

# STUDIA ISLAMIKA

INDONESIAN JOURNAL FOR ISLAMIC STUDIES

Volume 10, Number 2, 2003



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Indonesian Journal for Islamic Studies

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STUDIA ISLAMIKA (ISSN 0215-0492) is a journal published by the Center for the Study of Islam and Society (PPIM) UIN Syarif Hidayatullah, Jakarta (ST DEPPEN No. 129/SK/DITJEN/PPG/STT/1976) and sponsored by the Australia-Indonesia Institute (AII). It specializes in Indonesian Islamic studies in particular, and South-east Asian Islamic Studies in general, and is intended to communicate original researches and current issues on the subject. This journal warmly welcomes contributions from scholars of related disciplines.

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STUDIA ISLAMIKA has been accredited by The Ministry of National Education, Republic of Indonesia as an academic journal (SK Dirjen Dikti No. 69/DIKTI/2000).

Joni Tamkin Borhan

## Islamic Banking in Malaysia: Past, Present and Future

**Abstraksi:** *Memperhatikan perkembangannya belakangan ini, pelaksanaan sistem perbankan Islam di beberapa negara, seperti Indonesia dan Malaysia, telah memperlihatkan geliatnya yang lumayan signifikan. Hal ini antara lain ditunjukkan dengan diterapkannya sistem perbankan Islam tersebut oleh sejumlah bank, sebagai alternatif terhadap sistem perbankan modern konvensional. Di Indonesia misalnya, selain Bank Muamalah yang memang menerapkan sistem perbankan Islam, sejumlah bank komersial umum, seperti Bank Negara Indonesia (BNI), Bank Mandiri, dan beberapa bank lainnya, juga telah menyediakan pelayanan pengelolaan keuangan nasabah dengan berlandaskan pada prinsip-prinsip syariat Islam. Demikian halnya di Malaysia dengan berdirinya Bank Islam Malaysia Berhad (BIMB).*

Secara umum, perbankan Islam dapat didefinisikan sebagai pelaksanaan sistem perbankan yang didasarkan pada prinsip-prinsip ekonomi Islam (shari'ah). Sejauh ini, sistem perbankan Islam banyak menarik perhatian, khususnya dari kalangan Muslim, karena konsep bebas bunga yang ditawarkan. Konsep bebas bunga ini diterapkan karena prinsip utama aktivitas perbankan Islam didasarkan pada adanya larangan dalam hukum ekonomi Islam untuk melakukan ribâ' dalam segala bentuk transaksi jual beli.

Artikel ini berisi tiga pembahasan utama berkaitan dengan sistem perbankan Islam yang diterapkan oleh Bank Islam Malaysia Berhad di Malaysia: pertama, kajian historis tentang sistem perbankan Islam, menyangkut asal mula munculnya sistem perbankan Islam tersebut di Malaysia hingga perkembangannya kemudian; kedua, pembahasan tentang beberapa tantangan dan hambatan yang dihadapi oleh Bank Islam Malaysia Berhad tersebut; dan ketiga, analisis atas prospek sistem perbankan Islam pada masa yang akan datang, di Malaysia khususnya, dan di negara-negara yang berpenduduk Muslim lain pada umumnya.

Dijelaskan bahwa dalam konteks masyarakat Muslim Melayu di Malaysia, kesadaran untuk menerapkan syariat Islam dalam sistem perbankan dan

pengelolaan keuangan ini sesungguhnya sudah berlangsung sejak sebelum masa kolonial. Dalam hal ini, masyarakat Melayu di Malaysia, yang memang terkenal sangat kental keislamannya, senantiasa berhati-hati menyangkut transaksi keuangan dengan menghindarkan sistem bunga yang dianggapnya sebagai bentuk ribâ'. Mereka meyakini bahwa sistem ribâ' dilarang dalam syariat Islam, sehingga harus dicari alternatif lain agar masyarakat Muslim tetap dapat terlibat dalam aktivitas perekonomian tanpa harus dibayang-bayangi ketakutan terhadap ribâ'. Di antara bentuk transaksi alternatif yang diusahakan oleh Muslim Melayu di Malaysia untuk menghindarkan ribâ' tersebut adalah apa yang mereka sebut sebagai sistem "jual janji".

Pemahaman terhadap sistem bunga sebagai bentuk ribâ' pada gilirannya mendorong masyarakat Muslim Melayu di Malaysia untuk mendirikan bank Islam yang menerapkan sistem bebas bunga. Sebagai cikal bakal berdirinya bank Islam tersebut, pada awal tahun 1960an, lahir lembaga Tabung Haji yang kemudian dianggap berhasil memobilisasi sejumlah depositan yang tertarik dengan pengelolaan keuangan dengan sistem syariat Islam yang ditawarkan; Kemudian, atas dukungan penuh dari pihak pemerintah pimpinan Perdana Menteri Dr. Mahatir Muhammad, pada tahun 1983 berdirilah sebuah bank Islam dengan nama Bank Islam Malaysia Berhad. Dengan berlandaskan pada ketentuan yang telah disepakati, Bank Islam Malaysia Berhad mendapat tugas untuk mengimplementasikan tiga prinsip pokok sistem pengelolaan keuangan berdasarkan syariat Islam, yakni: pertama, tidak menerapkan sistem bunga karena diyakini sebagai ribâ', dan mengikuti sistem bagi hasil; kedua, semua manajemen bank Islam harus didasarkan pada prinsip-prinsip transaksi dalam Islam (mu'âmalah); dan ketiga, menghindari berbagai aktivitas ekonomi yang bertentangan dengan kepentingan ummat (Muslim).

Dalam artikel ini, penulis mengemukakan secara terperinci gambaran operasional dari berbagai bentuk transaksi ekonomi di Bank Islam Malaysia Berhad yang semuanya didasarkan pada hukum-hukum ekonomi Islam, seperti: wadî'ah, muðârabah, mushâraakah, murâbahah, bay' bi thaman 'âjil, ijârah, wakâlah, kafâlah dan qard hasan. Sejauh data yang dikemukakan, kendati Bank Islam Malaysia Berhad masih tergolong kecil dibanding bank-bank komersil lainnya, tetapi keberadaannya telah memberikan kontribusi penting bagi dunia perbankan pada umumnya, dan memberikan kesejahteraan sosial kepada masyarakat Muslim pada khususnya.

Dengan berdasarkan pada data-data yang dikemukakannya pula, penulis berkeyakinan bahwa baik secara teoritis maupun praktis, sistem perbankan Islam sangat mungkin terus dikembangkan di Malaysia dan juga di negara-negara Muslim lainnya.

## Islamic Banking in Malaysia: Past, Present and Future

خلاصة: إنه بالإطلاع على تطور المعاملات المصرفية الإسلامية في الآونة الأخيرة في بعض الدول الإسلامية مثل ماليزيا واندونيسيا نجد أنها أحرزت تقدماً لا بأس به حيث قام عدد من البنوك العامة بفتح مصارف إسلامية كبديل لنظام البنوك التقليدية، ففي إندونيسيا على سبيل المثال بالإضافة إلى بنك المعاملات (Bank Muamalat) الذي أنشئ خصيصاً لتطبيق نظام المصرف الإسلامي فقد فتح كذلك عدد من البنوك التجارية العامة مثل Bank Negara Indonesia (BNI) و Bank Mandiri وبنوك أخرى خدمات مصرفية لعملائها بتطبيق نظام قائم على مبادئ الشريعة الإسلامية، وكذلك الحال في ماليزيا بإنشاء بنك الإسلامي الماليزي المحدود Bank Islam Malaysia Berhad (BIMB).

ويمكن تعريف البنك الإسلامي بصفة عامة بأنه تطبيق للنظام المصرفي القائم على المبادئ الاقتصادية الإسلامية أو على أساس الشريعة، ولقد أثار هذا النظام انتباه الكثيرين وبالأخص من المسلمين لأن فيه تحمراً من الأرباح غير المشروعة وذلك لأن المبدأ الأساسي والأهم في النظام المصرفي الإسلامي هو الامتناع عن ممارسة الربا في كل صفقة للبيع أو للشراء.

يحتوي هذا البحث على ثلاثة موضوعات رئيسية تتعلق بنظام المصرف الإسلامي الذي يطبقه البنك الإسلامي الماليزي: أولها نظرة تاريخية لنظام المصرف الإسلامي ونشأته في ماليزيا وتطوره فيها لاحقاً؛ وثانيها دراسة حول التحديات والعوائق التي يواجهها البنك الإسلامي الماليزي؛ وثالثها تحليل لمستقبل هذا النظام في ماليزيا بالذات وفي الدول التي يمثل غالبية سكانها مسلمين عامة.

ويقال إنه في إطار المجتمع الإسلامي الملايو بماليزيا كان الوعي بضرورة تطبيق الشريعة الإسلامية في النظام المصرفي موجودا قبل فترة الاستعمار، وفي هذا الصدد كان المجتمع الملايو بماليزيا المعروف عنهم التزامهم الكامل بالشريعة الإسلامية يحرصون دائما في صفقاتهم المالية أن يتحرروا من أي نظام يتيح لهم الربح على أساس الربا، فقد كانوا على اعتناق بأن الربا محرم شرعا وبالتالي كان من الواجب البحث عن بديل آخر حتى يستمر المجتمع الإسلامي في معاملاتهم المصرفية دون مخاوف من الوقوع في الربا المحرم، ومن الأنظمة البديلة التي كان المجتمع الملايو بماليزيا يطبقه في ذلك اجتنابا للربا هو ما يطلقون عليه نظم "بيع الوعود".

ولقد كان إدراكهم لنظام البنوك القائمة على الربا دافعا لهم لإنشاء بنك إسلامي خال من نظام الربا، وكانت جذوره ترجع إلى الستينات عندما نشأت مؤسسة Tabung Haji أي نظام الادخار لأداء فريضة الحج التي حققت نجاحا في تعبئة عدد من المدخرين الذين يجنون أن تكون معاملاتهم المالية قائمة على الشريعة الإسلامية، وأخيرا بتأييد كامل من الحكومة بقيادة الدكتور محاضر محمد (Dr. Mahatir Muhammad) أنشئ في ١٩٨٣م بنك إسلامي يحمل اسم البنك الإسلامي الماليزي المحدود (Bank Islam Malaysia Berhad (BIMB)، وبناء على اللوائح المتفق عليها قام البنك بتطبيق ثلاثة مبادئ أساسية لنظام المعاملات المالية بالشريعة الإسلامية: أولاها عدم تطبيق نظام الأرباح لأن من المؤكد أنه نظام ربوي بل تطبيق نظام المراجعة؛ وثانيها أن تتم إدارة جميع المعاملات على أساس الشريعة الإسلامية؛ وثالثها تجنب أي نشاط اقتصادي يتعارض مع مصالح الأمة الإسلامية.

ويعرض الكاتب في هذه المقالة صورة مفصلة لمختلف الصفقات التي تجري في البنك الإسلامي الماليزي المحدود وكلها مبني على أحكام الاقتصاد الإسلامي مثل الوديعة والمضاربة والمشاركة والمراجعة والبيع بثمن أجل والإجارة والوكالة والكفالة والقرض الحسن، وطبقا للمعطيات المعروضة فلتن كان البنك الإسلامي الماليزي صغيرا بالمقارنة مع البنوك التجارية الأخرى إنما كان له دوره الهام في عالم البنوك عموما وقدم خدمة في سبيل رفع مستوى المعيشة لدى المجتمعات الإسلامية بصفة خاصة، وبناء على ما قدمه من معطيات أيضا توصل الكاتب إلى شيء مؤكد هو أنه سواء من الناحية النظرية أم التطبيقية فإن نظام البنك الإسلامي مهيبا جدا لأن يشهد مزيدا من التطور والازدهار في ماليزيا وفي الدول الإسلامية الأخرى.

**ISLAMIC** Banking is generally defined as the conduct of banking operations in consonance with Islamic principles of Commercial Law. The emergence of interest-free financial institutions especially in Muslim countries has created a new dimension to economic models. These Islamic banks are financial intermediaries which operate in accordance Islamic Commercial Law. The main principles of Islamic banking activities comprise of prohibition of *ribâ* in all forms of transactions, undertaking business and trade activities on the basis of profit and loss sharing. This paper will discuss the historical development of establishment of Islamic banking in Malaysia, their operations and application of Islamic Commercial Law's principles in the Malaysian Islamic banking system. This paper will also elaborates the challenges and some issues which are being faced by Malaysian Islamic banking system and its prospects in the future.

### Historical Development of the Establishment of Islamic Banking System in Malaysia

The Muslims in Malaysia, like their counterparts elsewhere, have for a long time had the desire to practise the rules of the *shari'ah* in the fields of banking and finance. They have always been cautious about being involved in *ribâ* transactions.<sup>1</sup> They had developed their own transactions which avoided *ribâ*. One such customary transaction which was prevalent amongst the Malays in pre-colonial times, and has survived until now, is *jual janji* (conditional sale).<sup>2</sup>

The origin of *jual janji* has been attributed to the objection that Malays (as Muslims) have towards *ribâ*, which is the economic basis on which the modern system of charge or mortgage functions. The answer to this objection, which proceeds from the Islamic injunctions against *ribâ* is the transaction known as *bay' bi al-wafâ'*, which is the sale with an option to repurchase.<sup>3</sup>

The identification of *jual janji* as a local customary transaction peculiar to the Malays because of religious considerations received judicial notice from the British judge, Briggs, in the case of *Tengku Zahara v. Che Yusuf* (1951 17MLJ 1) in which he held that:

"The whole purpose of *jual janji* transactions is to provide a procedure for securing loans and giving the lender adequate recompense therefore without infringing the prohibition of usury which is binding on the conscience of all good Muslims."

In *Mohamed Isa v. Haji Ibrahim* (1968 1 MLJ 186), Azmi, Chief Judge (Malaya) made a similar observation regarding this religious

element when he said that amongst the Kedah Malays, the transaction of *jual janji* was in fact, “a conditional transfer with a right to repurchase and so made in order to enable the lender to benefit from the transaction lawfully to Muslim Law.”

