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Conceptual & Legal Framework of Islamic Finance

Aliqoriev O.F.
PhD, Associate Professor,
Head of Department of Research-Pedagogical
Personnel Training, GSBE

Abstract
This article discusses the theoretical and legal foundations of Islamic finance, analyzes the current state of the global Islamic finance industry. Scientific conclusions on Islamic economics and Islamic finance and its components are given.

Keywords: Shariah principles, Islamic Economy, Islamic finance, Islamic banking, Financial Intermediation, Islamic Finance Market.

INTRODUCTION

It is known that the financial market has been improving and offering many new financial instruments according to market demand throughout its development history. By the 21st century, Islamic economy, Islamic finance and Islamic securities have started to develop rapidly in almost all regions of the world. The fact that it appeared in the context of the global financial and economic crisis with a small negative impact increased the interest in it even more.

Since the second half of the last century, after gaining independence, countries where the majority of the population is Muslim began to extract and export oil and gas resources on a large scale. The increase in oil prices was one of the main factors in the formation of savings in these countries [1]. In Islamic economy, it is a bad character and a social crime to store wealth without benefit to oneself or others [2].

This situation means that the need for the financial market will increase. In countries where the majority of the population is Muslim, the existing traditional financial market does not correspond to the needs of the society and some elements of the financial market cannot be used. This led to the demand for the formation of a financial system based on Islamic principles. In addition, by the end of the 20th century, the significant increase in the number of Muslim populations in the United States and Europe [3]was one of the reasons for the introduction of a financial system based on Islamic principles. Accordingly, the concept of Islamic finance was formed and is widely used today.

Islamic finance refers to a set of financial institutions that practice financial services in accordance with the principles of Shariah (Islamic rules). The term "Islamic economy" was

[1]Antropov V.V. Islamic finance and global economics: contemporary trends and perspectives. Reasons for the emergence of Islamic finance // Economic magazine. 2017. #48 C57.

[2]Abdullaev R.V., Dusanov S.M. Islam in the economy financial relations . - T.: Tashkent islam University , 2007. - p. 12.

[3]Trofimova O. Muslims and Islam in Western Europe // World economy and international relations. 2009. No. 10, S. 52-62.

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first used by the Indian Muslim scholar Sayyid Manazir Gilani in the book "Islamic Economy" published in Urdu in 1947.

According to the Saudi economist Mohammad Omar Chapra, Islamic economy reflects a network of knowledge that helps to achieve human well-being through [4]the distribution of unique resources in accordance with the teachings of Islam .

Islamic financial services have a number of advantages in economic development. In particular, Islamic economics defines the limits of halal (allowed) and haram (forbidden or illegal) ways of economic activity by giving a certain person the right to gain wealth and increase economic well-being. Islam broadly prohibits all activities that are economically or socially harmful. For example, gambling or drug cultivation, drug dealing, and other examples can be cited.

In Islam, while recognizing the right of a person to dispose of his legally acquired property, a person is ordered to spend his property wisely and to save it, not to waste it, and it is forbidden to waste it.

While allowing a person to keep excess wealth, Islam distributes a certain portion of excess income to the poor and needy section of the population through the system of zakat for the welfare of society.

Human nature regulates the accumulation and use of wealth. This system does not accept the accumulation of the wealth of the whole society in the hands of a few people and their disposal only. Inheritance and its distribution are also regulated based on established criteria. The economic system envisaged by Islam aims at social justice, which prevents the individual enterprise or entrepreneur from harming not only the community but also the individual. The attitude towards money in economic development is fundamentally different in Islamic economics. In the Islamic economy, money is regarded as a medium of exchange [5].

The main differences between money and product are:

(a) Money itself has no value. It cannot be used directly to meet human needs. It can only be used to purchase certain products or services. The product can be used directly.

