

Legal and Regulatory Frameworks For Sharī'a Governance Practices in the Islamic Banking Industry of Bangladesh*

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Abstract: This paper aims to explore the regulatory arrangements for *sharī'a* governance practices in the Islamic banking industry of Bangladesh and to identify the issues and challenges faced in this regard. Despite notable advancements, the necessity for a more robust regulatory framework, separate from the modified Banking Companies Act of 1991, which currently integrates Islamic banking regulations, remains apparent. A conspicuous challenge lies in the lack of a dedicated department within Bangladesh Bank responsible for overseeing Islamic banking activities. The article suggests an independent government-supervised Sharī'a board. This study enhances Bangladesh's Islamic banking regulation and promotes an understanding of *sharī'a* governance. The research is based on the review of existing literature but lacks empirical evidence. It has been stated in previous studies that a survey method can be used to examine real scenarios. This paper discusses the effectiveness of the Islamic Law Rules in the current practices of Islamic banks in Bangladesh, shedding light on their deficiencies.

Keywords: Islamic Law, Sharī'a Standards, Islamic Banking, Finance, Bangladesh.

Bangladeş'te İslami Bankacılık Sektöründe Şer'i Yönetişim Uygulamalarına Dair Hukuki ve Düzenleyici Çerçevesel

Öz: Bu makale, Bangladeş'in İslami bankacılık sektöründe şer'i yönetim uygulamalarına ilişkin düzenleyici düzenlemeleri araştırmayı ve bu bağlamda karşılaşılan sorunları ve zorlukları belirlemeyi amaçlamaktadır. İslami bankacılık alanında kayda değer ilerlemeler kaydedilmiş olmasına rağmen, şu anki düzenlemelerin, değiştirilmiş 1991 tarihli Bankacılık Şirketleri Kanunu'ndan ayrı, daha sağlam bir düzenleyici çerçeveye ihtiyaç olduğunu göstermektedir. Ayrıca, Bangladeş Bankası bünyesinde İslami bankacılık faaliyetlerini denetlemekten sorumlu özel bir departmanın bulunmaması da dikkat çekici bir sorundur. Bu nedenle, makale, hükümet tarafından denetlenen bağımsız bir şer'i kurulun kurulmasını önermektedir. Bu çalışma, Bangladeş'in İslami bankacılık düzenlemesini geliştirmeyi ve şer'i yönetim anlayışını desteklemeyi amaçlamaktadır. Araştırma mevcut literatürün incelenmesine dayanıyor ancak ampirik kanıtlardan yoksun. Daha önceki çalışmalarda gerçek senaryolarını incelemek için bir anket yöntemi kullanılacağı belirtiliyor. Bu yazı, Bangladeş'teki İslami bankaların mevcut uygulamalarındaki İslam Hukuku Kurallarının etkinliğini eksiklikleri vurgulayarak tartışmaktadır.

Anahtar Kelimeler: İslam Hukuku, Şeriat Standartları, İslami Bankacılık, Finans, Bangladeş.

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Introduction

The inception of Islamic banking traces back to its primary objective of conducting banking operations in Muslim countries worldwide while adhering to the principles of *sharī'a*. Unlike traditional banks that impose compound interest rates on lending, Islamic banking focuses on promoting the welfare of individuals. This approach alleviates the substantial burden on entrepreneurs caused by interest rates. Moreover, the profit-based participatory policy of Islamic banks serves as a magnet for businesspeople seeking financing opportunities.

However, the global market for Islamic finance is expected to reach \$4.0 trillion in 2021 due to the substantial expansion of the Islamic banking sector in recent years. Global Islamic finance assets are anticipated to exceed \$6 trillion by 2026, according to Refinitiv (2021) and the Islamic Corporation for the Development of the Private Sector (ICD).¹ This expansion is especially noticeable in Bangladesh, where Islamic banking is becoming a more and more popular alternative to traditional banking. Providing financial services following *sharī'a* law—which forbids interest-based transactions and encourages ethical investing and risk-sharing—is the fundamental tenet of Islamic banking.

With the backing of the government and the populace, Bangladesh established the Islamic banking system in 1983. Ten full-fledged Islamic banks exist in Bangladesh, and mainstream commercial banks have opened Islamic banking branches to draw the attention of Muslim clients. The country's central bank, Bangladesh Bank, developed the *sharī'a* governance guideline in 2009 to regulate the Islamic banking sector. A *sharī'a* department with numerous executives has also been established by Islamic banks in Bangladesh to assist the *Sharī'a* Supervisory Board (SSB) in executing *sharī'a* laws.² The management of these duties is handled by certain officers who work under the *sharī'a* department, even though Islamic banks in Bangladesh do not have distinct divisions for *sharī'a*-related operations including research, audit, compliance, and review. The *sharī'a* department's activities are overseen by a few full-time personnel who answer to the *sharī'a* Secretary. Members of the SSB evaluate the *sharī'a*

¹ *Islamic Corporation for The Development Of The Private Sector member* (Jeddah: The Islamic Development Bank (IsDB) Group, 2020).

² Md. Kausar Alam et al., "Shariah Governance Framework of Islamic Banks in Bangladesh: Practices, Problems and Recommendations," *Asian Economic and Financial Review* 9/1 (2019), 123.

officers' reports and serve as a liaison between the SSB and Islamic banks.³ Thus, they play a significant role in carrying out *shari'a* governance tasks such as review, compliance, audit, reporting, and monitoring.

Despite development in this area, Islamic banks in Bangladesh have not yet established distinct departments for doing *shari'a*-related tasks, including research, audit, compliance, and review.⁴ Instead, a few officials who work for the *shari'a* department are in charge of these duties. The *shari'a* Department has a minimal number of full-time personnel who oversee its activities and report to the *Shari'a* Secretary. Members of the SSB assess the reports that *Shari'a* officers submit, and the officers serve as intermediaries between the SSB and the Islamic banks. As a result, they play a critical role in carrying out *Shari'a* Governance (SG) tasks, including review, compliance, audit, reporting, and monitoring.