The prohibition of *ribâ* for Muslims had led to growing demands for the establishment of an Islamic bank in Malaysia.<sup>4</sup> In the early 1960s, the first major move towards establishing an interest-free financial institution was the setting up of the *Tabung Haji* (Pilgrims’ Management and Fund Board). The success of *Tabung Haji* in mobilising the funds of the depositors in accordance with Islamic principles put pressure on the Government to establish an Islamic bank. Further, the desire of the Muslims in Malaysia was especially rekindled when, in the early 1970’s there was a successful move to establish Islamic banks in West Asia such as the Islamic Development Bank in 1974 which operates in Jeddah, Saudi Arabia.

A more formal demand for the establishment of an Islamic bank in Malaysia was first made in 1980 when the *Bumiputera Economic Congress* passed a resolution urging the Government to allow the Pilgrims’ Management and Fund Board to establish an Islamic bank in Malaysia in order to mobilise and invest the funds of the Muslims in the country in accordance with *shari’ah* principles.<sup>5</sup> Implementation of such a resolution began in 1981 under Dr. Mahathir, the Prime Minister of Malaysia, when he invited prominent international Muslim scholars to Malaysia and accepted their recommendation on how Government could Islamise the administrative machinery of the country by setting up Islamic institutions such as banks and universities.<sup>6</sup> Likewise at the National Seminar on the *Concept of Development in Islam*, which was held at Universiti Kebangsaan Malaysia in Bangi in March 1981, a resolution was passed requesting the Government of Malaysia to take immediate steps to legislate an Act which would enable the setting up of banks and financial institutions whose operations would be based on Islamic principles.<sup>7</sup> On the same occasion, Dr. Mahathir announced the setting up of an Islamic Research Group and a Special Enforcement Group with the task of conducting research on all issues relating to an Islamic Economic system, as well as assisting the Government’s development projects by ensuring that they conform to Islamic principles.<sup>8</sup> Their efforts finally culminated in the appointment by the Prime Minister of a National Steering Committee on the Islamic Bank on 30 July 1981.<sup>9</sup> The twenty-member Steering Committee headed by the Raja Tan Sri Mohar, the special advisor to the Prime Minister, was given the following tasks:



- a. To study and identify various critical aspects of Islamic banking such as the basis of the establishment, areas of operation, and business relationship with the customers and other financial institutions.
- b. To examine the suitability of Islamic banking in the Malaysian context from various points of view including religious, legal, racial, social and development angles; and
- c. To present to the Government of Malaysia a proposal to establish *Bank Islam Malaysia* in a complete report encompassing the following aspects: (i) fundamental concepts of Islamic banking; (ii) legal framework; (iii) structure of the company; (iv) area of operation; and (v) organizational structure.<sup>10</sup>

### Basic Principles of the Bank Islam Malaysia Berhad

The report of the National Steering Committee on the Islamic Bank of Malaysia outlines three major principles that should govern the operation of the Bank Islam: *first*, the prohibition of *ribâ* and the sharing of profit and loss. Profit and loss-sharing is the basis of all economic activities involving money, wealth and labour in Islam. This concept of profit-sharing should replace interest as an important mechanism in the present banking system; *second*, management of Islamic bank based on Islamic transactions (*mu'âmalah*). The success of an Islamic bank is largely dependent on the understanding and implementation of the Islamic principle of transactions on the part of the management. Thus, an Islamic bank must ensure that its activities will not be in conflict with the *shari'ah* (Islamic Law); and *third*, avoidance of activities contradictory to the interest of the Muslim *ummah*. Any activity which is not in conformity with the interest of the *ummah* is tantamount to misuse and abuse of the wealth entrusted by God.<sup>11</sup>

The National Steering Committee submitted its report on 5 July 1982, and the report was accepted by the government. The recommendations of the committee included the following:

- a. An Islamic bank which operates according to the principles of *shari'ah* should be established.
- b. The bank should be incorporated as a limited company under the *Company Act 1965*.
- c. An act styled the *Islamic Banking Act 1983* should be legislated and some consequential amendments should be made to other existing related Acts.
- d. *Bank Negara* (Central Bank) should administer the *Islamic Banking Act 1983*.

- e. The bank should set up a Religious Supervisory Council to ensure that the operations of the Bank comply with the principles of the *sharī'ah*.<sup>12</sup>

## Legal and Regulatory Framework of BIBM

### *Incorporation*

The Bank Islam was finally incorporated as a limited company under the *Company Act 1965* on 1 March 1983 taking the name of *Bank Islam Malaysia Berhad (BIBM)* with its registered office situated in Malaysia. Its memorandum of Association prefaces that “*all businesses of the company will be transacted in accordance with Islamic principles, rules and practices*”. It lists among the company’s first objectives as “*to carry on the Islamic banking business in all its branches and departments and to transact and do all matters and things incidental thereto, or which may at any time hereafter at any place where the company shall carry on business be usual in connection with the Islamic banking business.*” The memorandum then proceeds to enumerate a number of possible objects for which the company is established, and seals the listing with a proviso that “*nothing in this memorandum contained also shall empower the company to carry on any business or do anything involving any element which is not approved by the Religion of Islam.*”<sup>13</sup>

To carry out its activities on interest free basis, the bank has an authorized capital of RM 500 million, divided into 500 million ordinary shares of RM 1.00 each and the initial paid-up capital of the bank is RM 80 million, which is RM 20 million less than the amount recommended by the National Steering Committee<sup>14</sup>. The initial paid-up capital then held by the Malaysian Government and various other parties was as follows:

Table 1  
The Initial Paid-up Capital of BIBM

Shareholders	RM Million
Government of Malaysia	30
Lembaga Urusan dan Tabung Haji (LUTH)	10
Muslim Welfare Organization of Malaysia	5
State Religious Councils	20
State Religious Agencies	3
Federal Agencies	12
Total	80

Source :BIBM, *Penubuhan dan Operasi*, Kuala Lumpur, 1989, p. 6; Bank Negara Malaysia, *Annual Report 1987*, pp. 16 - 17.

**Table 2**  
**Commercial Banks (Locally Incorporated):**  
**Assets, Deposits and Shareholders' Funds (RM Million) (As at 31 December 1984)**

Name of Institution	Assets	Deposits	Shareholder Funds	Ranking
Malayan Banking Berhad **	22,067.9	14,066.8	1,132.1	1
Bank Bumiputera Malaysia Berhad	21,102.4	14,658	1,074.5	2
Public Bank Berhad	5,811.9	4,785	319	3
United Malayan Banking Corporation Berhad*	7,494.3	4,517.4	200.9	4
Development and Commercial Bank Berhad	4,154	2,999.1	174.5	5
United Asian Bank Berhad*	3,543.9	2,161.9	132.7	6
Bank Islam Malaysia Berhad (BIMB)*	563.4	279.6	80.4	7
Perwira Habib Bank Berhad	2,346.1	1,844.7	76.4	8
Malayan United Bank Berhad	1,540	1,262	75	9
Hock Hua Bank Berhad	1,313.3	973.4	74.4	10
Kwong Yik Bank Berhad	1,341.3	1,090.2	72.7	11

Notes: \* Position as at 31 December 1983

\*\* Position as at 30 June 1985

Source : Arab-Malaysian Merchant Bank Berhad, *The Kuala Lumpur Bankers Directory*, 1986.

Based on the shareholders' funds of the bank which amounted to RM 80.4 million as at 31 December 1984, the *BIMB* can be placed among the seven largest locally incorporated commercial banks in Malaysia. This comparison is clearly shown in Table 2. Based on these comparisons, obviously the *BIMB* has a sound base to conduct its operations and to gain the people's confidence. The confidence of the people towards the bank also stems from the fact that the Government and other major religious agencies and Muslim institutions in the country have contributed to the bank shareholders' funds. It is significant to note that the *BIMB* is the first Islamic bank to be established with direct Government involvement, while other earlier Islamic commercial banks in other Muslim countries were established mainly by private individuals<sup>15</sup>.

*Islamic Banking Act (IBA) 1983*<sup>16</sup>

The *Banking Act* 1973 requires the rate of interest to be an important mechanism for banking operations and prohibits banks from trading<sup>17</sup>. In contrast, the Qur'ân explicitly states that, "Allah has permitted trade and prohibited interest (*ribâ*)".<sup>18</sup> This divergence between the *Banking Act* 1973 and the Qur'ânic injunctions implies that the initial legal environment in Malaysia did not permit the establishment of an Islamic bank that would operate without the element of interest.

In view of the above conflict, the Islamic Banking Act was legislated towards the end of 1982 to facilitate the establishment of Bank Islam. The Act, which was gazetted on 10 March 1983, is now known as the *Islamic Banking Act* 1983 (Act No. 276, 1983). The Act seeks to provide for the licensing and regulating of the Bank Islam business. It has been modelled on the country's *Banking Act* 1973 (now amended by the *Banking and Financial Institution Act (BAFIA)*, 1989 with modifications and amendments as are necessary to conform with Islamic banking practises. It basically retains the normal practices of prudent banking contained in the *Banking Act* 1973<sup>19</sup> and vests the Central Bank (*Bank Negara*) with similar powers of supervision and regulation over Bank Islam as in the case with other licensed banks.<sup>20</sup>

*Salient Features of the Islamic Banking Act 1983*

The following are the major provisions of the *IBA* 1983 as compared with the *BAFIA* 1989:

- a. Definition section (*IBA*, Section 2) defines an Islamic bank as "any company which carries on Islamic banking business."
- b. Definition of "Islamic banking business".

According to Section 2 *IBA* 1983, "Islamic banking business" means "banking business whose aims and operations do not involve any element which is not approved by the Religion of Islam." This definition surely poses the question: what is Islamic banking business? It has been clarified through various lectures given by *BIMB*'s officials and its handbook that the banking mechanism of *BIMB* is as mentioned below (3.5), i. e. *mu'ârabah*, *mushâarakah*, *murâbahah*, *bay' bi thaman 'âjil*, *bay' salâm*, *ijârah*, *wadî'ah*, *wakâlah*, *kafâlah* and *qard hasan*.<sup>21</sup> However, these concepts and principles are not laid out in detail in the Act. Having a first glance at the Act, one could feel that there is nothing Islamic about the whole Act except for where it states "... aims and operation not contrary to the religion of Islam."

However, Section 2 of *BAFIA* 1989 defines "banking (and finance) business" as the business of receiving money in any

currency or deposit accounts; paying and collecting cheques drawn by or paid in by customers and provision of finance, which include the lending of money, leasing business, factoring business, the purchase of bills of exchange, promissory notes, certificates of deposits, debentures or other negotiable instruments; and acceptance or guarantee of any liability, obligation or duty of any person and includes such other business as the Central Bank, with the approval of the Minister may prescribe.

In the absence of a statutory definition of "banking business" in the *IBA* 1983, it is the practice and in fact the law, to have regard to the Common Law to determine its meaning.<sup>22</sup> It would appear therefore that the *IBA* 1983 intends to define "Islamic banking business" in similar terms as that carried out by conventional banks in Common Law jurisdiction.<sup>23</sup> The only exception is that the aims and operations of such banking business should not involve any element which is not approved by the religion of Islam.<sup>24</sup>

#### c. Engaging in Trade and Commerce

The fundamental principle of Islamic finance is trading and profit and loss sharing. Islamic banks have to trade to earn an income since the Qur'ân expressly forbids *ribâ* but allows profit-making by trading.<sup>25</sup> However, according to Section 31, *BAFIA* 1989, conventional banks and financial institutions are not allowed to engage in wholesale or retail trading. Therefore, this provision is absent in the *IBA* 1983 which enables the Islamic bank to engage in such trade and commerce and is in line with the *shari'ah*.

#### *Government Investment Act 1982*

According to the *shari'ah* rules, an Islamic bank is not allowed to trade in Treasury Bills or other papers such as Government Bonds or securities which are interest-based transactions. From the operation point of view, however, it is important for the *BIMB* to trade in these papers in order to meet its legal liquidity requirements.<sup>26</sup> In order to make the operations of *BIMB* possible, consequently, The Investment Act 1982 was passed enabling the Government to issue non-interest bearing investment certificates so as to meet *BIMB*'s liquidity requirements<sup>27</sup> in terms of its holdings of liquid assets as well as to provide an investment avenue for its excess funds. The issuance of Government Investment Certificates (GIC) which is governed by the principle of *qard hasan* represent a benevolent loan to the Government, except that there is no pre-determined rate of

interest. The holder of these Certificates also does not expect any returns on the capital except the principle amount invested which will be fully refunded upon maturity.<sup>28</sup>

### *Religious Supervisory Council*

*BIMB* has set up a Religious (*shari'ah*) Supervisory Council to supervise and advise its banking operations to ensure that its operations do not involve any element which is not permissible in *shari'ah*.<sup>29</sup> This Council has a minimum of three and a maximum of seven members of eminent Muslim Religious Scholars in the country.<sup>30</sup> The supervisory role of the Religious Supervisory Council has been criticised in the following words:

“...Although the *shari'ah* Advisory Body has the power to advise, it is questionable as to how far it is able to perform such a function. It must be remembered that the Central Bank supervises the whole banking system and therefore the ultimate power rests with the Central Bank. I can understand the government's position in protecting its interest of the Bank paid up capital but it is quite pointless to set up an Islamic institution but to have it supervised by a non-Islamic organisation...”<sup>31</sup>

### **Corporative objective**

In view of the primary objective for which it is set up, *BIMB* has formulated its corporative objective as follows:

“The corporate objective of the Bank is to provide banking facilities and services in accordance with Islamic principles, rules and practices to all Muslims and the population of this country. The Bank's effort to provide these banking facilities and services is to be undertaken within the framework of its viability and capability to continuously grow and expand”.<sup>32</sup>