(b) the product may be of different quality, and hence contracts for the sale of products are made for a particular product, whereas money, being a measure of value and a medium of exchange, has no other quality. It is precisely because of these differences that Islamic law treats money differently from commodities, which is particularly evident in the following two examples:

First, money (which has the same value) is not a commodity like other goods. Its use is limited to its primary function, that is, it is only a medium of exchange and a measure of value [6].

Riba (usury) is taking advantage of the helplessness of the poor and gaining wealth in return for their labor. If a person is insolvent and has no money left to run a business, support a family

[4] Baydaulet E.A. Islamic finance basics. - Tashkent: Uzbekistan 2019 . - 529 p.

[5]Tursunov AS Establishment of islamic window in commercial banks of Uzbekistan / collection of abstracts of republican online scientific-practical conference on the topic "Improving the mechanisms of introducing innovations into economic sectors and sectors". -Tashkent: "Finance" publishing house, June 26, 2020. - B.203-204.

[6] Tursunov AS The need for Islamic banking services in commercial banks of Uzbekistan and its positive impact on economic growth // SAARJ Journal on Banking and Insurance Research Vol 9, Issue 4, July 2020, ISSN: 2319-1422, Impact Factor SJIF 2020 = 7.126 (08.00.00, No. 19).

and raise children, and tells a rich man about his needs, instead of giving him alms or an interest-free loan, he deals with usury.

Allah the Almighty says the following in Surah Al-Baqara: "Those who eat riba (from their graves) will be confused like a madman beaten by Satan." This is because they say that commerce is similar to riba. And yet, God made commerce lawful and riba forbidden. Whoever stops when a message comes to him from his Lord, what happened before is on him and his work is on God. And whoever turns back (to riba), those are the owners of hell. They will abide in it forever" (verse 275).

In another verse of Surah Al-Baqarah, Allah says:

"Oh you who believe! If you are believers, fear Allah and leave usury too" (verse 278).

It can be seen from this verse that Allah, the Exalted, paid special attention to the spiritual and spiritual education of Muslims, like in other cases, in eliminating the unpleasant and forbidden things like usury.

At the time when this verse was revealed, many financial transactions were conducted on the basis of riba. Therefore, the previous cases were left as they were before the verdict, which was derived from this verse. Otherwise, all previous economic relations would have to be revised.

"Whoever stops when a message comes to him from his Lord, what happened before is on him and his work is on God."

That is, if Allah stops usury after declaring the judgment of riba, there is no need to revisit his old deeds. His behavior in the past belongs to God: He forgives if He wills, He does not forgive if He wills.

In the next verse, it is mentioned that the consequences of usury are not only in the hereafter, but also in this world: "Allah always makes riba a defect and increases alms. And Allah does not like every disbeliever and sinner" (verse 276).

Slaves use usury to increase their wealth and count the profits that come to them. In fact, it is the opposite.

"Allah will always make us guilty of riba." Even if the money of the usurer is large in terms of account, God will raise his blessing and make the owner not bequeath to himself. It exposes the usurer to various diseases, takes his peace and tranquility. And it will cause many calamities that we do not know.

Our Prophet Muhammad, may God bless him and grant him peace, announced in his sermons on the day of his conquest of Makkah Mukarrama that he abolished all the riba of Jahiliyyah, and that he was the first to remove the riba of his uncle Abbas ibn Abdul Muttalib, may God bless him and grant him peace, from the necks of debtors.

Financial and economic relations of Islamic banking services are regulated on the basis of Islamic Shari'a, in the following sequence: Holy Qur'an, Hadith Sharif, Ijma and Qiyas [7].

Today, 68.7 percent of Islamic finance is concentrated in Islamic banks. The Islamic banking segment is systemically important in 15 countries. 94.0% of the assets of Islamic banks are concentrated in the top three main regions. Gulf Cooperation Organization region (52.4%), Southeast Asia region (23.5%), Middle East and South Asia region (17.4%), Africa region

[7] Baydaulet E.A. Fundamentals of Islamic finance - Tashkent: Uzbekistan, 2019. - B. 7.