The lack of more well-qualified *shari'a* scholars poses a significant challenge as they interpret and implement *shari'a* principles in banking activities. Due to this shortage of human resources, there is a requirement for uniform *shari'a* interpretations, which can lead to non-uniformity in applying *shari'a* principles across various banks and financial institutions.⁵

Another area for improvement is the limited supervisory capacity of regulatory authorities, which can lead to gaps in monitoring and enforcing *shari'a* compliance. This can be particularly problematic in cases where banks or financial institutions must fully comply with *shari'a* principles due to the lack of monitoring and oversight.⁶

The Islamic banking industry needs more transparency and disclosure of *shari'a* compliance practices.⁷ Some banks have internal *shari'a* supervisory

³ Md. Kausar Alam et al., "Independence and Effectiveness of Shariah Department Officers to Ensure Shariah Compliance: Evidence from Islamic Banks in Bangladesh," *Asian Journal of Accounting Research* 8/1 (2022), 19.

⁴ Muhammad Sholihin et al., "Shariah Compliance in Islamic Economics: A Bibliometric Analysis," *Malaysian Journal of Economic Studies* 58/2 (2021), 326.

⁵ Adnan Trakic, "Shari'ah Compliance in Islamic Finance Contracts: The Malaysian Constitutional Dilemma," *Oxford University Commonwealth Law Journal* 20/2 (2020), 293.

⁶ Gökberk Can, "Does Sharia Compliance Affect Financial Reporting Quality? An Evidence from Muslim Majority Countries," *International Journal of Islamic and Middle Eastern Finance and Management* 14/1 (2021), 18.

⁷ Dali Nuradli Ridzwan Shah Bin et al., "Performance of Shariah Compliance Companies in the Plantation Industry," *International Journal of Islamic and Middle Eastern Finance and Management* 1/2 (2008), 169.

mechanisms, but more accountability and trust are required. Bangladesh's Islamic banking industry needs a comprehensive and standardized regulatory framework for *shari'a* governance.⁸ This requires training more *shari'a* scholars for qualified human resources,⁹ increasing regulatory capacity, and developing a standardized interpretation.¹⁰ The industry also needs more transparency and disclosure of *Shari'a* compliance practices.

However, the regulatory arrangements for *shari'a* governance practices in Bangladesh's rapidly growing Islamic banking industry identify the underlying reasons for the challenges and issues encountered in implementing these practices. The existing literature (i.e., Alam et al., 2021; Abdullah and Rahman, 2017; Ullah and Khanom, 2018) provides some insights, but there still needs to be a significant gap in understanding the extent to which regulatory structures ensure the implementation of *shari'a* governance practices.

This paper presents the regulatory arrangements for *shari'a* governance practices in the Islamic banking industry of Bangladesh and identifies the issues and challenges faced in this regard. It adds to the ongoing discussion on the growth of the Islamic banking industry and emphasizes the significance of a sturdy regulatory framework. The paper offers valuable insights into measures that can be implemented to support the expansion and durability of the sector in Bangladesh. Furthermore, the research delves into the practical situation of *shari'a* department officers in Bangladesh, contributing to the literature within the country's context. The central bank must guarantee the autonomy of *shari'a* department officers to perform their duties following *shari'a* guidelines. The study aims to contribute to the literature and inform policymakers and stakeholders by identifying the challenges and reasons for their occurrence, aiming to develop a more comprehensive and standardized regulatory framework.

⁸ Moctar Moussa Djibrilla et al., "The Challenges of Shariah Compliance in the Islamic Banking Practices: Whether Ibn-Al Qayyim's Principles of Muamalat Be the Panacea?" *The Journal of Muamalat and Islamic Finance Research* 14/1 (2017), 78.

⁹ Omar Farooq - Amal Alahkam, "Performance of Shariah-Compliant Firms and Non-Shariah-Compliant Firms in the MENA Region: Which Is Better?" *Journal of Islamic Accounting and Business Research* 7/4 (2016), 271.

¹⁰ Md Robiul Islam - Mohammad Shamsus Sadekin, "Disclosure of Financial Reporting of Islamic Financial Institutes of Bangladesh: A Concept of Relevant Reviews," *International Journal of Economics Business and Accounting Research (IJEBAAR)* 4/3 (2020), 327.

1. The Background of Islamic Banking

Shari'a governance, based on Islamic law and regulates all aspects of Muslim life, including business and money, is a crucial component of the Islamic banking sector (Hassan & Lewis, 2007). Early in the 1960s, Mit Ghamr Local Savings Bank, the first Islamic bank, was established in Egypt (Iqbal & Molyneux).¹¹

To offer alternatives to traditional banking, Islamic scholars created contracts that adhered to Shari'a, which resulted in the founding of several Islamic banks across the Middle East and Asia. Among others, these banks were established in Malaysia (1963), Bangladesh (1983), and Indonesia (1991). To support economic growth in Muslim nations and offer Shari'a-compliant financing, the Islamic Development Bank (IDB) was established in 1975 as a regional development organization. In more than 75 countries worldwide, more than 500 Islamic banks and financial institutions are in operation.¹² Global Islamic Finance Landscape:

Total Islamic finance assets in 2021: US\$ 4.0 Trillion

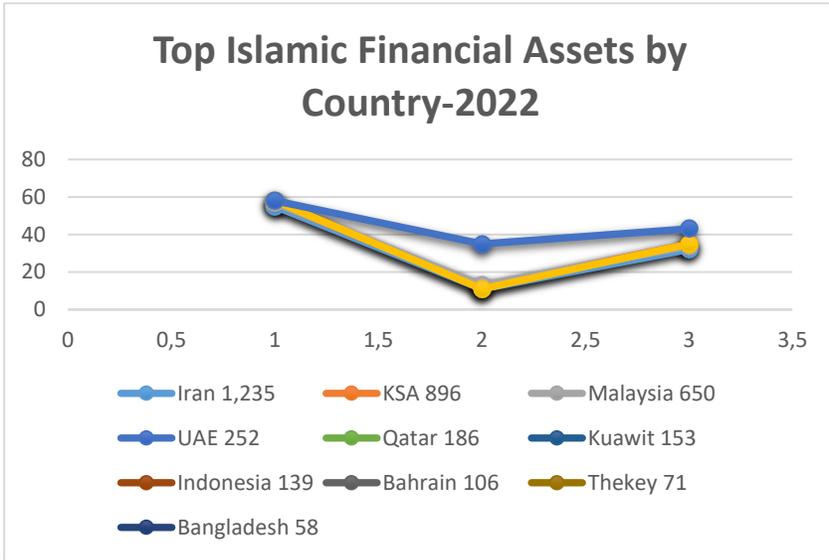
Growth of IF assets in 2021: 17%

Total Islamic finance institutions: 1,679

The data below provides information about the breakdown of Islamic finance assets worldwide. Islamic finance assets refer to the financial assets held by Islamic financial institutions that comply with Islamic law (*shari'a*).