### **Organizational Structure**

The Organizational structure of *BIMB* consists of three divisions with line functions, i. e. operations, trade finance and treasury, and corporate investments and three other divisions with staff functions, i. e. establishment, accounts and legal, and secretarial. Each division is divided into departments and further subdivided into units as deemed necessary. *BIMB* has its Board of Directors comprising the nominees of its major shareholders who are elected at the annual general meetings. The management of the Bank is spearheaded by the Managing Director. The Managing Director and the Internal Auditors report to the Board of Directors. Meanwhile, the Religious (*shari'ah*) Supervisory Council advises the Board of Directors on all areas of operations related to religious affairs.<sup>33</sup>

### Subsidiaries and Branch Network

*BIMB* formed three subsidiary companies during its second financial year (1 July 1984 to 30 June 1985). For the purpose of acquisition of immovable and movable fixed assets, *BIMB* formed a wholly-owned subsidiary company with a paid-up capital of RM \$ 1 million under the name of *Syarikat Al-Ijârah Sendirian Berhad*. Another wholly-owned subsidiary company with a paid-up capital of RM 25,000, known as *Al-Wakâlah Nominees Sendirian Berhad* was formed to provide portfolio investment management and nominee services for *BIMB* and its clients<sup>34</sup>. A third subsidiary company is the 51-per cent owned *Syarikat Takâful Sendirian Berhad* which is engaged in *takâful* (Islamic Insurance) business in both family *takâful* business as well as general *takâful* business. The company began its Islamic insurance operation in the financial year 1985/86.<sup>35</sup>

As at 30th June 1993, *BIMB* had successfully opened 44 full-service branches in almost all the major towns in Malaysia, including 32 mini branches which accept deposits in current, savings and investment account facilities.<sup>36</sup>

### Banking operations

*BIMB* commenced its business operations on July 1, 1983 to meet the savings and credit need of the Malaysians in general and the Muslim community in particular.<sup>37</sup> In line with the basis of the Bank's establishment and its corporate mission, all of its banking operations and activities are in accordance with the principles of *sharî'ah* such as *wadî'ah*, *mu'ârabah*, *mushâarakah*, *murâba'ah*, *bay' bi thaman 'âjil*, *ijârah*, *wakâlah*, *kafâlah* and *qard ḥasan*.<sup>38</sup>

### Customers' Deposits

There is a consensus among scholars and practitioners of Islamic banking that deposits can be mobilised using the two *sharî'ah* contracts, i. e. *wadî'ah* and *mu'ârabah*<sup>39</sup>. In the case of *BIMB*, deposits are received from its ordinary customers through the following three accounts, namely:

- a. current accounts;
- b. savings accounts; and
- c. investment accounts.

a. *Current Accounts*

Current accounts are operated in the same way as in the conventional banks. *BIMB* accepts deposits from its customers looking for safe custody of their funds on the *shari'ah* principles of *wadi'ah* (safekeeping). With the permission of the customers, the Bank uses these funds to generate profit which would entirely belong to the Bank. In return, the Bank provides the customers with the cheque books and other usual current account services. The customers may withdraw a part or the whole of their balance at any time they so desire, and the Bank guarantees the refund of such balances.<sup>40</sup>

b. *Savings Accounts*

*BIMB* accepts deposits from its customers looking for safe custody of their funds with some degree of convenience in their use together with the possibility of some profits in the form of saving accounts on the principle of *wadi'ah*. The customers may withdraw part or the whole of their balance at any time they desire and the Bank guarantees the refund of such balances. The Bank requests permission from such customers to make use of their funds in any investments so long as these funds remain with the Bank. However, in contrast with current accounts, the Bank may, at its absolute discretion, reward the customers by returning a part of the profits generated from the use of their funds from time to time.<sup>41</sup>

c. *Investment Accounts*

There are two type of investment accounts offered by *BIMB*, both of which are operated on the *muḍārabah* principle, i. e. General Investment Account and Special Investment Account. Deposits received under the General Investment Account on the principle of *muḍārabah* are invested by the Bank on behalf of the depositors. Bank Islam accepts such deposits on the following basis, i. e. 1 month, 3 months, 6 months, 9 months, 12 months, 15 months, 18 months, 24 months, 36 months, 48 months, 60 months and over. The *muḍārabah* contract requires the Bank to act as the "entrepreneur" and the customers as the "providers of capital", and both parties to agree, among others, on how to distribute the profits, if any, generated by the Bank from the investment of the funds. At present, the Bank offers a profit-sharing ratio of 70 : 30 (70 per cent to the customers and 30 per cent to the Bank Islam from the gross profits made). This ratio, however, may be varied



from time to time so as to maintain an equitable distribution of profits between the two parties. The management of the investment of the funds is entirely under the supervision of the Bank. In event of loss, the depositors will bear all the losses<sup>42</sup>.

*BIMB* also selectively accepts deposits from the Government and corporate customers in the form of Special Investment Accounts which are operated on the principle of *muḍārabah*, but the modes of investment of the funds and the ratios of distributions of profits may be individually negotiated.<sup>43</sup>

### Project Financing

Two methods used by *BIMB* to finance acceptable projects are governed by the principles of *muḍārabah* and *mushārahah*.<sup>44</sup>

#### *Project financing under the principle of muḍārabah*

Under this mode of financing, *BIMB* is the “provider of capital” and will provide 100-per cent financing for the relevant project. The initiator of the project is the “entrepreneur” who will manage the project. The Bank cannot interfere in the management of the project, but has the right to undertake the follow-up and supervision tasks. Both parties agree through negotiation on the ratio of distribution of the profits generated from the project, if any. In the event of loss in the project, *BIMB* will bear all the loss.<sup>45</sup>

#### *Project financing under the principle of mushārahah*

Under this mode of financing, the Bank together with the initiator or initiators of the relevant project will provide the whole financing for the project in agreed proportions. All parties, including *BIMB*, have the right to participate in the management of the project; but all the parties have the option to waive such right. All parties agree through negotiation on the ratio of distribution of the profits generated from the project, if any. Such a ratio need not coincide with the ratio of participation in the financing of the project. In the event of loss in the project, all parties will bear the loss in proportion to their shares in the financing.<sup>46</sup>

#### *Financing the acquisition of assets*

*BIMB* also provides assets financing facilities under various principles such as *murābahah*, *bay' bi thaman 'ājil* and *ijārah*.<sup>47</sup> Under the mode of *murābahah* financing, *BIMB* first purchases the asset, movable or

immovable, and subsequently sells the relevant asset to the customer at the agreed price which consists of the actual cost of the asset to the Bank plus the Bank's margin of profit.<sup>48</sup> And, under the mode of *bay' bi thaman 'âjil* (deferred sale) financing, *BIMB* first determines the requirements of the customer in relation to the duration and manner of repayment. The Bank then purchases the asset and subsequently sells the relevant asset to the customer at the agreed price which comprises (a) the actual cost of the asset to *BIMB*, and (b) the Bank's margin of profit and allows the customer to settle the payment within a specific period or to pay by instalments or in a manner so determined.<sup>49</sup> Meanwhile, financing under the principle of *ijârah* (Leasing) requires *BIMB* first to purchase the asset required by the customer and subsequently to lease the asset to the customer for a fixed period on a rental basis and other terms and conditions as agreed by both parties.<sup>50</sup>

*BIMB* also provides financing the use of services and subsequent acquisition of assets under the principle of *al-bay' al-ta'jirî* (Leasing ending with ownership). This mode of financing requires *BIMB* to finance its customers who initially wish to acquire the right to use the service of a required asset and subsequently own it. The procedure involved is the same as the above principle of *ijârah*, except that both parties agree that the customer will eventually purchase from the Bank the asset concerned at an agreed price with all the lease rentals previously paid constituting part of the price.<sup>51</sup>

#### *Qard Hasan* (Benevolent loan)

*BIMB* may use an appropriate proportion of the funds at its disposal in the form of loans to deserving customers under the principle of *qard hasan*. The borrower is obliged to repay only the principal amount of the loan, according to its terms and conditions.<sup>52</sup>

#### Trade Finance

*BIMB* may provide specific facilities or financing, mostly on a short-term basis, for the purpose of facilitating trade or providing working capital for its customers. Such facilities or financing may be granted in connection with the purchase or import and sale or export of goods and machinery, and the acquisition and holding of stocks and inventories, spares and replacements, raw materials, and semi-finished goods. The facilities or financing currently provided include letters of credit, letters of guarantee and working capital under the principles of *wakâlah*, *mushârahah*, *murâba'ah*, *ijârah* and *wadî'ah*.<sup>53</sup>

#### *Letters of Credit Under the Principle of Wakâlah*

Under the principle of *wakâlah* (agency), the customer first informs *BIMB* of his letter of credit requirements and places with the Bank a deposit equal to the full amount of the price of the goods to be purchased or imported which the Bank accepts under the principle of *wadî'ah*. *BIMB* then establishes the Letter of Credit and pays the proceeds to the negotiating bank utilizing the customer's deposit, and subsequently releases the documents to the customers. The Bank charges the customer fees and commissions in connection with this service under the principle of *ijârah*.<sup>54</sup>

#### *Letters of Credit Under the Principle of Mushâraakah*

This mode of financing requires the customer to inform *BIMB* of his letter of credit requirements and negotiate the terms of *mushâraakah* financing. The customer places with the Bank a deposit for his share of the cost of the goods to be purchased or imported which the Bank accepts under the principle of *wadî'ah*. The Bank then issues the letter of credit and pays the proceeds to the negotiating bank utilizing the customer's deposit as well as its own share of financing, and subsequently releases the documents to the customer. The customer takes possession of the goods and disposes of them in the manner stipulated in the agreement. Profits derived from the venture will be shared as per agreement.<sup>55</sup>

#### *Letters of Credit Under the Principle of Murâbahah*

This mode of financing requires the customer to inform *BIMB* of his letter of credit requirements and to request the Bank to purchase or import the goods, indicating thereby that he would be willing to buy the goods from the Bank on their arrival on the principle of *murâbahah*. *BIMB* then issues the Letter of Credit and pays the proceeds to the negotiating bank utilizing its own funds. *BIMB* sells the goods to the customer at a price comprising the cost of the goods and a profit margin under the principle of *murâbahah* for settlement by cash or on a deferred payment (*bay' bi thaman 'âjil*) basis.<sup>56</sup>

#### *Letter of Guarantee*

*BIMB* may provide the facility of Letter of Guarantee to its customers in certain cases under the principle of *kafâlah*. This facility may be provided in respect of the performance of a task, the settlement of a loan, etc. To provide this facility, *BIMB* may require the customer to

place a certain amount as a deposit which *BIMB* receives under the principle of *wadī'ah*. *BIMB* will charge the customer fees and commissions in connection with this facility under the principle of *ijārah*.<sup>57</sup>

#### *Finance for working capital under the principle of Murābaḥah*

This mode of financing requires the customers to approach *BIMB* to provide financing for his working capital requirements to purchase stocks and inventories, spares and replacements, semi-finished goods and raw materials. *BIMB* first purchases or appoints the customer as its agent to purchase the required goods on its behalf and *BIMB* pays from its own funds. *BIMB* subsequently sells the goods to the customer at an agreed price on the principle of *murābaḥah*. The customer is allowed to settle this sale price on a deferred term of 30 days, 60 days, 90 days, or any other duration as the case may be.<sup>58</sup>

#### *Other Services*

*BIMB* also provides other usual banking services under various rules of *sharī'ah*. Suffice it to mention just a few as follows: remittances and transfers, sale and purchase of foreign currency, investment or portfolio management and trustee and nominee company services.<sup>59</sup>

Types of financing based on the principles of *sharī'ah* and the modes of contract implemented by *BIMB*<sup>60</sup> in its operation can be summarised as followed:

Type of Financing	Contracts Used to Grant Financial Facilities
Project Financing	<i>Muḍārabah</i> and <i>Mushārahah</i> (Equity Financing)
Financing the Acquisition	<i>Murābaḥah</i> , <i>Bay` bi thaman 'ājil</i> (Deferred Sale) of assets, <i>Ijārah wa al-istiqnā`</i> (Leasing Ending with Ownership) and <i>Qard Ḥasan</i> (Benevolent Loan)
Trade Financing	<i>Wakālah</i> , <i>Murābaḥah</i> , <i>Mushārahah</i> , Letter of guarantee (under the principle of <i>Kafālah</i> )
Services	Fees and Commissions charges under the <i>sharī'ah</i> principle of <i>al-Ajr wa al-'Umulah</i>

## **Examination and Evaluation of the *BIMB*'s Performance**

### *Mobilisation of Monetary Resources*

There has been no objection raised against *BIMB* on the use of either *wadī'ah* or *muḍārabah* contracts to mobilise deposits among its customers. The mobilisation of deposits by *BIMB* is presented in Table

3. The total deposits mobilised by the *BIMB*, as shown in the table 3 below, to four types of accounts, namely, current account, saving account, investment and special investment accounts, increased steadily from 1983 to 1989, but with a marginal decrease of growth. The total deposits of the *BIMB* increased from RM 91.1 million in 1983 to RM 274.9 million in 1984, an increase of 201.8 per cent. In 1985, the total deposits continued to increase to RM 405 million, an increase of 47.3 per cent. In 1986, the total deposits further increased to RM 566.9 million but the rate of increase fell from 47.3 per cent in 1985 to 40 per cent in 1986, and increased again in 1987 to RM 809.1 million, an increase of 43 per cent. In 1989, the total deposits increased to RM 1,229.2 million from RM 1,022.2 million, an increase of 20.3 per cent. Nevertheless, there was a slight decrease in the total deposits of *BIMB* in 1990 and 1991, i.e. RM 1,220.9 million and RM 1,175.1 million respectively. This may be due to the huge dividends offered by other investment institutions especially by the most popular Government backed institutions such as *Tabung Haji*. Total deposits, however, rose again by RM 291.2 million in 1993 to RM 1,611.7, an increase of 22.1 per cent in the financial year.