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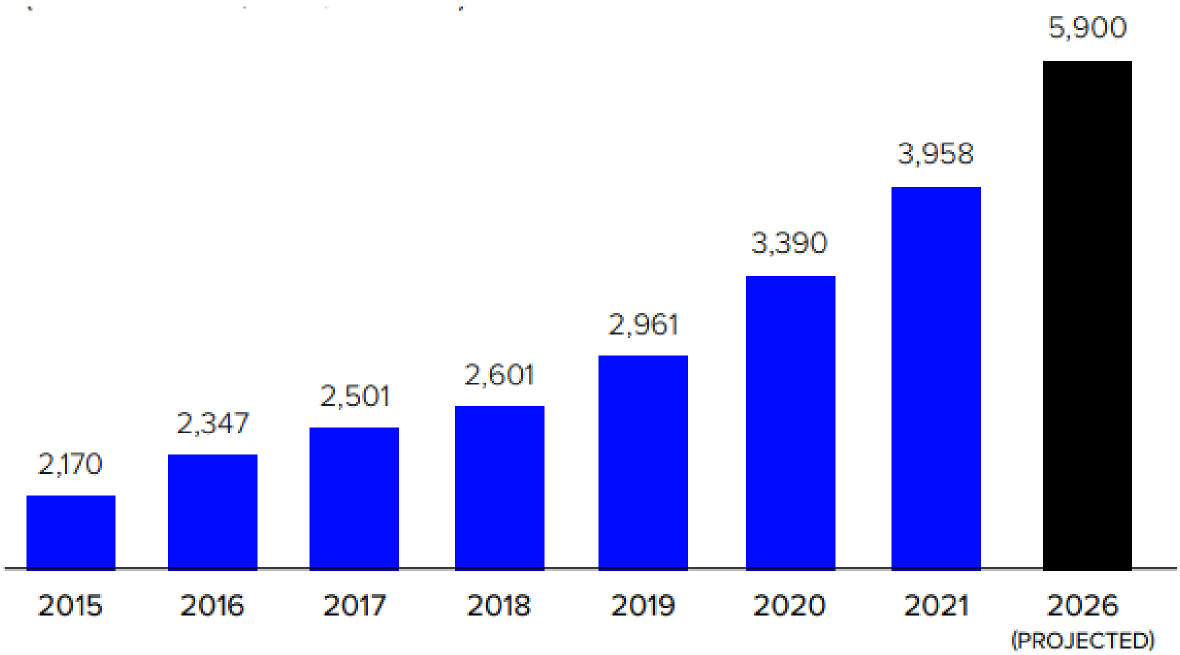
(2.1%) and other countries (4 .5%) [8]. Countries that do not belong to any of the four regions are classified as "others", namely countries located in Europe, North America, South America, and the Commonwealth of Independent States (CIS).

Islamic bank is "a commercial organization that opens and maintains bank accounts, makes payments, attracts funds to deposits, finances individuals and legal entities, and performs other banking services on the basis of Islamic Sharia." Sharia (the body of Islamic law) requires that these transactions be legal. That is, it finances production projects that are safe for society as permitted by the Shariah and prohibits the payment or receipt of interest on any transactions [9].

Islamic Finance Assets Growth (2015 - 2021, US$ Billion)[10]



Islamic banks cannot use refinancing loans from the Central Bank. Because discount loans, pawn loans, overdraft and term loans of the Central Bank are based on interest.

Reserve requirements are applied by central banks to Islamic banks.

Mandatory reserve allocations are used to affect the liquidity of Islamic banks.

Due to the relatively small size of Islamic banks' loan issuance, the application of mandatory reserve requirements does not aim to curb the lending capacity of Islamic banks.

Islamic banks cannot carry out repo operations with the Central Bank. Because the Central Bank's Repo operations (forward and reverse Repo) are based on the purchase and sale of Government bonds, commercial banks' certificates of deposit and savings, and corporate bonds. In some Islamic countries, Islamic banks are allowed to provide liquidity by purchasing government securities. For example, the Central Bank of Iran issues government certificates

[8] Islamic Financial Services Industry Stability Report 2022.