¹¹ Munawar Iqbal - Philip Molyneux, *History and Growth of Islamic Banking and Finance. In: Thirty Years of Islamic Banking*. (London: Palgrave Macmillan, 2005), 37.

¹² Muhammad Hanif, "Shari'ah-Compliance Ratings of the Islamic Financial Services Industry: A Quantitative Approach," *ISRA International Journal of Islamic Finance* 10/2 (2018), 170.



However, the data indicates that the total Islamic banking assets in 2021 were US\$2.8 trillion, which grew by 17% compared to the previous year. There are a total of 566 Islamic banks in the world. To analyze the data provided, we can create a bar graph to visualize the distribution of Islamic finance assets across different countries.¹³ From the data, it can be seen that Iran has the highest Islamic finance assets at US\$1,235 billion, which includes Islamic banking assets of US\$1,039 billion. KSA follows closely with US\$896 billion in Islamic finance assets, including Islamic banking assets of US\$606 billion. Malaysia has the third-highest Islamic finance assets at US\$650 billion, including Islamic banking assets of US\$262 billion. UAE has the fourth-highest Islamic finance assets at US\$252 billion, including Islamic banking assets of US\$196 billion, followed by Qatar at US\$186 billion. Kuwait has US\$153 billion in Islamic finance assets, including Islamic banking assets of US\$134 billion. Indonesia, Bahrain, Turkey, and Bangladesh have lower Islamic finance assets than the above countries. Indonesia has US\$139 billion, Bahrain has US\$106 billion, Turkey has US\$71 billion, and Bangladesh has US\$58 billion in Islamic finance assets. It can be seen that most Islamic finance assets come from Islamic banking, with a total of US\$2.4 trillion in assets across all countries. Iran has the highest Islamic banking assets, followed by KSA and Malaysia. However, Iran, KSA, and Malaysia have the highest Islamic finance assets in the world. Islamic banking is the most significant contributor to Islamic

¹³ ICD-Refinitiv Islamic Finance Development Report 2022 (Malaysia: IFDI, 2022), 34.

finance assets.¹⁴ This chart provides insights into Islamic finance assets' global growth and distribution. The information presented here could be helpful for policymakers, investors, and financial institutions to understand the Islamic finance landscape and identify potential investment opportunities.

Shari'a governance is built on the concept of trust, which is established through transparency, accountability, and ethical behavior. It includes three essential components: the *Shari'a* Supervisory Board (SSB), Audit, and Compliance Department. The SSB ensures that all bank products and services comply with *shari'a* principles, while the *shari'a* Audit function independently assesses the bank's compliance.¹⁵ The *shari'a* Compliance Department ensures that the bank's operations and activities adhere to *shari'a* principles. A comprehensive and standardized regulatory framework is required to maintain the industry's success, which necessitates focusing on *shari'a* scholar education and training to ensure qualified human resources are available. Regulatory authorities should also improve their capacity to supervise the industry and develop standardized *shari'a* interpretations to address challenges.¹⁶

The Islamic banking industry in Bangladesh has been experiencing rapid growth and expansion in recent years, holding a significant market share of the country's banking assets. However, this growth also presents several challenges for the industry, including the need for a robust regulatory framework to ensure compliance with *shari'a* principles in all aspects of the industry's operations.¹⁷

Alam et al. (2022) stated that one key area of focus in developing the regulatory framework for *shari'a* governance practices is the composition and independence of institutional *shari'a* boards.¹⁸ These boards' lack of transparency and accountability is often criticized and debated. Additionally, the shortage of qualified scholars can lead to inconsistencies in implementing

¹⁴ ICD-Refinitiv *Islamic Finance Development Report 2022*, 40.

¹⁵ Mohammad Masud Perves, "Legal and Regulatory Framework in Islamic Banking System: Bangladesh Perspective," *European Journal of Business and Management* 7/21 (2015), 38.

¹⁶ Nawal Kasim et al., "Shari'ah Governance for Islamic Capital Market: A Step Forward," *International Journal of Educational Research* 6/1 (2013), 8.

¹⁷ Sharif Hosen et al., "Talent Management: An Escalating Strategic Focus in Bangladeshi Banking Industry," *The International Journal of Academic Research in Business and Social Sciences* 8/1 (2018), 169.

¹⁸ Md. Kausar Alam et al., "The Influences of Shariah Governance Mechanisms on Islamic Banks Performance and Shariah Compliance Quality," *Asian Journal of Accounting Research* 7/1 (2022), 7.

sharī'a principles across different banks. The limited supervisory capacity of the regulatory authorities is also a significant challenge facing the industry, as it can result in non-compliance with *sharī'a* principles.¹⁹

There is a need for more clarity and consistency in the *sharī'a* compliance inspection process, leading to misunderstandings and disputes between banks and regulatory authorities. A robust *sharī'a* governance framework is essential to ensure the reliability and integrity of the Islamic banking system.²⁰

To guarantee that the Islamic banking sector in Bangladesh continues to expand and thrive, the issues it faces must be resolved. A robust *sharī'a* governance system is necessary to guarantee adherence to *sharī'a* principles and preserve the integrity and dependability of the sector.²¹ Ullah (2014) stated that lack of a suitable *sharī'a* governance structure may result in a lack of adherence to *Sharī'a* principles and a decline in stakeholder confidence. They maintained that a strong *sharī'a* governance structure is necessary to guarantee the dependability and integrity of the Islamic financial system.²²

In addition to the Bangladeshi Islamic banking sector's difficulty, attempts have been made to overcome these difficulties and foster the sector's expansion.²³ The study clarified the necessity for a workable *sharī'a* governance system to guarantee Islamic banks' adherence to *Sharī'a* standards. The authors pointed out that the absence of an appropriate *sharī'a* governance structure may result in Islamic banks failing to adhere to *sharī'a* principles, which may cause stakeholders to lose faith in those institutions. The report recommended that the regulatory authorities need a more rigorous *sharī'a* governance system to guarantee that Islamic banks adhere to *sharī'a* principles. For instance, the Bangladesh Bank has taken action to strengthen the regulatory and oversight environment for Islamic banking. A

¹⁹ Md. Kausar Alam et al., "External *Sharī'ah* Audit and Review Committee Vis-a-Vis *Sharī'ah* Compliance Quality and Accountability: A Case of Islamic Banks in Bangladesh," *Journal of Public Affairs* 22/1 (2020), 5.