Table 3  
*BIMB* : Customers Deposits (Excluding Short-term Deposits of Institutional Customers), Depositors and Assets 1983 - 1993, as at 30 June

Year	Total Deposits (RM Million)	%**	Total Depositors	Total Assets (RM Million)	%**
1983*	91.1	-	22,499	170.6	-
1984	274.9	201.8	41,086	369.8	116.8
1985	405	47.3	127,980	514.2	39
1986	566.9	40	Not available	682.9	32.8
1987	809.1	43	Not available	932.3	36.5
1988	1,022.2	26.3	200,766	1,153.7	23.7
1989	1,229.2	20.3	235,786	1,368.3	18.6
1990	1,220.9	-0.7	270,049	1,396.3	2
1991	1,175.1	-3.8	299,040	1,357.2	-3.8
1992	1,320.5	12.4	329,990	1,607.8	18.5
1993	1,611.7	22.1	362,111	1,890.6	17.6

Notes:

\* 1983, as at 31 December

\*\* Rate of increase (%)

Source: Bank Negara Malaysia, *Annual Report 1984*, p. 75; *BIMB*, Compiled from *BIMB's Annual Reports 1986 - 1993*.

The total numbers of depositors consisting of individuals, Government Departments, statutory bodies and various entities from the corporate sectors increased steadily from 1983 to 1993. As can be seen from Table 3 above, in ten years of its operations, its depositors increased from 22,499 thousands in 1983 to 362,111 thousands in 1993, an increase of 1509.5 per cent. This can be considered a remarkable progress in terms of the role of *BIMB* in mobilising the funds and savings of the Muslims in particular and Malaysians in general, in a relatively short span of time.

**Table 4**  
*BIMB* : Rates of profits to depositors (%), as at June 1988 – 1993

	1988	1989	1990	1991	1992	1993
<b>Saving Accounts</b>	3.25	3.31	3.37	3.35	3.65	3.99
<b>Investment Accounts</b>						
1 Month	3.64	3.71	3.78	4.29	4.67	5.11
3 Months	3.87	3.94	4.01	4.55	4.97	5.42
6 Months	4.09	4.17	4.25	4.82	5.26	5.74
9 Months	4.32	4.41	4.49	5.09	5.55	6.06
12 Months	4.54	4.64	4.72	5.36	5.84	6.38
15 Months	4.77	4.87	4.96	5.63	6.13	6.70
18 Months	5.00	5.10	5.19	5.89	6.42	7.02
24 Months	5.23	5.34	5.43	6.16	6.72	7.34
36 Months	5.45	5.57	5.67	6.43	7.01	7.66
48 Months	5.68	5.80	5.90	6.70	7.30	7.98
60 Months and above	5.91	6.03	6.14	6.97	7.59	8.30

**Source** : Compiled from *Annual Reports of BIMB 1988 - 1993*.

The rates of profits actually paid to the depositors is divided into various accounts based on different weightages. The lowest weightage is given to current accounts and the highest to investment accounts. In the case of investment accounts, different weightage is assigned depending on the time frame, i.e. 1 or 3 or 6 or 9 or 12 or 15 or 18 or 24 or 36 or 48 or 60 months and above. As shown in Table 4 above, the rate of profit to the depositors in the financial years of 1988 to 1993 was between 3.25 and 3.99 per cent per annum for the saving accounts, and for the investment accounts was as follows:

1 month = 3.64 -5.11;  
 3 months = 3.87-5.42;  
 6 months = 4.09-5.74;  
 9 months = 4.32-6.06;  
 12 months = 4.54-6.38;  
 15 months = 4.77 -6.70;  
 18 months = 5.00-7.02;  
 24 months = 5.23-7.34;  
 36 months = 5.45-7.66;  
 48 months = 5.68-7.98;  
 60 months and above = 5.91 -8.30.

### *Financing and Investment*

The size of banking financing facilities granted to various sectors in the economy is presented in Table 5. The total financing granted by *BIMB* continued to increase yearly but at a declining and fluctuating rate, causing the financing-deposits ratio of the *BIMB* to increase from 44.7 per cent in 1983 to 90.9 per cent in 1984, but fall to 79.5 per cent, 69.7 per cent, 53 per cent, then slightly rise to 59.6 per cent, then fall to 54.2 per cent, then rise again to 66.2 per cent, 67.2 per cent, 76.1 per cent and slightly fell to 61.8 per cent from 1985 to 1993 respectively. The decreasing of this financing-deposits ratios suggests that *BIMB* has a large amount of idle funds not used efficiently. Consequently, this will impose a cost to the Bank as well as affecting its rate of returns.

Table 5  
*BIMB* : Financing of *BIMB*, 1983 – 1993

Financial Year	Total Deposits (RM Million)	Total Financing of Customers (RM Million)	Ratio of Financing Deposits(%)
1983	91.1	40.7	44.7
1984	274.9	249.8	90.9
1985	405	322	79.5
1986	566.9	395.3	69.7
1987	809.1	428.6	53
1988	1,022.2	609.4	59.6
1989	1,229.2	666.1	54.2
1990	1,220.9	807.8	66.2
1991	1,175.1	789.3	67.2
1992	1,320.5	1,004.7	76.1
1993	1,611.7	996.5	61.8

Source: Bank Negara Malaysia, *Annual Report 1984*, p. 75; Compiled from *Annual Report of BIMB 1986 - 1993*.

If we look at the Bank's modes of operations, we find heavy reliance has been given to *murâbaḥah* and *bay' bi thaman 'âjil* contracts. The proportion of funds granted under these two contracts are presented in Table 6. The table shows that the proportion of funds allocated for *murâbaḥah* and *bay' bi thaman 'âjil* tradings between 1984 to 1993 constituted more than 85 per cent of BIBM's modes of financing. It has continued to increase from 87.3 per cent in 1984 to 95 per cent in 1985, 95.4 in 1986 and 99.2 in 1987. However, it has slightly decreased to 96.9, 94.9 and 84.8 in 1988, 1989 and 1990 respectively. In 1991 nearly 100 per cent of the funds were granted under the *murâbaḥah* and *bay' bi thaman 'âjil* contracts, and it decreased to 90.7 and 88.7 in 1992 and 1993 respectively.

Table 6  
BIBM : Proportional of Funds' Financing Granted under *Bay' Bi thaman 'âjil*  
and *Murâbaḥah*, 1984 to 1993

Year	Credit (RM Mil)	BBA (RM Mil.)	%*	MH (RM Mil.)	%*	BBA + MH (%)
1984	249.8	193.9	77.6	24.2	9.7	87.3
1985	357.7	252.5	71.2	84.5	23.8	95
1986	397	338.5	82.3	52	13.1	95.4
1987	525	432.5	82.4	88	16.8	99.2
1988	646	505.5	78.2	121	18.7	96.9
1989	758	579.5	76.4	140	18.5	94.9
1990	865	623.5	72.1	110	12.7	84.8
1991	905	656.3	77.4	118.9	21.9	99.3
1992	1,004.7	723.8	72	188.3	18.7	90.7
1993	996.5	713.5	71	175.9	17.7	88.7

Notes: \* Rate of Financing (%)  
BBA = *Bay' Bi thaman 'âjil*; MH = *murâbaḥah*  
RM = Ringgit Malaysia

Source : Compiled from *Annual Reports of Bank Negara Malaysia 1984 - 1992*; BIBM, *Annual Report 1992 - 1993*.

These figures show that the funds which were allocated under the other modes of financing such as *muḥârabah* and *mushâarakah* were very small in percentage. These figures also reflect the Bank's limited scope of operations to merely trading business of acquisition of assets under the modes of *murâbaḥah* and *bay' bi thaman 'âjil*, thus denying the desire of investors or would-be entrepreneurs to obtain funds for equity based investment in productive business ventures.



It is obvious that the Bank's pattern of financing and investment has a somewhat close resemblance to the practices of other commercial banks. No doubt these two modes of financing will enable the Bank to achieve the normal objectives of commercial banks such as profitability and safety. However, these are rather inconsistent with the proposed involvement of the Islamic bank mainly with the first-line techniques identified such as *muḍārabah* and *mushārahah*. Since the *BIMB* is largely engaged in the second-line techniques, that is *murābaḥah* and *bay' bi thaman 'ājil*, there are doubts in the minds of the people, as to whether the Bank is allowing interest through the back door.

#### *Profit and Loss Accounts*

Table 7  
*BIMB* : Profit and Loss Accounts

Year	Profit before <i>Zakāt</i> and Taxation (in RM Million)
1984	1.2
1985	4.4
1986	3.7
1987	4.5
1988	6.2
1989	10.0
1990	13.4
1991	14.1
1992	16.1
1993	26.9

Source: Compiled from *Annual Reports of BIMB 1984 - 1993*

*BIMB* was unfortunate to commence operations at the time of recession in Malaysia and this was reflected in the loss incurred in the first year of operation. However, as shown in Table 7, a profit has been recorded in every year since. The initial losses were apparently caused by bad debts on financing. Since then a more cautious approach with tighter internal controls has been operated. Although profitability is modest in terms of the assets employed, the recent growth is an encouraging sign.

#### ***BIMB* and Economic Development**

In terms of significance to the Malaysian economy, *BIMB* is still a relatively small bank compared with other commercial banks. For

example, by the end of 1988, *BIMB*'s share of the total banking deposits had risen to 2.3 per cent. Nevertheless, of the twenty-three local banks, *BIMB* ranks thirteenth in terms of both assets and deposits, tenth in terms of shareholders' funds and fifteenth in terms of profitability.<sup>61</sup> However, this sub-topic will discuss the role and contribution of *BIMB* in the fields of mobilisation of savings and promoting investment, financing projects and social welfare in the country.

#### *Mobilising of Savings and Promoting Investment*

In spite of the fact that only a short time has passed since the *BIMB* experiment began, and in spite of strong competition by interest-banks, the results indicate that *BIMB* has achieved the desired goal as presented in Table 2 above. Its goal is to offer an interest-free banking system to the Muslims in Malaysia and to mobilise their savings in accordance with the *shari'ah*.<sup>62</sup> From the above discussion, it can be seen that the role of *BIMB* in encouraging and mobilising the savings of the Malay Muslims is crucial. Prior to the establishment of *Tabung Haji* and *BIMB*, the Malays preferred to hold their wealth in the form of cattle, land and jewellery. In spite of the *fatwa* issued by the colonial government about the permissibility of accepting interest from the Post Office and Co-operative, the most favoured methods of holding savings were still the traditional ones<sup>63</sup>. This attitude was claimed to have been the cause of economic retardation amongst the Malays.<sup>64</sup>

Therefore, the existence of *BIMB* at least managed to solve the problem of the Malay businessmen having to finance their economic activities by *ribâ*-based loans.<sup>65</sup> Above all, Islamic banking is expected to play an important role in attaining the economic objectives of restructuring the Malay Muslim community which depends on the manufacturing and services sectors and will need the full array of Islamic financial instruments.

#### *Financing Projects*

**Table 8**  
***BIMB* : Distribution of Financing (%)**  
**among the Country's Major Economic Sectors 1987 – 1993**

	1987	1988	1989	1990	1991	1992	1993
1	3.7	5.2	5.2	5.3	5.2	4.0	4.3
2	12.0	19.6	28.4	34.2	30.3	35.4	33.5

3	6.0	1.5	7.2	6.4	8.0	8.3	7.5
4	15.5	11.9	6.8	5.9	6.2	5.8	6.7
5	4.2	5.5	4.5	3.4	3.0	3.0	2.6
6	18.4	3.8	4.1	3.8	4.0	2.0	3.2
7	10.7	25.4	18.7	14.2	10.1	7.1	7.9
8	-	-	-	-	0.7	1.0	-
9	25.6	25.0	25.1	26.8	32.5	29.9	33.0
10	3.9	2.1	-	-	-	3.5	1.3
11	2,484	3,215	4,070	5,029	6,859	12,456	16,711
12	78%	81%	83%	85%	89%	93%	94%

**Notes:** 1= Agriculture; 2= Manufacturing; 3= Construction  
 4= Wholesale and Retail Trade; 5= Transport and Storage  
 6= Business Services; 7= Real Estate; 8= Other Services  
 9= Miscellaneous including Housing; 10= Others  
 11= Total Numbers of Account's Financing  
 12= Per cent of Accounts for amount of less than RM 100,000.00 thousands.

**Source :** Compiled from *Annual Report of BIMB 1987 - 1993*.

*BIMB* believes that the success of the economic development process in Malaysia depends mainly on the gradual change towards the creation of a production sector.<sup>66</sup> For this purpose, *BIMB* grants financing facilities in various economic sectors of the country, particularly those which have an effect on the process of social and economic development such as manufacturing, real estate, agriculture, construction, wholesale and retail trade, transport and storage, housing<sup>67</sup> and other services. In granting its financing to the above sectors, *BIMB* is largely engaged in small projects with small investors or traders as presented in Table 8. For example, the total number of accounts in customer financing increased to 16,711 from 12,456 previously. Around 94 per cent of these accounts were for amounts of less than RM 100,000.<sup>68</sup>

### *Social Welfare*

As a commercial institution which operates for profit, *BIMB* is also involved in social and welfare activities, for example, the *qard hasan* facility which is granted to eligible Muslims who are engaged in viable and productive economic activities. The biggest contribution of *BIMB* in the field of social welfare is through its annual *zakat* payment from its profits. *Zakat* is an obligatory levy on all surplus wealth and

agricultural income of Muslims. Its objective is to provide financial support to specified categories of people such as the poor and the needy.<sup>69</sup> Conceptually, *zakat* is supposed to be a milestone in providing social security, eradicating poverty and stimulating the economy.<sup>70</sup> As table 9 shows below, *zakat* paid by *BIMB* increased every year. For example, *zakat* paid by *BIMB* in 1993 amounted to RM 662,000 and this amount can be channelled to promote economic development of Muslims in Malaysia.