[9] Bashir, A., Hassan, M. (2004),"Determinants of Islamic Banking Profitability", ERF Paper, 10th Conference.

[10] Refinitiv Islamic Finance Development Report 2022: Embracing Change.

and sells them to Islamic banks. These certificates are highly liquid securities, and proceeds from their sale are used to finance government investment projects.
Mazur certificates do not pay interest, their rate of return is determined based on the return on the stock market.
Factors determining the need for Islamic financial markets are:
1. The inability of Islamic banks to attract resources from the international loan capital market.
The international loan capital market plays an important role in ensuring the current liquidity of commercial banks and solving the problem of lack of resources. However, all transactions in this market are based on percentage.
2. The need to attract resources by issuing securities. Attracting resources by issuing securities is one of the main ways to strengthen the resource base for traditional banks. However, the majority of securities issued by traditional banks are securities with a fixed interest rate (bonds, certificates of deposit and savings).
3. The need to ensure the liquidity of Islamic banks with the help of highly liquid securities.
Investing a part of commercial banks' resources in highly liquid securities plays an important role in ensuring their current liquidity.
The necessity of insurance in the activity of Islamic banks is determined by the following factors:
1. The need to strengthen trust in banks by improving state insurance of deposits attracted by commercial banks.
2. The need to reduce the levels of risks associated with asset operations of commercial banks.
There are three important aspects in the deposit insurance system adopted by Islamic banks:
1. Are all deposits in Islamic banks insured or only demand deposits?
2. How much must Islamic banks pay for deposit insurance?
3. How is the sum insured used?
Pakistan, Iran, Malaysia, Sudan, Saudi Arabia have deposit insurance system of Islamic banks.
In most countries, especially in European countries, deposits of Islamic banks are insured within the general insurance system. This does not correspond to Sharia standards. Because the contributions paid by Islamic banks can be directed to interest transactions.
Islamic insurance is called takaful.
In Takaful, the risk is shared between the insured and the insurance company.
A fund is established at the expense of insurance contributions of insured persons.
The funds of the fund are directed to investments, and a part of the profit is allocated to the insurance company for participating in the capacity of mudarrib.
The balance of the funds of the fund will be used in the following directions:
1. Organization of reserves for unexpected events.
2. For charitable purposes.
3. Distribution among the insured.
Islamic banks accept deposits from their clients, issue securities, attract resources from other Islamic banks.
This creates the need to regulate and control the activities of Islamic banks.

Inadequate liquidity of Islamic banks may result in delays in payments flowing through them. As a result, firstly, it harms the interests of customers; secondly, confidence in Islamic banks will decrease.

In most countries, the transactions of Islamic banks with real assets are considered sales transactions and are taxed at high rates. However, in most countries, interest income from commercial bank deposits is not taxed.

There are additional instruments used by some institutions in the Islamic finance system, some of which are just being introduced into this system. Among them, specific instruments related to agriculture are used relatively more widely. In addition, there are minor differences in the use of Islamic financial instruments between regions.

In fact, the demand of society served as the main factor in the formation and development of Islamic finance. In the financial system, Islamic finance has already formed as a separate model, and the historically existing Islamic financial views have become the basis of the modern Islamic financial system. To date, this system is being used effectively even in countries where there are few Muslims.

Therefore, the system of Islamic finance, which includes the basic concepts of riba, gharar and maysir and modern financial instruments based on musharakah, mudarabah, murabahah, salam, exception and rental agreements, and its risk, interest in the profit from the activity and the benefit of the many is the benefit of one person. is characterized by its own characteristics such as superiority.

In conclusion, the scientific literature on the field and today's development trends and the increase of proposed new financial instruments require the need to increase the scientific research that should be carried out in the future.

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