²⁰ Babatunji Adedeji et al., "Corporate Governance, Sustainability Initiatives and Firm Performance: Theoretical and Conceptual Perspectives," *Asian Journal of Social Science* 9/1 (2019), 42.

²¹ M Kabir Hassan et al., "Case Studies of Shariah Governance Practices in Bangladesh" (HBKU-QFC Roundtable on Islamic Finance - Shariah Governance in a Globalized World, Doha, Qatar: HBKU, 2017).

²² Hafij Ullah, "*Sharī'ah* Compliance in Islamic Banking: An Empirical Study on Selected Islamic Banks in Bangladesh," *International Journal of Islamic and Middle Eastern Finance and Management* 7/2 (2014), 186.

²³ Alam, "A Proposed Centralized Shariah Governance Framework for Islamic Banks in Bangladesh," *Journal of Islamic Accounting and Business Research* 13/2 (2021), 372.

detailed *shari'a* governance guideline for Islamic banks was published by the Bangladesh Bank in 2018 and offered a structure for the membership, functioning, and duties of institutional *shari'a* boards. The protocol also specifies the obligations of the regulatory bodies monitoring Islamic banks' adherence to *shari'a*.²⁴

In another study, Abdullah et al. (2017) investigated the regulatory and supervisory framework of Islamic banking in Bangladesh.²⁵ The study identified several challenges, including the need for more qualified Shari'a scholars, the lack of standardized *shari'a* interpretations, and the limited supervisory capacity of the regulatory authorities. The authors examined the role of the *shari'a* Supervisory Board and its relationship with the regulatory authorities. The authors recommended that the regulatory authorities increase their capacity to supervise the industry and develop a standardized *shari'a* interpretation to address the challenges.

Moreover, the Bangladesh Bank has also taken steps to increase the capacity of *shari'a* scholars and promote standardization in *shari'a* interpretations. For instance, the central bank has established a dedicated training program for *shari'a* scholars to enhance their knowledge and skills in *shari'a* principles and governance practices. The Bangladesh Bank has also encouraged the establishment of *shari'a* research and development centers to facilitate research and promote the standardization of *shari'a* interpretations.

The central bank has established a separate division for Islamic banking supervision. It has increased the number of *shari'a* compliance inspectors to enhance the efficiency and effectiveness of the Shari'a compliance inspection process. Additionally, the Bangladesh Bank has increased its supervisory capacity to monitor the activities of Islamic banks and ensure compliance with *shari'a* principles.

Islamic banking in Bangladesh is growing but faces challenges such as a shortage of *shari'a* scholars and limited regulatory capacity. A solid regulatory framework is needed to ensure *shari'a* compliance, and the Bangladesh Bank is taking steps in the right direction by enhancing regulation and promoting standardization.

The bank's board is made up of at least five internal and external members, it was learned after interacting with the *shari'a* supervisory board members.

²⁴ Perves, "Legal and Regulatory Framework in Islamic Banking System: Bangladesh Perspective," 182.

²⁵ Md. Faruk Abdullah - Asmak Ab. Rahman, "Shari'ah Governance of Islamic Banks in Bangladesh Issues and Challenges," *Journal of Islamic Economics, Banking and Finance* 13/3 (2017), 87.

While internal members must meet additional requirements by AAOIFI criteria, such as educational background and competence, external members are chosen based on their familiarity with *sharī'a* principles.

The *Sharī'a* Supervisory Boards (SSB) of Islamic banks uphold Islamic legal regulations and restrictions of *sharī'a*. There is no chance of establishing a unified reporting standard or guideline since there must be collaboration among the boards of various institutions. However, respondents argued that consistent policies are crucial for Islamic banks and that the CSBIB and Bangladesh Bank may play a vital role. According to the general managers of Bangladesh Bank's banking regulation and policy division, quarterly reports are published, and the performance of Islamic banks is continually monitored. Since 2007, the Islamic banking industry has tripled, accounting for 15% of the global market. About 25% of all banking industry investments and deposits in Bangladesh are made in the Islamic banking sector.²⁶

Due to their benefits, more banks have shown interest in converting to Islamic banks or opening Islamic banking windows. However, Bangladesh Bank has not issued new licenses for *sharī'a*-compliant finance expansion in the past seven years due to a lack of resources to ensure *sharī'a* compliance.

2. Regulatory Oversight of Sharī'a Boards in Bangladesh

The Islamic banking industry in Bangladesh has experienced significant growth in recent years, with nine banks holding a combined market share of about 28% of the country's total banking assets. The industry has grown at a Compound Annual Growth Rate (CAGR) of 24% over the past decade, with a growth rate of 18.8% in 2020-21, higher than Bangladesh's overall banking sector's growth rate.²⁷ Despite this growth, implementing *Sharī'a* principles has faced obstacles, including a shortage of qualified scholars, the need for standardization in the interpretation of the regulation in terms of Islamic law, and the limited supervisory capacity of regulatory authorities.²⁸

Legally speaking, Bangladesh Bank can regulate all financial organizations, including Islamic banks. However, the state has yet to mandate the central *sharī'a* advisory council or board to oversee or monitor adherence to the

²⁶ *Developments of Islamic Banking System in Bangladesh* (Dhaka: Islamic Banking Wing Research Department Bangladesh Bank, September 2022), 5.

²⁷ *Developments of Islamic Banking System in Bangladesh*, 3.

