

Bridging between Shariah Law and Legal Framework: A Study of Problems and Solutions of Islamic Banking System in Bangladesh

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Abstract : The Islamic banking system is based on the Islamic shariah principles. Islamic banking is set up to avoid riba (interest)--which is prohibited in Islam-- and to prevent unscrupulous practices and participate actively in achieving the welfare-oriented Islamic economy. In the process of offering Islamic banking services, practitioners have been facing several challenges. Out of many challenges, this paper particularly highlights the need for a centralized legal framework for Islamic banks that should be compliant with the shariah law. The researchers employed a qualitative method to collect case studies from high-profile Islamic Bankers and analyzed respective legal documents and policy papers to conduct the study. This study investigates the Shariah Governance Framework (SGF), amended Banking Companies Act, 1991 (Act No. 14 of 1991), and the Shariah Supervisory Board (SSB) of Islamic banks in Bangladesh to evaluate how legal framework supervise and/or monitor Islamic banking system under the jurisdiction of shariah law. The study reveals that the Shariah governance system in Bangladesh is mainly voluntary rather than regulatory, and there is an absence of full-fledged SGF. Though there is no complete Islamic Banking Act for controlling, guiding, and supervising the Islamic banks in Bangladesh, some Islamic banking provisions have already been incorporated in the amended Banking Companies Act, 1991 (Act No. 14 of 1991). Bangladesh Bank did not set up any separate Department at its Head Office to control, guide and supervise the operation of the Islamic banks. So, ensuring the implementation of Shariah principles concurrent with the legal framework of banking policies is recommended in this study. This study also prescribes that the government should enact a law or policy for the operations of Islamic banks in order to improve the Islamic Banking system of Bangladesh. In addition, the central bank can set up a Central Shariah Supervisory Board (CSSB) or authorize the existing Central Shariah Board for Islamic Banks of Bangladesh (CSBIB) to supervise and monitor overall activities of Islamic banks and resolve the disputes among the stakeholders concerning the Shariah issues of Islamic banks.

Keywords : islamic banking, shariah law, banking policies, shariah governance framework (SGF)

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