**Table 9**  
*BIMB : Zakat Payment, 1985 – 1993*

Year	Zakat (in RM '000)
1985	415
1986	377
1987	381
1988	358
1989	467
1990	449
1991	663
1992	662
1993	662

Source : Compiled from Annual Reports of *BIMB* 1985 - 1993.

### ***BIMB: Problems and Challenges***

#### *Legal Impediments to Islamic Banking*

Islamic Law relating to commerce and business (*mu'âmalat*) in Malaysia is only applicable to a very limited scope. Since the law relating to this matter is either the statute law or English law. In this connection, Section 5 of the *Civil Law Act* 1956 provides that "in the absence of any written law, the law generally applicable to commercial matters and any matters incidental thereto is the English Law". In other words, English law principles are inapplicable if there are other provisions in any law covering the question or issues which have been decided. If, however, there is no provision dealing with the issue in question, though there may be a general act covering certain aspects of the law, the issue shall be settled by reference to English law on the matter not covered by the Act.<sup>71</sup> Even though the *IBA* 1983 and others were enacted, they were merely acts to provide for the licensing and regulating Islamic commercial institutions and did not include any provision of the substantive law.

For this reason, Islamic financial institutions have to work in the context of the Islamic contracts such as *murâbaḥah*, *bay' bi thaman 'âjil*, *ijârah*, etc, which have to be interpreted in line with the equivalent of the relevant legislation and the English principles applicable to interpret or supplement the legislation.<sup>72</sup> In the case of *BIMB v. Tinta Press Sdn. Bhd.* (1986 MLJ 256; 1987 CLJ 474), a dispute relating to lease (*ijârah*) of printing equipment by *BIMB* to the defendants had to be dealt with in the High Court according to English legal principles. The question arises whether such legislation and legal principles are in line with the *shari'ah*. The relevant legislation already existing includes *Contract Act, 1950, Bankruptcy Act, 1967, Companies Act, 1965, Partnership Act, 1961 and Sale of Goods (Malay States) Ordinance, 1957*. There is an urgent need to examine these statutes and to bring them into line with the requirement of the *shari'ah*, or to make them inapplicable to Muslims.<sup>73</sup>

There are some other legal hindrances to the smooth running of Islamic banking in Malaysia vis-a-vis customer financing. These include:

#### *National Land Code (NLC) 1965*

Section 205(3) of the *National Land Code 1965*<sup>74</sup> which prohibits the transfer of an undivided share of agricultural land of less than 2/5 hectare (1 acre) has created a disadvantage for *BIMB*. The reason is that the nature of the operation of *BIMB* involves buying the property on behalf of customers, and not merely being an intermediate agent between the buyer and the seller as practised by conventional banks are. For example, if there is a piece of land belonging to A and B and the customers C and D go to *BIMB* to ask the latter to finance the buying of the said property and *BIMB* buys the property and it will have difficulty if it is going to sell the property to C and D because the provision of the *National Land Code 1965* prohibits the transfer of that land to another party. Therefore, this provision should be abolished or made inapplicable to *BIMB* since unlike other commercial banks, it is involved in trade, not merely in financing transactions.

#### *Hire Purchase Act, 1967*

*BIMB* is presently involved in financing its customers in acquiring fixed assets such as land, property, equipment, etc under the principles of *bay' bi thaman 'âjil*. Nevertheless this Islamic contract of *bay' bi thaman 'âjil* is not covered by the *Hire Purchase Act, 1967* since the Act is

outside the principle of the *sharī'ah*. According to the *sharī'ah*, there should not be two transactions in one contract (*'aqd*). It must be two separate transactions, i. e. hire followed by purchase.

The *Hire Purchase Act* has given complete protection both to the financier and the debtor in terms of legal documentation and enforcement of such an agreement. Thus, it will not be difficult for a financial institution to conduct its operations especially in cases involving repossession, unlike the agreements entered into under *bay' bi thaman 'âjil* which need approval from a Civil Court before they can be enforced. Therefore, it is hoped that this Act can be modified in order to make it consistent with the *sharī'ah*.

### *Islamic Banking in a Capitalistic World*

The theoretical concept of Islamic banking on the basis of profit and loss sharing was originally developed under the explicit assumption of a general prohibition of interest.<sup>75</sup> Today, *BIMB* has to carry on its business in a capitalist economy where interest persists and *BIMB* exists side by side with interest-based banks. This phenomenon will create problems for a newly established Islamic bank in competing with the established and widespread influence of the conventional banks.

Normally, depositors in Islamic banks can be classified into two categories:

- a. Those motivated mainly by Islamic commitment and conviction regarding the prohibition of interest. These depositors will put their money in an Islamic bank regardless of the rate of interest as it is the only institution devoid of interest.
- b. Those who are concerned purely with maximisation of profits.

An entrepreneur who is concerned with the maximisation of profits in an investment project will only decide in favour of an Islamic bank on the basis of a profit and loss sharing contract, if the expected profit is higher than that of interest from conventional banks. Since both the entrepreneur and the Islamic bank strive for maximum profit, they will bargain for the desired predetermined ratio of their profits. If an Islamic bank claims a higher ratio of profit than the entrepreneur, this will lead the latter turns to a conventional bank. Therefore, the Islamic bank has to adapt its claims for a given investment project to the market rate of interest. Therefore, if the interest rate of commercial banks is high, *BIMB* cannot claim a higher ratio of profit sharing since it will be less attractive to customers who have the option of investing in an interest-based banks.<sup>76</sup>

Furthermore, in the capitalistic environment of Malaysia, where an Islamic and conventional banks co-exist, customers may only deposit or invest their money in *BIMB*'s general investment or special investment accounts if they are confident that they will gain higher profits and their money is secure. This can be seen, for example, in the financial year of 1991 and 1992,<sup>77</sup> *BIMB*'s total deposits from customers rose but the balances in general investment accounts continued to decrease as its rates of profit were less attractive against rates of interest on fixed deposits paid by the conventional banks<sup>78</sup>. In addition, *BIMB* is competing not only with the commercial banks, but also other Government supported investment institutions such as *Tabung Haji*. In this case, *Tabung Haji* has managed to offer an attractive rate of return (dividend) to its depositors.

#### *Over-Dependence on "Second-Line Techniques"*

Another issue raising concerns is the excessive reliance of the *BIMB* on the second-line techniques of operation that is *murâbaḥah* and *bay' bi thaman 'âjil* since the early days of its inception. These secondary techniques are seen by some scholars as counterparts to the institution of interest as practised by conventional banks. This is because the mark-ups charged by the *BIMB* are about the same as the rate of interest, if we were to convert these mark-ups into a ratio of the principal sum of money provided by the bank. Therefore they accuse *BIMB* of charging interest in "a disguised form" and being "mainly similar to other commercial banks albeit without the interest label"<sup>79</sup>. Consequently, the cost of finance advanced by *BIMB* under the above methods is still high and is comparable to the cost of funds provided by other banks based on interest.

Although *murâbaḥah* and *bay' bi thaman 'âjil* are technically correct and permissible in the *shari'ah*, in effect they operate very much like interest-based lending.<sup>80</sup> Scholars of Islamic banking are disturbed at this phenomenon, for example, Siddiqi says:

"...There is a genuine concern among Islamic scholars that if interest is largely substituted by devices like 'mark-up', it would represent a change just in number rather than in substance, and the new system would not be rid of the iniquitous nature of the interest-based system. It is also emphasised that, apart from equity consideration, the prohibition of interest in Islam is meant to stimulate overall productive activity, generate maximum employment and encourage innovation which is the mainspring of growth. These blessings can only be reaped if the interest system is completely uprooted in the real sense of the term and replaced by a fundamentally different system like profit/loss sharing".<sup>81</sup>

The Bank has been accused of being only concerned with making profits and neglecting the welfare element in its operations.<sup>82</sup> According to officials of *BIMB* in a series of lectures, this allegation was due to the tendency of the people to equate *BIMB* with the *bayt al-mâl* (welfare institution).<sup>83</sup> However, they say that *BIMB* belongs to the *tijâr* (commercial) sector. As a commercial organisation, it is argued that *BIMB* operates on profit because it needs to protect the interests of the depositors and shareholders by maintaining a reasonable rate of return on their investment.<sup>84</sup>

The nature and aim of *BIMB* to make profits in its business by using the second line techniques has been criticised by some scholars.<sup>85</sup> They strongly argue that *BIMB* should concentrate on *muçârabah* and *mushâraakah* in its operations which are claimed to be more just and in line with Islamic principles. In this connection, Zakariya Man says:

“...The fact that the bank needs to make profits cannot justify its over-dependence on the second line techniques of operation because possibilities for making even more profits through the first line techniques such as *muçârabah* and *mushâraakah* are not absent. Besides, the Bank’s over dependence on the second line techniques may also lead to inequitable distribution of gains between the users and the providers of capital. Otherwise, the Bank cannot contribute significant changes in the distribution of income as encouraged by Islam. In this context, it is relevant to note that many customers of the bank prefer to get *murâbahah* rather than *mushâraakah* finance, as they make more profits after paying a fixed sum of mark-ups as agreed in the contract. Clearly, the first-line techniques of *muçârabah* and *mushâraakah* will be more just in terms of profit distribution between the users and the providers of capital...”<sup>86</sup>

There are several arguments which support the *BIMB* stance<sup>87</sup>: first, there is no Qur’ânic prohibition on these types of finance. Therefore, to equate the practice of trade financing under the scheme of *bay’ bi thaman ‘âjil* and *murâbahah* with interest amounts to rejecting the permissibility of trade as expounded by Qur’an and the rulings of Muslim jurists.<sup>88</sup> Moreover, *BIMB* has a *shari’ah* Advisory Council to oversee the Islamic validity of its operations and therefore it should have advised *BIMB* if these methods were *haram*<sup>89</sup>; second, the requirement of the members of the community in this modern age highly varied. There are various types of financing required by customers for such purposes as house purchase or business. These various modes of financing would have to be met to the satisfaction of both financier and the party financed.<sup>90</sup> To restrict all the requirements to or give priority to the profit and loss sharing transactions would have the effect of undermining the criteria of meeting the viability of both parties, i. e. the Bank and the



customers<sup>91</sup>; and *third*, such methods are considered less risky in view of the capitalist climate of Malaysia. The possibility of getting an unscrupulous partner in such profit and loss sharing contracts might cause loss to *BIMB*. Further, *BIMB* has to monitor the project and more personnel have to be employed.<sup>92</sup>

The resolution over the debate concerning the first and second line techniques of operations is fundamental to the continued success of Islamic banking in Malaysia. There exist a real danger that an element of doubt may exist in the minds of depositors that *BIMB* is failing to be a truly Islamic bank.<sup>93</sup>

### The future of Islamic Banking in Malaysia

Islamic banking is widely recognised by Muslim scholars as one of the approaches to be adopted in the process of Islamising an economy. This approach is based on the premise that under the existing political, social and technical constraints, Islamisation should be phased in, so as to avoid any abrupt changes which might cause unpredictable chaos in the economy. Accordingly, Islamisation of the banking sector is to be implemented by first establishing the model of an Islamic bank side by side with the existing interest-based banks.<sup>94</sup> The nature of co-existence between Islamic and conventional banking is going to be a significant issue for the Malaysian economy. In this regard, Tan Sri Jaafar Hussein, the former Governor of the Central Bank of Malaysia said: "I have a dream, and my dream is that I will be able to see, in my life time, a fully fledged Islamic financial system in Malaysia side by side with the existing conventional system, both equally sophisticated and modern".<sup>95</sup> He also said:

"...Our aim during the 1990s is to establish a comprehensive financial system which runs parallel with the conventional system. We should not aim at least for the present to completely replace the conventional system in Malaysia with the Islamic financial system. The Islamic financial system should be implemented gradually, so as not to create disruptions. This is important considering that Malaysia has a multi-religious population..."<sup>96</sup>

Dr. Halim Ismail, the former Managing Director of *BIMB* and the initiator of Islamic banking in Malaysia had been interviewed on the possibility of the Islamisation of banking in Malaysia. He did not believe in universal Islamisation, rather he upheld the system of co-existence which he claimed to be more suitable to multi-racial Malaysia.<sup>97</sup>

*BIMB* remains the sole Islamic bank in Malaysia, surrounded by hundreds of conventional banks. As mentioned earlier, in 1982 the former Finance Minister said that the Islamic Bank was “a first in the Government’s efforts to instil Islamic values into the country’s economic and financial system as a replacement for the current Western-based economic system”. He further added that “in the near future, there would be as many as 100 such banks throughout the country”.<sup>98</sup>

*BIMB* is still monopolising the Islamic banking sector in Malaysia and Muslims have no choice but to turn to this bank to avoid involving themselves in *ribâ* transactions. However, *BIMB* has, in many instances, been criticised for imposing a higher rate of mark-up in financing their customers as compared to interest-based banks. For the critics, this is tantamount to exploitation which is equally forbidden in Islam.

Instead of establishing more Islamic banks, the Malaysian Government has recently embarked upon establishing interest-free banking facilities within existing conventional banks. The pilot scheme which was launched by the Finance Minister, Datuk Seri Anwar Ibrahim on 4 March 1993<sup>99</sup> involving three major commercial banks in Malaysia, i. e. Malayan Banking Berhad (MBB), Bank Bumiputera Malaysia Berhad (BBMB) and United Malayan Banking Corporation (UMBC) was to provide a wider application for Islamic banking activities and to help refine the domestic banking sector into a sophisticated and mature industry. They were given permission to offer interest-free banking facilities to customers side by side with their conventional banking. These facilities, which include customers’ deposit accounts, assets financing and trade financing, are based on the *shari’ah* principles such as *wadi’ah*, *muçârabah*, *murâbaḥah*, *bay’ bi thaman ‘âjil*, *ijârah*, *kafâlah* and *wakâlah*<sup>100</sup> as presented in Table 10 below.