²⁸ Md. Kausar ALAM et al., "A Central Shariah Regulatory Authority for the Islamic Banks in Bangladesh: Legalization or Formation," *The Journal of Asian Finance, Economics and Business* 7/1 (2020), 95.

shari'a system. Islamic banks are governed by several pieces of legislation, including the 1993 Securities and Exchange Commission Act, the 1991 Bank Companies Act, the 1994 Companies Act, and the 1972 Bangladesh Bank Order.²⁹ Bangladesh Bank has gradually implemented many sensible measures to aid the development of Islamic banking in the nation. Nevertheless, despite all of this work, it is widely acknowledged that poor corporate governance is one of the main reasons for financial crises. In this regard, Islamic financial institutions are not any different. A guide on the operation and management of Islamic banks was released by the Bangladesh Central Bank (BCB) on November 9, 2009, and it covered subjects like the *shari'a* and corporate governance mechanism, product definition, operational framework, alternative investment types, and the conversion of a conventional bank to an Islamic bank. According to the manual, the bank's board of directors will ensure that all its operations and products adhere to Sharia.

Islamic Finance Industries (IFIs) are after an alternative financial system. For this reason, Islamic banks with Islamic branches should have consisted of managers with the necessary knowledge and expertise in Islamic law, which is seen as absent in the practical field. *Shari'a* administration is exercised through Sharia boards.³⁰ Sharia boards are an independent source of control and supervision. It audits not only the products but also every activity of the institution.

According to this guideline, Islamic banks or their branch boards are responsible for ensuring that all their activities follow *shari'a* principles. To achieve this, board members are expected to possess *shari'a* knowledge. However, they may establish a *shari'a* supervisory board to assist. In addition, the directive specifies the requirements and credentials needed for people to hold positions on the *shari'a* Supervisory Council:³¹

-To understand Arabic, Islamic law, Islamic economics, Islamic finance, and a master's or doctorate.

- To have three years of board member experience deciding on *shari'a* and

²⁹ Riazuddin Ahmed - Mohamad Saifullah Mohamad, "The Practice of Shariah Governance in Islamic Banking and Finance: A Study of Islamic Banks in Bangladesh," *International Journal of Management and Applied Research* 6/4 (2019), 277.

³⁰ Kamal Naser et al., "Islamic Banking: A Study of Customer Satisfaction and Preferences in Jordan," *The International Journal of Bank Marketing* 17/3 (1999), 140.

³¹ "Guidelines For Islamic Banking" (Dhaka: Bangladesh Bank, 2009), 31.

financial issues.³²

- To have at least three years of experience in research, teaching, or conducting in Islamic law or finance and have written three volumes in Islamic law or finance or three essays in globally renowned peer-reviewed publications.

The *Sharī'a* Board ensures that all products and services related to Islamic finance comply with Islamic law. The following are some of the crucial duties of the *Sharī'a* Board:

1. Publishing *Sharī'a* opinions: The *Sharī'a* Board publishes *fatwās*— Islamic legal opinions—on the legitimacy of financial services and goods by Islamic law.³³ The *fatwās* acts as a legal decree and aids in ensuring that financial services and goods adhere to *Sharī'a* law.

2. Examining financial services and goods: The *Sharī'a* Board examines financial services and products to ensure they adhere to Islamic standards. The Board evaluates the characteristics, organization, and functionality of the economic goods and services and gives the management of the bank feedback.³⁴

3. Conducting audits: The Board audit committee conducts *sharī'a* audits to ensure *sharī'a* compliance in the bank's operations and procedures.³⁵ The audit investigates the bank's financial accounts, commercial dealings, and other functions to guarantee adherence to *sharī'a* guidelines.

4. Establishing *sharī'a* guidelines and standards for Islamic financial services and products: The *Sharī'a* Board creates *sharī'a* guidelines and standards.³⁶ These criteria ensure financial services and products adhere to Islamic beliefs, principles, and *sharī'a* law.

5. Guiding *sharī'a* compliance: The *Sharī'a* Board guides *sharī'a* concerns to

³² Md Muhabbat Hossain, "Financial Statements of Banks Under Islamic Shariah: Status of Regulatory Compliance," *Thoughts on Economics* 22/1 (2012), 57.

³³ Saiful Azhar Rosly - Mohd Afandi Abu Bakar, "Performance of Islamic and Mainstream Banks in Malaysia," *International Journal of Social Economics* 30/12 (2003), 1255.

³⁴ Razali Haron et al., "Shari'ah Governance of Islamic Banks: The Role of Shari'ah Supervisory Board - A Bibliometric Analysis," *IJUM Law Journal* 30/2 (2022), 144.

³⁵ K. M. Anwarul ISLAM et al., "The Impact of Shariah Supervisory Board and Shariah Audit Committee on Corporate Social Responsibility Adoption at Islamic Banks in Bangladesh," *Journal of Asian Finance, Economics and Business* 8/3 (2021), 481.

³⁶ Laily Dwi Arsyianti, "The Role of Shariah Supervisory Board In Islamic Financial Industry (Case Study: Iran, Malaysia, And Indonesia)," *Al-Infraq: Jurnal Ekonomi Islam* 1/1 (2010), 66.

the bank's management. The Board also assists in resolving any issues about the application and interpretation of *shari'a* principles.

Nevertheless, the *Shari'a* Board ensures that the bank's operations, financial products, and services comply with *shari'a* principles. The Board plays a critical role in maintaining the trust and confidence of customers in Islamic banking products and services.

Bangladesh's Islamic banks must comply with different laws and regulations than conventional banks. Islamic banks simultaneously follow the rules implemented by the government for conventional banks and the AAOIFI and IFSB standards established for Islamic banks. The Securities and Exchange Commission Act regulated Bangladesh's financial markets in 1993, which was later amended in 2012. How the *Shari'a* Board System works in the Islamic banking sector will be explained below.

3. Islamic Banks' Consultative Forum (IBCF)

A typical forum for Bangladeshi Islamic banking service providers is the Islamic Banks' Consultative Forum (IBCF), established in 1995. The IBCF started operations on October 11, 1997, and comprises Islamic financial institutions' presidents, CEOs, and general managers.³⁷ The IBCF also has a central bank representative on staff. The Forum effectively pursued the shared objective of Islamic bankers by addressing industry issues, attaining goals, and developing strategies. The establishment of an Islamic investment board, the beginning of Islamic insurance companies, the renewal of new Islamic financial products and union investments, and the creation of a central *shari'a* board for Islamic banks are just a few of the projects that this institution has successfully managed and completed on behalf of the government of Bangladesh. All member banks and the general banking sector benefit from this forum.

