage of the turnover, ranging from 1% to 8%, based on the economic return of the investment and the resulting positive impact on local development;

While Article 10 of the same decree specified the entity benefiting from the rental dues, stipulating that: “The investor pays the financial dues related to the rent and a percentage of the turnover to the Endowment Treasury account.”

Thus, investing in endowment properties makes them a source of financial returns that contribute to the state’s income and diversification, instead of relying on oil revenues to a very large extent, and in light of the low numbers of other exports except energy.

3.3.2.2 How to exploit endowment properties intended for the implementation of investment projects

The authority in charge of endowments, represented by the Minister of Religious Affairs and Endowments, is responsible for initiating procedures related to the exploitation of endowment real estate intended for the implementation of investment projects, where exploitation is through submitting bids to open competition to choose the best project for the benefit of the endowment as a general rule, or by mutual consent³².

The process is carried out by creating a state committee to open and evaluate offers, and these offers are submitted at the request of the regionally competent governor, by decision issued by the Minister of Religious Affairs and Endowments. However, if it is a matter of encouraging investment projects of great importance and return on endowment properties or that have a national dimension, or those that achieve high value in the social aspect, it is possible to resort, exceptionally, to the formula of mutual consent, which is characterized by simplicity of procedures, speed of meeting needs and also saving time³³.

These legal texts prove the seriousness of the Algerian government in exploiting endowment properties to diversify its economic resources, including exploiting these properties in the tourism sector, which has proven its effectiveness in many countries such as Turkey, Malaysia, Indonesia and other Islamic countries, especially in halal tourism. This was emphasized by the Executive Decree in Article 4 - previously mentioned -, which emphasized the guarantee, valuation and development of these properties, in accordance with the will of the donor and in accordance with the objectives of Islamic Sharia.

4. CONCLUSION

It appears from the above that Algeria realized that its dependence on the energy source as a basic resource for the national economy is unstable, and carries with it major risks in light of the instability of its prices on the international market, and as a result of the successive international crises and their impact on this sector, which is what made it resort to paying attention to other sectors that ensure It has diverse economic resources, including the tourism sector.

In recent years, it has sought to advance this sector and find sources of financing for it - in addition to state support - and one of these proposed alternatives is investment in endowment properties, as they are a national wealth that is not optimally exploited, and also due to the successful exploitation of this resource in the halal tourism sector in many Islamic countries.

4.1 Study Results:

- Algeria has a large wealth of unexploited endowment properties, in addition to other tourism components, which are considered an essential element in attracting tourists and activating the sector.
- The Algerian legislator was keen to protect endowment properties as a national wealth.
- The Algerian legislator sought to exploit this wealth by enacting legislative texts to develop and invest it in several sectors, including the tourism sector.
- Relying on a single resource poses a threat to the national economy in light of the instability of prices and the many international crises, which force the state to find and diversify alternatives to achieve an additional economic resource; The tourism sector in general and halal tourism, in particular, are among those alternatives that have proven effective in this regard.

4.2 Study Recommendations:

- The necessity of adopting halal tourism as a purposeful national economic project;
- Exploiting endowment properties in halal tourism projects, to value, preserve, and rely on them as an economic resource that benefits individuals, society, and the country alike;
- Spreading the endowment culture within the framework of halal tourism, through activating it in the media, and organizing training courses for endowment agents and tourism agencies;
- Working to make the endowments' investment in the halal tourism sector successful to attract new endowments;
- Updating the legislative system related to the management and protection of endowment properties, as well as the laws related to the practice of tourism activity in a manner compatible with halal tourism, to encourage the endowment sector's investment in the tourism sector.

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