The three banks which form the first phase of the Interest-Free Banking Services provide these services through their 281 branches throughout the country. These facilities have met with an encouraging response from the public. In less than 2 months, their operations have attracted almost RM 30 million in public deposits and investments involving a total of 4,146 depositors. Of the total amounts, RM 5,598 million was placed in saving accounts by 3,853 account holders, and the rest in investment deposit accounts by 293 depositors.<sup>101</sup>

Interest-Free Banking is another way of mobilising funds for productive purposes and national development from Malaysians in general and Muslims in particular.<sup>102</sup> It also offers the public and the

corporate sector an alternative way of investment. Under this system, the bank shares the profit earned from the utilisation of deposits, including a share in the profits gained from the bank's investment in the clients' projects. The return to the depositors, the bank and the users of the funds would depend on the profit and the pre-determined profit and loss-sharing ratios.<sup>103</sup>

Ten more financial institutions are involved in the second phase of the Interest-Free Banking scheme, which was launched by the Finance Minister on 21 August, 1993. They are Development and Commercial Bank Berhad, Kwong Yik Bank Berhad, Perwira Habib Bank Berhad, Standard Chartered Bank Berhad, Arab-Malaysian Finance Berhad, BBMB Kewangan Berhad, Mayban Finance Berhad, MBF Finance Berhad, Public Finance Berhad and Arab-Malaysian Merchant Bank Berhad. Their participation would increase the number of branches offering Interest-Free Banking services to 440<sup>104</sup> (not including *BIMB's* 44 branches).<sup>105</sup>

**Table 10**  
**Products of The Interest Free Banking Scheme<sup>106</sup>**

Products	Principles
<b>A) Customers' Deposits</b>	
1. Savings Accounts	<i>Wadī'ah</i>
2. Current Accounts	<i>Wadī'ah</i>
3. General Investment Accounts	<i>Mudārabah</i>
<b>B) Assets Financing</b>	
4. Financing the Acquisition of Assets such as houses and vehicle	<i>Murābaḥah</i> or <i>Bay' Bi thaman 'ājil</i> or <i>Ijārah</i>
<b>C) Trade Financing</b>	
5. Interest-Free Accepted Bills	
5.1. Import/purchase	<i>Murābaḥah</i> or <i>Bay' al-Dayn</i>
5.2. Export/sale	<i>Bay' al-Dayn</i>
6. Interest-Free Export Credit Refinancing	<i>Murābaḥah</i> or <i>Bay' al-Dayn</i>
6.1. Pre-delivery	<i>Bay' al-Dayn</i>
6.2. Post-delivery	<i>Kafālah</i>
7. Interest-Free Bank Guarantee	<i>Kafālah</i>
8. Interest-Free Shipping Guarantee	<i>Wakālah</i> or <i>Murābaḥah</i> or
9. Letter of Credit	<i>Mushārakah</i>
10. Letter of Guarantee	<i>Kafālah</i> or <i>Ijārah</i>

In future, more financial institutions are expected to offer the Interest-Free Banking services in addition to their existing services.<sup>107</sup> On the future of Islamic Banking and Finance in Malaysia, Abdul Halim offers a bright prospect:

"...The market can be big, but it has to be nurtured and developed in an orderly manner...The success of Islamic banking will also depend on the political stability, economic growth and a visionary leadership which we are enjoying now. And assuming that it's efficient (like conventional banking), it should attract non-Muslim customers too, which means the market should grow. Above all, the Islamic banking and financial system is expected to play an important role—which is to attain the economic objectives of restructuring the *Bumiputera* community and Vision 2020 (when Malaysia is expected to be an industrialised nation".<sup>108</sup>

## Conclusion

We have seen above that the Islamic mode of banking is both theoretically feasible and practically possible. The Islamic Banking system has provided practical evidence of the possibility of an interest-free banking system in the modern world. Muslim scholars and economists are all agreed that Islamic Banking will be based on the commercial contracts of *muḥārabah* and *mushārahah* and other modes of financing such as *murābahah* and *bay' bi thaman 'ājil*. The above discussion also provides strong evidence of how transactions can be made according to the Islamic Commercial Law through the modern financial intermediary of the banking system. It is encouraging to note that Islamic banking in Malaysia is functioning successfully side-by-side with conventional banks. However, available evidence clearly suggests that there is tendency for the *BIMB* to confine its profit-generating operations to almost risk-free techniques to ensure success. Consequently, it creates the bank's over reliance on *murābahah* and *bay' bi thaman 'ājil* modes of financing rather than the entrepreneur-creating operations of *muḥārabah* and *mushārahah*. To a certain degree, people doubt that the bank's genuine intention to apply Islamic principles in banking, thus the bank has been unable to influence the pattern of the distribution of profit between the providers and the users of capital in a more equitable manner as enjoined in Islam. It may be argued that more meaningful outcomes could have been achieved, had the bank placed greater emphasis on the first-line techniques of *muḥārabah* and *mushārahah*.

## Endnotes

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2. The English term is translated by Maxwell. (See W. E. Maxwell, "The Law and the Customs of the Malays with Reference to the Tenure of Land", *Journal of the Straits Branch of the Royal Asiatic Society*, No. XIII, June 1884, p. 123; Cf. M. B. Hooker, *Reading in Malay Adats Laws*, Singapore, 1970, pp. 354-361; J. M. Gullick, *Malay Society in the Late Nineteenth Century*, Singapore, 1987, pp. 98-149). Though Maxwell's translation 'conditional sale' is conceptually correct, 'promissory sale' is more precise. The Customary practice of *Jual janji* is recognised in the National Land Code (NLC), Section 4(2).
3. Under this practice, if a land owner would like to obtain a credit facility without involving *riba*, he could sell his land to another person at an agreed price. Normally, the price is not the market price but far cheaper. In an agreement, a condition was stipulated that within a certain period of time (say 2 or 3 years), the seller would re-purchase the land at the same price. The buyer was given a right to occupy the land as well as have usufructuary right. If the time stated has expired and the seller failed to re-purchase the land, the ownership of the land is, therefore, transferred to the buyer. This transaction was considered acceptable by Islam as no *riba* element was involved. For detailed see Salleh Buang, "Kearah Pengislaman Kanun Tanah Negara", in Law Faculty, University of Malaya, *Makalah Undang-undang Menghormati Ahmad Ibrahim*, Kuala Lumpur, 1988, pp. 175-176; Idem, "The law of Real Property in Malaysia" in *IJU Law Journal*, Vol. I (1), Petaling Jaya, Malaysia, 1989, pp. 97-98; Idem, *Malaysian Torrens System*, Kuala Lumpur, 1989, pp.87-88. See also S. Gordon, "Contradictions in the Malay Economic Structure" in *Intisari*, Vol. I(1), Singapore, 1963, pp.30-32.
4. Sobri Salamon, "Prinsip-prinsip Falsafah Ekonomi Bank Islam", in *Dakwah*, (Kuala Lumpur, May 1982), pp. 43-46; Idem, "Falsafah Ekonomi Bank Islam : Mengapa Malaysia Perlu Kepada Bank Islam", in Muhammad Syukri Salleh (ed.), *Konsep dan Pelaksanaan Pembangunan Berteraskan Islam*, Pulau Pinang, 1990, pp. 77-101; Tony Naughton and Bala Shanmugam, "Interest-Free Banking in Malaysia", in *National Westminster Bank Quarterly Review*, February 1990, p. 22. Cf. Muhammad Abu Bakar, "Islamic Revivalism and the Political Process in Malaysia", *Asian Survey*, Vol. XXI (10), 1981, pp. 1041-1059.

5. Abdul Halim Ismail (1983a), "Bank Islam Malaysia Berhad : Establishment and Operations", p. 1. Paper presented at the *International Conference on Islam and Technology*, Malaysia, December 1983. Hereafter referred to as Abdul Halim Ismail (1983a); BIMB, *Bank Islam : Penubuhan dan Operasi*, Kuala Lumpur, 1989, p. 3; See also, M. Muttalib, "Islamic Revivalism in Asian States : Political Implications", *Asian Survey*, Vol. XXX (9), 1990, pp. 881 & 889; Abdul Monir Yaacob, "Merealisasikan Sistem Pinjaman Rahan" in *Berita Harian*, 22 October, 1993, p. 10.
6. H. Mutalib, *Islam and Ethnicity in Malay Politics*, Singapore, 1990, p. 138; Aidit Ghazali, *Development : An Islamic Perspective*, Petaling Jaya, 1990, pp. 142-144; Cf. Diane K. Mauzy and R. S. Milne, "The Mahathir Administration in Malaysia : Discipline Through Islam", *Pacific Affairs*, 56 (Winter 1983-84), pp. 617-648; William Case, "Comparative Malaysian Leadership Tunku Abdul Rahman and Mahathir Mohamad", *Asian Survey*, Vol. XXXI (5), 1991, pp. 456-473;
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8. H. Mutalib (1990), *op cit.*, p. 138.
9. BIMB (1989), *Penubuhan dan Operasi*, pp. 3-4.
10. Ahmad Ibrahim, "The *Shar'ah* and Codification: Malaysia Experience", in *Shariah Law Journal*, Vol. IV, ( Petaling Jaya, January 1987), pp. 58-59; Zakariya Man, "Islamic Banking : The Malaysian Experience" in Mohamed Ariff (ed.), *Islamic Banking in Southeast Asia*, Singapore, 1988, p.70.
11. BIMB (1989), *penubuhan dan Operasi*, pp. 4-5; Bank Negara Malaysia, *Wang dan Urusan Bank Di Malaysia*, Kuala Lumpur, 1992, pp. 216-218 and 477; Abdul Samad bin Haji Alias, et al, *Guide to Islamic Banking in Malaysia : An Overview*, Kuala Lumpur, 1993, p. 2. See also Ahmad Ibrahim, "The Administration of Islamic Financial Institutions", in *Syariah Law Journal*, Vol. VII, (Petaling Jaya, September 1991), pp. 16-17.
12. Abdul Halim Ismail (1983a), p. 2; Idem, " Bank Islam malaysia Berhad : Principles and Operations" in Sheikh Ghazali Sheikh Abood, et al (eds.), *An Introduction to Islamic Finance*, Kuala Lumpur, 1992, p. 244; BIMB (1989), p. 4; Ahmad Ibrahim, "Legal Aspect of the Establishment of the Islamic Law", a working paper presented at the *International Conference on Islam and Technology*, Kuala Lumpur, 1985, pp. 11-13.
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15. For example Dar al-Mal al-Islam and al-Baraka Group. See Ausaf Ahmad (1987), pp. 14-15.
16. Hereafter referred to as *IBA 1983*.
17. Banking Act, 1973 (Act No. 1202, 1973), section 31.
18. Al- Qur'an. 2 : 275.
19. Article, "The Law and Banking", in *Banker's Journal Malaysia*, (Kuala Lumpur, June, 1987), p. 17.
20. Bank Negara Malaysia, *Wang dan Urusan Bank Di Malaysia*, Kuala Lumpur, 1992, pp. 103-167. See also Badariah Sahamid, "Bank Islam : Konsep Dan Amalan" in Faculty of Law, University of Malaya, *Makalah Undang-undang Menghormati Ahmad Ibrahim*, Kuala Lumpur, 1988, pp. 79-80.

21. See also Bank Negara Malaysia, *Wang dan Urusan Bank Di Malaysia*, pp. 216-218.
22. Ahmad Ibrahim (1987), "The *Shar'ah* and Codification: Malaysia Experience", p. 59-60; see also *Idem* (1985), "Legal Aspects of the Establishment of the Islamic Law", pp. 11-12.
23. See Section 2 of Banking and Financial Institution Act (BAFIA), 1989.
24. See Section 2 of IBA 1983.
25. Al-Qur'an. 2 : 275 : "...But Allah has permitted trade and forbidden usury".
26. Bank Negara Malaysia, *Wang dan Urusan Bank Di Malaysia*, pp. 216 and 406.
27. The certificates are, however, not limited to *BIMB*, but are also made available to others in the financial system which represent borrowings by the Government for its development expenditure. See Jaffar Hussain, "Facing the Challenge of Islamic Finance", in *Al-Nahdah*, Vol. VII (4), (Kuala Lumpur, 1987), p. 26; Bank Negara Malaysia, *Wang dan Urusan Bank Di Malaysia*, p. 406.
28. However, at the discretion of the Government, *BIMB* will be paid some dividends at the maturity of these Certificates and the rate of dividends is to be determined by the Minister of Finance. Bank Negara Malaysia, *Wang dan Urusan Bank Di Malaysia*, p. 406; Article, "Islamic Banking in Malaysia", in *Banker's Journal Malaysia*, April 1989, p. 65.
29. The Islamic Bank Act 1983 states on the licensing of Islamic banks that : "The Central Bank shall not recommended the grant of license, and the Minister shall not grant a license, unless the Central Bank or the Minister, as the case may be, is satisfied: (b) that there is, in the articles of association of the bank concerned, provision for the establishment of a *Shar'ah* advisory body to advise the bank on the operations of its banking business in order to ensure that they do not involve any element which is not approved by the Religion of Islam".
30. Accordingly, Article (3) of the Bank's Articles of Association provide that : (a) "A Religious Supervisory Council, whose members would be made up of Muslim Religious scholars in the country, shall be established to advise the company on the operations of its banking business...; (b) The Religious Supervisory Council shall have a minimum of three and a maximum of seven members whose appointment shall be acceptable to the Minister for a term not exceeding two years and each member is eligible for reappointment".
31. N. Mohd. Awal, "Banking System : Legal Impediment Towards Its Islamisation in Malaysia" in *Jurnal Perundangan*, Vol. I(1), (Petaling Jaya, 1989), p. 28.
32. Abdul Halim Ismail, "Bank Islam Malaysia Berhad : Structure and Functions". A Paper presented at the *Seminar on Current Trends and Development of the Banking Industry in Malaysia*, in Bangi, Selangor, Malaysia, 6-7 June 1983; See also *idem*, "BIMB : Satu Tinjauan Tentang Perkembangannya 10 Tahun Akan Datang", p. 3. A Paper presented at the *Seminar Sistem Kewangan Islam*, Universiti Kebangsaan Malaysia, Bangi, 1984.
33. Abdul Halim Ismail (1983a), p. 6; *Idem* (1992), pp. 247-248.
34. Bank Negara Malaysia, *Annual Report 1987*, p. 110.
35. BIMB, *Annual Report 1986*, p. 7; Syarikat Takaful Malaysia Sendirian Berhad, *Annual Report 1986*, p. 5.
36. BIMB, *Annual Report 1993*, p. 11.
37. See Mahathir Mohamad, the Prime Minister's speech on the of the operations of *BIMB* on the First of July, 1983 published in *Koleksi Ucapan Mahathir Mohamad*, Kuala Lumpur, 1992, pp. 84-89.
38. Abdul Halim Ismail (1983a), pp. 7-8; *idem*, "Pelaburan Harta Baitulmal Melalui Bank Islam dan Syarikat Takaful", pp. 3-4. A Paper presented at the *Seminar*