It is to be noted that the Islamic Bank Advisory Forum, on March 30, 1997, at its first meeting in Istanbul, decided to meet regularly, at least once every three months. However, the IBCF is less fully active than CSIBIB regarding fiqh-based work, and several executives expressed their views in Bangladesh. This Forum is mainly governed by prominent Islamic bankers and financial experts with the government's support, while CSBIB is run under *shari'a* scholars to maintain *shari'a* compliance. The Islamic banking system is now quite well-liked in Bangladesh. As a result, Islamic banking is expanding every day.

³⁷ <http://ibcfbd.com/Establishment/>

Additionally, Islamic and conventional banks are cooperating. IBCF has been pushed ahead from the start. The IBCF members reached their full membership age of 14 after 21 years. Establishing an interest-free banking system in Bangladesh is an aim shared by these 14 banks.

However, the Bangladesh Central Bank is a full-fledged member of the International Islamic Financial Services Board (IFSB) and AAOIFI. Its officials are actively drafting different international guidelines for Islamic banks worldwide, demonstrating their positive stance towards the industry. In addition, Bangladesh Bank has set up a special inspection department for a transparent examination of the business activities of Islamic banks, including foreign banks. The Bangladesh Central Bank carries out supervision and oversight of Islamic banking transactions according to specific guidelines applicable to them and general guidelines framed for conventional banks. While the BMB monitors the *sharī'a* enforcement status of Islamic banks, it also examines the commercial activities of the *sharī'a* councils/committees of the relevant banks.

4. Central Sharī'a Board of Islamic Banks (CSBIB)

A formal *sharī'a* board does not govern Bangladesh's Islamic banks. However, the main body responsible for ensuring that Islamic financial institutions in Bangladesh function by *sharī'a* law is a private organization known as the Central *Sharī'a* Board of Islamic Banks (CSBIB). The CSBIB is a legally recognized organization (Govt. Reg. No. S-9922 of 2009) whose primary goal is to provide the government, the central bank, the regulatory body, and member banks with all necessary cooperation and assistance.³⁸ The CSBIB, composed of eminent Bangladeshi academics and has monthly meetings to examine *sharī'a* problems relevant to the nation's Islamic banking sector, is a group that all Islamic banks in Bangladesh are members of. The CSBIB conducts research, writes and publishes books and journals, and provides training courses and advice on *sharī'a*-related topics to its members. The CSBIB currently has a membership that includes ten fully-fledged Islamic banks, seven conventional banks with Islamic banking windows, ten conventional banks with Islamic banking branches, and one non-bank Islamic financial institution. Indeed, many other Islamic banking branches and windows have yet to join. These institutions show their dedication to following *sharī'a* law by entering the CSBIB.

While the *sharī'a* rulings made by the CSBIB are not binding, no Islamic bank

³⁸ Central Shariah Board for Islamic Banks of Bangladesh (CSBIB), 2009, p. 2.

in Bangladesh would oppose its decisions due to reputational risks. Being a member of the CSBIB provides access to guidance and expertise on Shari'a matters, helping member institutions design and offer Shari'a-compliant financial products and services that meet their customers' expectations. The board cooperates with other institutions and comprises experts in Islamic finance who oversee its activities. Due to the establishment of this Central *Shari'a* Supervisory Board, the BMB's close and accurate direction, supervision, and monitoring of the activities of Islamic banks through this *shari'a* Committee have strengthened the coordination and cooperation between the *shari'a* councils.³⁹

5. Independent Fatwā Boards of Banks

A *Shari'a* supervisory board made up of *shari'a* experts oversees every Islamic bank. *Shari'a* scholars gather monthly to explore new concerns regarding how Islamic banks operate. An Islamic bank must present a new product to the *shari'a* supervisory board to review its status under *shari'a*.⁴⁰ The *shari'a* supervisory board comprises various members: a chairperson, a vice-chairperson, and a secretary. Banks publish the judgments made by the *shari'a* advisory board in their annual reports. As members of their *shari'a* advisory panels, Islamic banks frequently choose some of the top *shari'a* academics in the nation. For example, Article 123 of the memorandum and Bangladesh Islamic Bank Ltd. (IBBL) articles of association stipulate that "the board of directors of the bank may occasionally appoint advisory bodies specialized in the economic, financial, and operational aspects of *shari'a*."⁴¹

The *shari'a* committee may set the terms of reference for studies and these advisory bodies. Similar rules relating to the *shari'a* council were approved in section 158 of the memorandum and articles of organization of Al-Arafah Islamic Bank. To guarantee that corporate transactions do not contain any aspects prohibited by *shari'a*, members of the legal and economic communities will provide advice on those deals. The bank's board of directors

³⁹ Md. Kausar Alam et al., "The Influences of Board of Directors and Management in Shariah Governance Guidelines of the Islamic Banks in Bangladesh," *Journal of Islamic Accounting and Business Research* 11/9 (2020), 1644.

⁴⁰ Ullah, "Shari'ah Compliance in Islamic Banking: An Empirical Study on Selected Islamic Banks in Bangladesh," 2014, 184.

⁴¹ Alam et al., "Shariah Governance Framework of Islamic Banks in Bangladesh: Practices, Problems and Recommendations," 122.

will establish the *sharī'a* board's guidelines.⁴²

Some Islamic banks called it the "*Sharī'a* Inspection and Compliance Division." Most of those under this section are *sharī'a* officers and conduct *sharī'a* inspections. In some Islamic banks, these officers are also called "*murāqib*," apart from their supervisory duties, according to *sharī'a*. Conventional banks that run Islamic banking window units also have an Islamic banking section with a few officials under *sharī'a* supervision and fully-fledged Islamic banks. Full-fledged Islamic banks must have *sharī'a* supervisors who must report to the *sharī'a* supervisory board via the *sharī'a* secretariat. Since there are few *sharī'a* experts in Bangladesh, a select handful either preside over or serve as chairs for practically all *sharī'a* supervisory boards of Islamic banks and insurance firms.⁴³ In addition, some *sharī'a* boards need a proper educational foundation.

The conceptual differences regarding Islamic banks and *Sharī'a* governance frameworks (SGF) between the Board of Directors (BOD), management, executives, clients, and the general public provide another difficulty. The BOD and management frequently impact on how SG rules are applied, thereby delaying the execution of SSB decisions. Moreover, SSB members need to be more independent in performing their work in Bangladesh, undermining the effectiveness of *sharī'a* audits.⁴⁴ Intensely, *sharī'a* officers are not independent in performing their *sharī'a*-related works.

6. Issues and Challenges in *Sharī'a* Governance Practice in Bangladesh

Out of Bangladesh's 10974 total branches, ten fully operating Islamic banks now have a combined total of 1605 branches. In addition, to provide Islamic financial services in the nation, 13 conventional commercial banks have built 511 Islamic banking windows, and 11 conventional commercial banks have constructed 23 Islamic banking branches.

Table 1: Shows a comprehensive overview of the Islamic banking industry in

⁴² Mahmood Ahmed - Maksuda Khatun, "The Compliance with Shariah Governance System of AAOIFI: A Study on Islamic Banks Bangladesh Introduction," *Journal of Islamic Economics, Banking and Finance* 9/3 (2013), 183.

⁴³ Mosab I. Tabash et al., "Ethical Legitimacy of Islamic Banks and Shariah Governance: Evidence from Bangladesh," *Journal of Public Affairs* 22/2 (2022).

⁴⁴ Md. Kausar Alam - Muhammad Shahin Miah, "Independence and Effectiveness of Shariah Supervisory Board of Islamic Banks: Evidence from an Emerging Economy," *Asian Review of Accounting* 29/2 (2021), 178.

Bangladesh;⁴⁵

No.	Full-fledged Islamic Banks	Islamic Banking Branches in Conventional Banks	Islamic Banking Windows in Conventional Banks
1.	Islami Bank Bangladesh Limited (389)	The City Bank Limited (1)	Sonali Bank Limited (58)
2.	Al-Arafah Islami Bank Limited (204)	AB Bank Limited (1)	Janata Bank Limited*
3.	Social Islami Bank Limited (172)	Dhaka Bank Limited (2)	Agrani Bank Limited (48)
4.	EXIM Bank Limited (141)	Premier Bank Limited (2)	Pubali Bank Limited (17)
5.	Shahjalal Islami Bank Limited (133)	Prime Bank Limited (5)	Trust Bank Limited (15)
6	First Security Islami Bank Limited (197)	Southeast Bank Limited (5)	Bank Asia Limited (5)
7.	Union Bank Limited (105)	Jamuna Bank Limited (2)	Standard Chartered Bank (1)
8.	ICB Islamic Bank Limited (33)	Bank Alfalah Limited (1)	Mercantile Bank Limited (45)
9.	Standard Bank Limited (138)	NRB Bank Limited (1)	Midland Bank Limited (1)
10.	Global Islami Bank Limited (93)	One Bank Limited (2)	NRBC Bank Limited (268)
11.		United Commercial Bank (1)	United Commercial Bank (10)
12.			Meghna Bank Limited (3)
13.			Mutual Trust Bank Limited (15)
14.			Premier Bank Limited (25)

⁴⁵ *Developments of Islamic Banking System in Bangladesh, 2.*

The table above highlights the tremendous potential of the Islamic banking industry in Bangladesh, which has resulted in conventional banks either transferring operations or establishing Islamic branches/windows due to the high demand for Islamic financial services. Despite this growth, the industry faces a significant challenge in ensuring *sharī'a* compliance in its operations. However, in recent years, Bangladesh has witnessed a surge in using Sukuk, a *sharī'a*-compliant financial instrument, indicating a growing interest in the Islamic finance industry. Moreover, sustainable growth and adherence to *sharī'a* principles require addressing specific challenges.⁴⁶ One of the most significant obstacles is the need for more qualified *sharī'a* scholars in the country.⁴⁷ The demand for experts in Islamic finance and *sharī'a* law exceeds the current supply, making it challenging for Islamic banks to adhere to *sharī'a* principles and leading to non-compliance risks.

Another challenge is the need for standardized *sharī'a* interpretations. Different *sharī'a* legal scholars may have variations, leading to inconsistent application of *sharī'a* principles. This inconsistency can make it difficult for Islamic banks to comply with *sharī'a* principles and create confusion and uncertainty among customers.⁴⁸ Additionally, regulatory authorities in Bangladesh need more supervisory capacity, hindering their ability to monitor and oversee the Islamic banking industry. This can lead to non-compliance with *sharī'a* principles and concerns for stakeholders, including supervisory boards and auditors.⁴⁹

A unified governance framework and a standardized regulatory framework for Sukuk issuance and trading are necessary to address these challenges. Adequate education and training of *sharī'a* scholars can equip them with the required knowledge and skills to effectively fulfill their role in the *sharī'a* governance structure of Islamic banking institutions, thereby mitigating the risk of non-compliance. This will help create consistency and transparency in *sharī'a* governance practices, mitigate non-compliance risks, and promote a

⁴⁶ Ahm Ershad Uddin - Ayhan Hira, "Bangladeş'te Kira Sertifikası (Sukuk) Uygulamasının İslam Hukuku Açısından Analizi" 10/20 (2023), 579.

⁴⁷ Sahibzada Muhammad Wasim JAN et al., "Regulatory Arrangement for Shariah Governance Practice of Islamic Banking Institutions in Pakistan: Issues and Challenges," *Hitit İlahiyat Dergisi* 20/1 (2021), 178.

⁴⁸ Alam, "A Proposed Centralized Shariah Governance Framework for Islamic Banks in Bangladesh," 373.