- Baitulmal Peringkat Kebangsaan*, Bangi, 1984/85; *idem*, "Bank Islam : Prospek dan Perkembangannya Pada Masa Hadapan", pp. 1-5. A Paper presented at the *Seminar Pengajian Islam Peringkat Kebangsaan*, Universiti Malaya, 1985; *idem*, "Bank Islam Sebagai Satu Institusi Pembangunan Masyarakat Islam" in Muhammad Syukri Salleh (ed.), *Konsep dan Pelaksanaan Pembangunan Berteraskan Islam*, Pulau Pinang, Malaysia, 1990, pp. 69-76; *idem*, (1992), p. 271; Bank Negara Malaysia, *Annual Report 1984*, p. 75; BIMB, *Annual Report 1986*, p. 7; BIMB (1989), *Penubuhan dan Operasi*, 28 pp.; Tajuddin Abdul Rahman, "Peranan Bank Islam Dalam Membantu Usahawan di Malaysia", pp. 3-4. A paper presented at the *Seminar Keusahawanan dan Perniagaan Islam*, Petaling Jaya, Malaysia, 1987. See also Steven T. Abdul Kader, "Strategic Considerations for the Development of Halal Financial Services", in *Al-Nahdah*, Vol. VII(1), (Kuala Lumpur, 1987), pp. 34-37; M. Ali Baharom, "Kaedah-kaedah Shari'ah Dalam Mu'amalat", A Paper presented at the *Seminar Keusahawanan dan Perniagaan Islam*, 28-29 November 1987, Petaling Jaya; Mahmud Saidon, "Teori dan Bentuk-bentuk Kontrak Mu'amalat Berkaitan Dengan Perbankan", A Paper presented at the *Siri Seminar Ekonomi Islam*, 18-19 January 1994, Kuala Lumpur;
39. For example, see Sa'd Martan, *Madkhal Li al-Fikr al-Iqtisad fi al-Islam*, Muassasah al-Risalah, n. d., pp. 220-221; Ahmad al-Najjar, "Islamic Banking: Concept and Implementation", pp. 6-7. Paper presented to the *International Conference on Islam and Technology*, Kuala Lumpur, 1983; Muhammad Uzair, "Some Conceptual and Practical Aspects of Interest-Free banking" in Khurshid Ahmad (ed.), *Studies in Islamic Economics*, Leicester, U. K., 1981, pp. 48-49; Sobri Salamon, *Bank Islam*, Petaling Jaya, Malaysia, 1984, p. 164; For more detailed about Islamic banking operations, see Ahmad 'Abd al-'Azz al-Najjar, et al, *100 Su'âl wa 100 Ajwabah*, Cairo, 1981, pp. 133-134.
40. Abdul Halim Ismail (1983a), p.8; *idem*, (1983b), p. 5; *Idem*, "Cara Melabur di Bank Islam", *Dakwah*, June, 1983, p. 12; BIMB (1989), p. 16; Mustafa Hamad, "The Operations of Islamic Banking and Its Implications on Current Accountings Practices", p. 2. A Paper presented at the *Seminar on New Developments in Financing*, Kuala Lumpur, 19 August, 1985; Mustapha Hamad, et al., "Applicability Existing of Accounting Standards for Islamic Banks", *ISLAMIKA*, (Department of Islamic Studies's Journal, University of Malaya, 1991), pp. 250-251, 255-258.
41. Abdul Halim Ismail (1983a), pp. 8-9; *idem* (1983b), pp. 8-9; *Idem* (1984/85) "Pelaburan Harta Baitulmal melalui Bank Islam dan Syarikat Takaful", p. 3; BIMB (1989), pp. 16-17; Mustapha Hamad, et al (1991), *op. cit.*, pp. 250-251; Mustapha Hamad (1985), *op. cit.*, p. 2.
42. BIMB, *Annual Report 1986*, pp. 5-6; BIMB (1989), *Penubuhan dan Operasi*, pp. 17-18; Abdul Halim Ismail (1992), p. 274; Mustafa Hamad (1985), "The Operation of Islamic Banking and Its Implementations on current accounting practices", p. 2; See also Jaafar Ahmad, "Institusi-institusi Kewangan Islam" in Mohd. Nasir bin Omar (ed.), *Tamadun Islam dan Ideologi Masa Kini*, Selangor, 1986, p. 86.
43. BIMB (1989), pp. 20-21; Abdul Halim Ismail (1992), p. 275; See also Abdul Samad bin Haji Alias, et al, *op. cit.*, p. 10.
44. BIMB (1989), *Penubuhan dan Operasi*, pp. 20-21; Abdul Halim Ismail (1983a), pp. 10-11; *Idem* (1983b), pp. 11-12; *idem*, "Cara Melabur di Bank Islam", *Dakwah*, June, 1983, p. 13; *idem* (1992), pp. 275-276; Mustapha Hamad (1985), "The Operations of Islamic Banking and Its Implications on Current Accountings Practices", pp. 3-5.



45. BIMB (1989), *Penubuhan dan Operasi*, p.20; Abdul Halim Ismail (1983b), p. 11; *Idem* (1992), p. 275.
46. BIMB (1989), *Penubuhan dan Operasi*, pp. 20-21; Abdul Halim Ismail (1983b), pp. 11-12; Tajuddin Abdul Rahman (1987), "Peranan Bank Islam Dalam Membantu Usahawan di Malaysia", p. 7.
47. BIMB (1989), *Penubuhan dan Operasi*, pp. 21 -23; Abdul Halim Ismail (1983a), pp. 11-12; *Idem* (1983b), pp. 12-13; *idem* (1992), pp. 276-277; Tajuddin Abdul Rahman (1987), "Peranan Bank Islam Dalam Membantu Usahawan di Malaysia", pp. 8-9.
48. BIMB (1989), *Penubuhan dan Operasi*, p. 21.
49. *Ibid*, pp. 21-22; Abdul Halim Ismail (1983a), p. 11.
50. BIMB (1989), *Penubuhan dan Operasi*, p.22.
51. BIMB (1989), *Penubuhan dan Operasi*, pp.22-23; Abdul Halim Ismail (1983a), p. 12; Ahmad Tajuddin Abdul Rahman (1987), "Peranan Bank Islam Dalam Membantu Usahawan di Malaysia", p. 11.
52. Abdul Halim Ismail (1992), p. 277; Cf. M. Hamidullah, "A Suggestion for an Interest-free Islamic Monetary Fund", *Islamic Review*, (June, 1955), pp. 11- 12;
53. BIMB (1989), *Penubuhan dan Operasi*, pp. 24-25; See also Abdul Halim Ismail (1983a), pp.13-15; *Idem* (1983b), pp. 14-15; *Idem* (1992), pp. 278-280; Mustapha Hamad (1985), "The Operations of Islamic Banking and Its Implications on Current Accounting Practices", p. 10; Tajuddin Abdul Rahman (1987), "Peranan Bank Islam Dalam Membantu Usahawan di Malaysia", pp. 10-14.
54. BIMB (1989), *Penubuhan dan Operasi*, p.25.
55. *Ibid.*, pp. 25-26.
56. *Ibid.*, p. 27.
57. *Ibid.*, pp. 27-28.
58. *Ibid.*, pp. 23-24.
59. *Ibid.*, p. 28.
60. Cf. Ataul Hoque (ed.), *Readings in Islamic Banking*, Dacca, 1987, pp. 131-149; Siddiqi, *Model of an Islamic Bank*, Lahore, 1986, pp. 46-66.
61. Bank Negara Malaysia, *Annual Report 1988*; Arab-Malaysian Merchant Bank, 1988, p. 3.
62. Sobri Salamon, *Bank Islam*, Petaling Jaya, 1984, pp. 117-139; *Idem*, "The Ideological Aspects of Islamic Banking", A Paper presented at the *International Conference on Islam and Technology*, Kuala Lumpur, December 1985; "Editor" in *Berita Harian*, 28 April 1993, p. 10; Article, "Bank Islam Buktikan Kemampuan Bersaing" in *Berita Harian*, 2 July, p. 10.
63. F. V. Von der Mehden, *Islam, Development and Politics in Malaysia*, Texas, 1978, p. 8; Cf. Abdul Razak Ayoub, "Bank Moden dan Riba" in *Berita Harian*, 2 July 1988, p. 8.
64. *Ibid.*; See also W. Wilder, "Islam, Other Factors and Malays Backwardness : Comments on an Argument" in *Modern Asian Studies*, Vol. II (2), 1968, p. 158; T. G. Lim (ed.), *Reading on Malaysian Economic Development*, Kuala Lumpur, 1975, p. 342.
65. See for example Arifin Salih, "Interest-Free Loan Banking Scheme", in *Al-Nahdah*, Vol. XIII(1-2), (Kuala Lumpur, 1993), pp. 24-25.
66. Jaffar Hussein, "Facing the Challenge of Islamic Finance" ,in *Al-Nahdah*, Vol. VII (4), (Kuala Lumpur, 1987), p. 26; Sobri Salamon, "Bank Islam dan Cabarannya Dalam Pembangunan Ekonomi" in *Ekonomi Islam*, Petaling Jaya, 1989, pp. 194-211.

67. In participating in housing projects, *BIMB* allocated almost RM 46 million in 1989 for construction projects. It is a policy of *BIMB* to lay emphasis on financing the purchase of low-cost houses by its customers from low and middle-income groups. *BIMB, Annual Report 1989*, p. 35. See also: Sobri Salamon, "Bank Islam dan Cabarannya Dalam Pembangunan Ekonomi", A Paper Presented at the *Seminar Sistem Kredit Islam Dalam Koperasi*, 21-22 September 1985, Petaling Jaya.
68. *BIMB, Annual Report 1993*, p. 8.
69. Aghnides, *Mohammedan Theories of Finance*, New York, 1916, pp. 203-347.
70. F. R. Faridi, "Zakât and Fiscal Policy", in Khurshid Ahmad (ed.), *Studies in Islamic Economics*, Leicester, 1981, pp. 119-130; Monzer Kahf, *The Islamic Economy*, Indiana, 1978, pp. 59-67; A. H. M. Sadeq, *Economic Development in Islam*, Petaling Jaya, 1990; Ataul Huq, *Development and Distribution in Islam*, Petaling Jaya, 1993, pp. 35-41.
71. Section 5, Civil Law Act, 1956.
72. Ahmad Ibrahim, "Legal Aspects of the Establishment of the Islamic Law", pp. 3-13; Idem, "The *Shari`ah* and Codification: Malaysia Experience", pp. 59-60; Mustapha Hamat, "Pembiayaan dan Penyediaan Modal Menurut Islam", in *Dunia Islam*, (Kuala Lumpur, January 1992), p. 51-53; Nik Mustapha Nik Hassan (1989), "Pendekatan Sistem Ekonomi Islam Dalam Meningkatkan dan Memajukan Kedudukan Ekonomi Masyarakat Melayu", pp. 13-14; Fokus, "Kerajaan Bertanggungjawab Melaksanakan Sistem Ekonomi Islam", in *Dunia Islam*, (Kuala Lumpur, November 1991), pp. 20-26.
73. Ahmad Ibrahim, "Legal Impediments in the Islamisation of the Malaysian Economy with Special Reference to Banking and Insurance", A paper presented at the *Seminar on Issues in Islamic Economics*, 29 December, 1985, Petaling Jaya, Malaysia; Syed Othman Alhabshi, "Dasar Kerajaan", in S. G. S. Abod, et al (eds.), *Pengurusan Perniagaan Islam*, Shah Alam, 1991, pp. 391-400.
74. Section 205(3) of the *National Land Code 1965* provides that, "subject to sub-section (4), no dealing in respect of any alienated land or any interest therein subject to the category 'agriculture' or to any condition requiring its use for any agricultural purpose shall be effected if such dealing would have the effect of creating any undivided share of such size that, if the land is to be partitioned in proportion to the several shares, the area of any resulting individual portion would be less than two-fifths of a hectare".
75. For a discussion see M. A. Mannan, "Islam and Trends in Modern Banking" in *The IR*, Vol. LVI (11-12), 1968, pp. 5-10; Vol. LVII (1), 1969, pp. 28-33. These articles also published in *Al-Islam*, Vol. III (3), 1972, pp. 1-16; Sh. Mahmud Ahmad, "Banking in Islam" in *Al-Islam*, Vol. III (2), 1972, pp. 37-46; M. N. Siddiqi, "Banking in an Islamic Framework" in *Islam and Modern Age*, Vol. VIII (4), 1977, pp. 4-20; Muhammad Sami`ullah, "Elimination of Interest from the Economy" in *Islamic Order*, Vol. VI (1), 1984, pp. 103-114; Waqar Masood Khan (1985), *Towards an Interest-Free Islamic Economic System*, pp. 23-52; Mohsin S. Khan and Abbas Mirakhor (1986), pp. 33; Idem, "The Financial System and Monetary Policy in an Islamic Economy" in Mohsin S. Khan, et al (eds.), *Theoretical Studies in Islamic Banking and Finance*, pp. 163-184; T. W. Taylor and J. W. Evans, "Islamic Banking and the Prohibition of Usury in Western Economic Thought" in *National Westminster Bank Quarterly Review*, November 1987, pp. 21-27; Muhammad Anwar (1987), *Modelling Interest-Free Economy: A Study in Macro-Economics and Development*, 84pp.; Zubayr Iqbal and Abbas Mirakhor, "Islamic Banking", pp. 91-94; A. Saud, "Toward Islamic Economics" in *Toward Islamization of Disciplines*,

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76. Barjoyai Bardai, "Jurang Harapan Pelabur Bank Islam" *Berita Minggu*, 2 January 1994, p. 8; Interview with Tajuddin Abdul Rahman, Managing Director of BMB, Kuala Lumpur, 24/11/94.
77. See Chapter III, 3.6.1, Table , p. .
78. BMB, *Annual Report 1991*, p. 6; 1992, p. 5; Z. Phoon, "Jaafar's Dream : The Islamic Banking is available to all Bumiputeras, Non-Bumiputeras, Muslims and Non-Muslims" in Kuala Lumpur Stock Exchange, *Investors Digest*, April, 1993, p. 13.
79. For example, see Zakariya Man (1988), "Islamic Banking : The Malaysian Experience", p. 91; Janne Conners, "Towards a System of Islamic Finance in Malaysia", in *Islamic Law and Finance*, p. 11; Naziruddin Abdullah, "Bank Islam : Fungsi, Operasi dan Masa Depan", Mimeo, International Islamic University, Malaysia, pp. 18-24; Nik Mustapha N. Hassan, "Institusi Ekonomi Islam di Malaysia : Suatu Persoalan Tentang Keberkesanannya", Paper presented at the *Symposium Keilmuan Islam*, 25 January 1987, Kuala Lumpur. For a discussion see Chapter 3, 3.2.2., pp. and footnote no. .
80. Muhammad Umar Chapra (1986), *Towards A Just Monetary System*, pp. 163-174; *idem*, "Towards An Islamic Financial System" in Abul Hasan M. Sadeq, et al (eds.), *Development and Finance in Islam*, Petaling Jaya, Malaysia, 1991, pp. p. 138-139; Ziauddin Ahmed, "Islamic Banking at the Crossroads" in Abul Hasan M. Sadeq, et al (eds.), *Ibid*, pp. 157-170; Muhammad Nejatullah Siddiqi, *Issues in Islamic Banking*, Leicester, U. K., 1983. 134-143; *idem*, "Islamic Banking : Theory and Practice" in Mohamed Ariff (ed.), *Islamic Banking in Southeast Asia*, Singapore, 1988, pp. 51-57.
81. M. N. Siddiqi, "Islamic Banking : Theory and Practice" in Mohamed Ariff (ed.) (1988), *op cit.*, p. 56.
82. For example, see Mohd. Azmi Omar, "Bank Islam dan Matlamatnya", pp. 31-35. A Paper presented at the *Seminar Kursus Ekonomi Islam*, Sintok, Kedah, 1987; Nik Mustafa Nik Hassan, "Institusi Ekonomi Islam di Malaysia : Suatu Persoalan Tentang Keberkesanannya", pp. 29-30. A Paper presented at the *Symposium Keilmuan Islam*, University Malaya, 1987; Mohammad Ariff, "Islamic Banking in Malaysia : Framework, Performance and Lessons", *Journal of Islamic Economics*, (Petaling Jaya, 1991), p. 76; Barjoyai Bardai (1994), *op cit.*, p. 8; Cf. Malami, "Prospects of Islamic Banking in the Muslim Minority Communities", *JIMMA*, Vol. XIII (2), 1992, pp. 309-310.
83. Muslim Scholars have categorised the Islamic economic system into three sectors: a. *siyâs* or government sector which should encompass all public sector commercial activities; b. *tijâr* or commercial sector which should encompass all private sector commercial activities; and c. *ijtimâ'* or welfare sector which should encompass the administration of *bayt al-mâl*, *zakât* and *sadaqah*.

84. See Abdul Halim Ismail, "Bank Islam : Prospek dan Perkembangannya pada masa hadapan", pp. ; *idem*, "Islamic Banking in Malaysia : Some Issues, Problems and prospects", pp. 1-13. A Paper Presented at the *Seminar on Issues in Islamic Economics*, 27-29 December 1985, Petaling Jaya, Malaysia; *idem*, "Sistem Kewangan Islam Dengan Tumpuan Kepada Urusan Bank dan Insuran", pp. 7-11. A Paper presented at the *Seminar Shar'ah Islam*, 6-9 September 1986, Brunei Darulsalam, also presented at the *Bengkel Tertutup Pemikiran Sistem Ekonomi Islam Berasaskan Shar'ah Peringkat Kebangsaan*, 21 March 1989, Kuala Lumpur; *idem*, "Aspects of the Islamic Economics System and Its Treatment in the Issue of Poverty", pp. 13 pp. 13-16. A Paper Presented at the *International Seminar on Islamic Philosophy and Science*, 30 May-2 June, 1989, Pulau Pinang, Malaysia; *Arabia*, Vol. V (56), 1986/1406 A.H., p. 68; Barjoiyi Bardai (1994), *op cit.*, p. 8.
85. See Chapter 3, footnote 137, p. .
86. Zakariya Man (1988), p. 92.
87. Interview with Tajuddin Abdul Rahman, Managing Director of BIMB, Kuala Lumpur, 24/11/94.
88. Abdul Halim Ismail, "The Deferred Contracts of Exchange : Al-Qur'an in contrast with the Islamic Economists' Theory on Banking and Finance", pp. 6-51. A Paper Presented at the *Bengkel Tertutup Pemikiran Sistem Ekonomi Islam Berasaskan Shar'ah Peringkat Kebangsaan*, 21 March 1989, Kuala Lumpur; *idem*, "Shar'ah and the Islamic Economics : Permissibility of Uses of Funds Contracts", pp. 1-11, *Ibid*; *idem*, "The Deferred Contracts of Exchange in al-Qur'ân" in Sheikh Ghazali Sheikh Abod, et al(eds.), *An Introduction to Islamic Finance*, Kuala Lumpur, 1992, pp. 284-313; Article, "Bank Islam (M) Berhad : Operasi, Masalah dan Masa depan" in *Risalah*, Vol. XIV, Petaling Jaya, Malaysia, 1990, p. 19; Jaffar Hussein, "Islamic Financial System in the 1990s", in *Al-Nahdah*, Vol. X(1-2), (Kuala Lumpur, 1990), pp. 13-14.
89. Abdul Halim Ismail, "Sistem Kewangan Islam Dengan Tumpuan Kepada urusan Bank dan Insuran", pp. 15-19; *idem*, " The Deferred Contracts of Exchange : Al-Qur'an in Contrast with the Islamic economists' Theory on Banking and Finance", pp. 51-52.
90. Abdul Halim Ismail (1992a), pp. 261-262.
91. Ahmad Tajuddin Abdul Rahman (1987), pp. 19-20; A. Halim Ismail (1985), "Bank Islam : Prospek dan Perkembangannya Pada Masa Hadapan", pp. 19-20; Article, "Bank Islam (M) Berhad : Operasi, Masalah dan Masa Depan", in *Risalah* (1990), p. 20.
92. A. Halim Ismail (1985), "Bank Islam : Prospek dan Perkembangannya Pada Masa Hadapan", p. 8; A. Tajuddin Abdul Rahman (1987), p. 17; Interview :
93. C. Muzaffar in his works, *Islamic Resurgence in Malaysia*, Petaling Jaya, Malaysia, 1987, p.82 writes that the Islamic Bank is but another bank. It may abolish interest, but given the capitalist structure of the economy, the bank like other commercial banks, will continue to mobilise the savings of the ordinary people for investments that will earn profits, which will almost always benefit those in the middle and upper echelons of society. The abolition of interest in a capitalist economy without other fundamental changes can only lead to greater injustice and inequities.
94. See for example, M. Umer Chapra (1986), pp.228-231; *idem* (1991), "Towards an Islamic Financial System", p. 139; Khurshid Ahmad, "Islamic Approach to Banking: Some Conceptual and Operational Aspects". Paper Presented at the *International Conference on Islam and Technology*, Kuala Lumpur, December 1985,

- 9pp; Omar Asghar Khan, "Political and Economic Aspects of Islamisation", in O. A. Khan (ed.), *Islam, Politics and the State*, Kuala Lumpur, 1987, pp. 77-98; Z. Ahmed, "Islamisation of Financial System", *JIBF*, Vol. XI (2), 1994, pp. 22-30; For the Malaysian perspective, see Hamzah Ismail and Ahmad Shahbari Salamon, "Ke Arah Pelaksanaan Sistem Ekonomi Islam di Malaysia" in Mahayudin Hj. Yahaya (ed.), *Islam dan Pembangunan Negara*, Bangi, Selangor, Malaysia, 1986, pp. 124-142; A. H. Pramanik, *Development and Distribution in Islam*, Petaling Jaya, 1993, pp. 108-109; Mustafa Hamat, "Pelaksanaan Sistem Kewangan Islam Ke Atas Institusi Kewangan Islam Kini", in *Dunia Islam*, (Kuala Lumpur, February 1991), pp. 53-54. See also CII Report pp. 128-129. Cf. The Report of the Council of Islamic Ideology of Pakistan on the Elimination of Interest, which is a product of the combined efforts of the experts in economics and banking and those of *Shar'ah* has been internationally acclaimed as a historic document on the subject. *CII Report*, pp. 103-257; M. A. Khan, "Islamic Banking in Pakistan" in *International Journal of Islamic and Arabic Studies*, Vol. II (2), 1985, p. 21.
95. Quoted in *The Star*, 4 November 1991, p. 1; Datuk Mustapa Mohammad, who was the Deputy Finance Minister also stressed the policy that the conventional banking system was not going to be abolished or replaced totally with the Islamic financial system. Quoted in *Berita Harian*, 12 April 1994, p. 11.
  96. Quoted in *Berita Harian*, 30 March 1990.
  97. Abdul Halim Ismail, "Should the Whole Banking be Islamised?" in *The Muslim Reader*, Singapore, 1989, p. 13. See also Aidit Ghazali, *Development: An Islamic Perspective*, 1990, pp. 129-135.
  98. Quoted in H. Mutalib (1990), *op. cit.*, p. 138.
  99. "Editor" in *Berita Minggu*, 7 March, 1993, p. 10; See also Article, "Perkhidmatan Bank Tanpa Faedah", in *Al-Islam*, (Kuala Lumpur, April, 1993), p. 7.
  100. Azhar Abu Samah, "Bank Tanpa Riba Dapat Sambutan" in *Berita Harian*, 12 March 1993, pp. 1-2; Abdul Monir Yaacob, "Mempraktikkan Institusi Kewangan Islam" in *Berita Harian*, 24 September 1993, p. 10; *Berita Minggu*, 24 April, 1994, p. 11; Dinsman, "Menerokai Sistem Kewangan Yang Adil" in *Dewan Masyarakat*, January 1994, pp. 6-8; Article, "Perkhidmatan Bank Tanpa Faedah", in *Al-Islam*, (Kuala Lumpur, April 1993), p. 7; Dinsman, "SPTF Bukan Saingan Sistem Ribâ?", in *Dewan Masyarakat*, (Kuala Lumpur, Mac 1994), pp. 11-12; Cf. Mahsin Mansor, *Undang-undang Perdagangan Dalam Islam*, Kuala Lumpur, 1984.
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  103. A. Rachel, "Islamic banking Gains Popularity" in *New Sunday Times*, 10 October, 1993, p. 26; Dzuljastri Abdul Razak and S. I. Abdul Karim, "Skim Perbankan Tanpa Faedah", in *Dewan Ekonomi*, (Kuala Lumpur, May 1994), pp. 8-9.
  104. Othman Abu Bakar, "Interest-Free Banking Nationwide in A Year" in *New Sunday Times*, 22 August, 1993, p. 1; A. Rachel (1993), *op. cit.*, p. 26; Abdul Monir Yaacob, "SPTF Perlu Diperluaskan Lagi" in *Dewan Ekonomi*, May, 1994, pp. 12-13; Dinsman, "AMFB Menerokai Pembiayaan Cara al-Musyarakah", in *Dewan Masyarakat*, (Kuala Lumpur, May 1994), pp. 45-46.

105. This figure includes 12 mini branches of *BIMB* opened during the financial year of 1993 at Baling, Tanah Merah, Dungun, Masjid Tanah, Kluang, Subang Jaya, Banting, Bandar Pusat Jengka, Kota Tinggi, Jasin, Sri Manjung and Kulim. These are deposit taking-taking branches providing current account, savings account and investment account facilities. See *BIMB, Annual Report 1993*, pp. 10, 67-70.
106. See, for example, "SPTF Alternatif Kepada Sistem Konvensional" in *Dewan Ekonomi*, Mei, 1994, pp. 10-12; Azhar Abu Samah, "Bank Tanpa Riba Dapat Sambutan" in *Berita Harian*, 2 Mac 1993, p. 1; Idem, "SPTF Beri Pilihan Luas Kepada Pelanggan" in *Berita Harian*, 7 Oktober 1994, p. 4; A. Rachel, *op. cit.*, p. 26; Mohamed Sidek Ahmad, "Banking On Interest Free Principles" in Kuala Lumpur Stock Exchange, *Investors Digest*, October 1993, pp. 31-33.
107. According to Nor Mohamed Yakcob, Bank Negara adviser, that in the future all 37 commercial banks, 12 merchant banks and 41 finance companies will have all or part of their nation-wide branches offering the interest-free banking services. Quoted in *New Sunday Times*, 22 August 1993, p. 1.
108. Kuala Lumpur Stock Exchange, *Investors Digest*, April, 1993, p. 11.

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