⁴⁹ Ahmed - Mohamad, "The Practice of Shariah Governance in Islamic Banking and Finance: A Study of Islamic Banks in Bangladesh," 276..

socially responsible and ethical investment option for investors.⁵⁰

In Bangladesh, institutional *shari'a* boards oversee the *shari'a* compliance of Islamic financial institutions, following guidelines set by the AAOFI and other regulatory bodies. However, appointing eligible board members remains challenging due to the need for more qualified *shari'a* scholars. The central bank, Bangladesh Bank, has issued guidelines requiring a minimum of three independent board members with expertise in Islamic jurisprudence and finance without any conflict of interest with the institution they oversee. The SEC has also issued guidelines for establishing *shari'a* boards for Islamic mutual funds, requiring members with expertise in Islamic scholarship, investment, and legal matters.

Despite these guidelines, there is a need for a central *shari'a* board to oversee the operations of Islamic banks. Islamic banks often have *shari'a* supervisory boards appointed by the bank's management or board of directors. This can lead to consistency in *shari'a* compliance and interpretation across different banks, creating confusion and damaging the trust of customers and investors. A central *shari'a* board would provide a standardized approach to *shari'a* compliance, which would help strengthen the credibility of Islamic banking as a whole.

A central *shari'a* board would help ensure that Islamic banks operate by *shari'a* principles and do not engage in practices that could harm customers or investors. A central *shari'a* board would also help ensure that Islamic banks comply with *shari'a* principles and do not engage in practices that are incompatible with Islamic finance regulations.⁵¹ This is particularly important in jurisdictions where the regulatory framework for Islamic banking is still evolving.

Regulatory authorities are still learning about the unique aspects of Islamic banking and may need to gain the necessary expertise to oversee Islamic banks effectively. A central *shari'a* board would help bridge this gap by providing regulatory authorities with the expertise required to manage Islamic banks and maintain *shari'a* compliance. Furthermore, a central *shari'a* board would facilitate dialogue between Islamic banks and regulatory authorities.

⁵⁰ Shariful Islam, "The 'Flexible' Shariah Practice of Islamic Banking in Bangladesh," *Dhaka Tribute* (2020).

⁵¹ Md. Hafiz Ullah, "Shari'ah Compliance in Islamic Banking: An Empirical Study on Selected Islamic Banks in Bangladesh," *International Journal of Islamic and Middle Eastern Finance and Management* 7/2 (2014), 190.

Lastly, a central *shari'a* board would promote innovation in Islamic banking. By providing a consistent framework for *shari'a* compliance, Islamic banks could focus more on innovation and developing new products and services that are *shari'a*-compliant. This would help Islamic banks remain competitive with their conventional counterparts and attract more customers and investors.

However, a central *shari'a* board for Islamic banking in Bangladesh would help maintain *shari'a* compliance under state monitoring. It would provide a standardized framework for *shari'a* compliance and ensure the validity of Islamic banks.

Conclusion

The study aimed to pinpoint the legal and regulatory challenges of Islamic banks in the application and practices of SG. Since Bangladesh's CSSB is structured differently from those in Malaysia, Bahrain, or the United Arab Emirates, the government must demonstrate political will and desire to strengthen CSSB. If they are interested, the government or regulatory authorities can draft a circular to authorize or establish a CSSB. Regulators might take steps like training programs, seminars, conferences, and professional courses to overcome the difficulty of finding a qualified *shari'a* candidate or expert to create CSSB in Bangladesh. The central bank is in charge of establishing policies that safeguard the interests of all parties involved. Stakeholders should be aware of SSBs' formal independence and *shari'a* compliance procedures. The absence of CSSB and explicit standards might boost stakeholder confidence by fostering clarity. Therefore, by a circular that would act as a mandated directive for Islamic banks, the central bank might legitimize the CSBIB or create a new CSSB.

The study's conclusions and recommendations imply that public demand and religious influence are to blame for Bangladesh's Islamic banks' success. Bangladesh must create. Thorough SGF, a distinct Islamic banking law, a standardized accounting system, and a robust *Shari'a* audit system to improve its performance. Due to the absence of appropriate regulatory support and Islamic banking legislation, Bangladesh needs more specialists, experienced personnel, and competent *Shari'a* professionals. There is no CSSB under the central bank, a *shari'a* audit company or entities that offer *Shari'a* indices. Islamic banks must establish their SG guidelines and follow the central bank's

directives but are not obligated to comply fully with *shari'a* regulations.⁵² Higher education institutions in Bangladesh do not offer professional SG or Islamic finance degrees, hindering their ability to provide goods and services. There must be a conceptual gap between the BOD, management, executives, customers, and the general public regarding Islamic banks, SG, and the financial system. Additionally, the BOD and management are not overly concerned with *shari'a*-related issues.

It is also critical to promote more openness and disclosure of *shari'a* compliance processes in the sector and to strengthen regulatory bodies' ability to monitor and enforce *shari'a* compliance. To establish proper control and monitoring of the industry, the present regulatory framework for *shari'a* governance must be consolidated and comprehensive. By providing a clear and consistent regulatory framework for *shari'a* governance, training and educating *shari'a* scholars and experts, enhancing the capacity of regulatory authorities, and encouraging greater transparency and disclosure of *shari'a* compliance practices in the industry, the Bangladeshi government must prioritize the development of the Islamic finance sector. By overcoming these obstacles, Bangladesh's Islamic banking sector can uphold *shari'a* law ideals and favorably impact the economy.

It is critical to increase the regulatory agencies' ability, encourage openness and disclosure of *shari'a* compliance processes, and give the industry's growth top priority if the Islamic banking sector in Bangladesh is to adopt *shari'a* governance successfully. Encouraging collaboration between banks, developing a comprehensive training program for *shari'a* scholars, increasing research and development, strengthening the regulatory framework, and increasing public awareness and education are all essential steps to take. In addition to these recommendations, further suggestions could help overcome common challenges and promote a more standardized approach to *shari'a* compliance. By implementing these suggestions, the Islamic banking industry in Bangladesh can overcome challenges, grow sustainably, and contribute positively to the economy while adhering to *shari'a* law principles.

The study is based on the prior literature and published works. Future studies can focus on outlining the SG practices of Islamic banks by applying qualitative and quantitative methods. It would be sounder if future studies focus on the comparative demonstration of global practices.

⁵² Abdullah - Rahman, "Shari'ah Governance of Islamic Banks in Bangladesh Issues and Challenges," 82–94. Hassan et al., "Case Studies of Shariah Governance Practices in Bangladesh."

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