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Corporate Liquidity: Evidence from Islamic and non-Islamic Countries

Naiwei Chen*

Tsai-Chen Yang**

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Abstract

This study examines whether and how Islam has bearings on corporate liquidity (cash holdings). A review of 34,895 non-financial firms from 68 countries (12 Muslim majority countries and 56 other countries, which consist of 26 developing and 30 developed countries) from 1996 to 2011 reveals that cash holdings are lower in Muslim majority countries than in other countries, particularly developed countries. This phenomenon appears to be more pronounced when financial development is high or anti-director rights are weak in Muslim majority countries. The lower cash holdings in Muslim majority countries can be explained by the modifying effect of Islam and Sharia compliance (SC) on cash determination. Specifically, the negative effect of leverage on cash is stronger in Muslim majority countries than in other developing countries when financial development is high, financial structure is market-based, or national governance is strong in the former. Moreover, SC has a direct and negative effect on cash, which is more pronounced when financial development is low, financial structure is bank-based, or anti-director rights are weak in Muslim majority countries. Furthermore, SC negatively affects cash through growth opportunities and dividend payment. Specifically, SC weakens the positive effect of growth opportunities on cash when financial structure is market-based. SC also weakens the positive effect of dividend payment on cash, and such a modifying effect is stronger when anti-director rights are weak. Overall, the results suggest the uniqueness of the cash policy in Muslim majority countries compared with other countries.

Keywords: Corporate liquidity, Cash holding, Islam, Sharia compliance

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Introduction

Corporate liquidity (cash holdings) has been extensively analyzed in the existing literature. Prior research has explained corporate liquidity based on tradeoff, financing hierarchy, and agency theories (Opler et al. 1999). In recent years, the predominance of agency theory over other theories in explaining corporate liquidity has been observed. An increasing number of studies have probed how corporate governance (CG) influences corporate liquidity. Cultural factors also have been adjudged to play a role in determining corporate liquidity (Chang and Noorbakhsh, 2009; Chen et al. 2015). However, corporate liquidity in Muslim majority countries has remained minimally explored, thereby prompting the conduct of this study.

Given the uniqueness of Islam and its profound impact on Muslim majority countries, CG and culture in such countries should be different from those in other countries. The established relationship of cash to CG and culture makes it worthwhile to investigate how the cash policy of non-financial firms in Muslim majority countries compares with that in other countries. Notably, CG of non-financial firms in Muslim majority countries has also remained minimally explored and the existing literature merely provides theoretical arguments that lack empirical evidence to support any claims.¹ The analysis of corporate liquidity can further facilitate the understanding of CG in Muslim majority countries because cash has been proven to be a good channel to assess the quality of CG (Dittmar et al. 2003; Yun 2009; Chen and Yang, 2017). Therefore, the study results should provide insights into Islamic finance and help firms, particularly multinationals, better sustain their businesses in Muslim majority countries.

This study contributes to the existing literature by examining the cash holdings of non-financial firms in Muslim majority countries. Unlike prior research that evaluates CG in Muslim majority countries based solely on country-level governance ratings, this study analyzes CG of non-financial firms in such countries based on firm-level data through the channel of corporate liquidity (cash). The current study posits that cash is lower in Muslim majority countries than in other countries primarily because cash pileup is discouraged by Sharia (i.e., Islamic law) in Muslim majority countries. In addition, CG in Muslim majority countries is stakeholder-based and managers are expected to care for *falah* (i.e., the Arabic word for success, happiness, and well-being) of the entire society. Thus, profit maximization is not the sole corporate goal. Consequently, the propensity to hoard cash for upcoming growth opportunities should be weaker in Muslim majority countries than in other countries. Furthermore, given the stakeholder-based CG in Muslim majority countries, the interests of managers and shareholders are not as aligned, such that the room for improvement regarding mitigating the corresponding agency problem should be larger. Therefore, any means to reduce the corresponding agency cost, such as debt issuance and dividend payment, should be more effective in Muslim majority countries than in other countries. Thus, any negative effect of debt and dividend payment on cash should be stronger in Muslim majority countries than in other countries. Alternatively, CG should be good in Muslim majority countries

¹ Although CG in Islamic banks has been examined, CG in Islamic non-financial firms has remained unexplored.

because of the unique features of these states (e.g., strict law enforcement, high morality, and high religiosity) and established positive relationship between these features and CG (Doidge et al. 2007; Arjoon, 2005; Chen et al. 2016). Given the complementary relationship between CG mechanisms (Misangyi and Acharya, 2014), high effectiveness of debt and dividend payment in reducing agency cost, and strong negative effect of these two variables on cash are also predicted.

This study uses 68 countries (12 Muslim majority countries and 56 other countries, which are divided into 26 developing and 30 developed countries) from 1996 to 2011 as the study sample. The results strongly indicate a negative effect of Islam on cash holdings. Specifically, controlling for other variables, cash holdings are lower in Muslim majority countries than in other countries. This phenomenon is more pronounced when Muslim majority countries are compared with developed countries or when the former are financially developed or characterized by weak anti-director rights. The lower cash holdings in Muslim majority countries can be explained by Sharia compliance (SC), which affects cash holdings in such countries directly and negatively. This negative effect is also more pronounced when financial development is low, financial structure is bank-based, or anti-director rights are weak in Muslim majority countries. Given the established negative effect of CG on cash (Chen et al. 2012; Dittmar et al. 2013; Kalcheva and Lins, 2007), the results suggest that financial development and anti-director rights are substitutes for SC, whereas a bank-based financial structure is a complement for SC in Muslim majority countries. The results on the cash sensitivities further reveal that Islam and SC indirectly affect cash holdings in Muslim majority countries through the channels of leverage, growth opportunities, and dividend payment. Specifically, the negative effect of leverage on cash is stronger in Muslim majority countries than in other developing countries when financial development is high, financial structure is market-based, or national governance is strong in the former. Therefore, debt is more effective in mitigating the agency problems in Muslim majority countries than in other developing countries under such circumstances. Moreover, SC affects cash holdings indirectly and negatively through growth opportunities and dividend payment. Specifically, SC weakens the positive effect of growth opportunities on cash when financial structure is market-based, thereby confirming the notion that the ultimate goal of Islamic firms is to maximize the *falah* of an entire society. Therefore, management is less inclined to hoard cash to take advantage of the upcoming growth opportunities for profit maximization in Muslim majority countries under such circumstances. Furthermore, SC weakens the positive effect of dividend payment on cash when anti-director rights are weak, suggesting that SC and anti-director rights are substitutes in improving CG for Muslim majority countries. Overall, the results suggest the uniqueness of the cash policy in Muslim majority countries compared with other countries. In particular, shareholder wealth maximization is not the corporate goal in Muslim majority countries. CG in Muslim majority countries also proves to be good, if not better than that in other countries. Therefore, the results challenge the conventional wisdom that CG in Muslim

majority countries is worse than that in other countries based on the apparent observation of low transparency and poor governance at the country level in the former.

1. Literature Review

1.1. Corporate Liquidity

The existing literature has identified the firm- and country-specific determinants of corporate liquidity. Three theories, namely, tradeoff, financing hierarchy, and agency theories, have also been used to explain corporate liquidity. Tradeoff theory indicates that firms balance the marginal benefit and marginal cost of holding cash, thereby emphasizing the existence of an optimal level of cash. Financing hierarchy theory states that firms prefer cash in terms of financing, followed by debt and equity. Based on such a theory, an optimal level of cash is lacking because the cash level depends on variations in internal funds. Agency theory suggests that cash is a free cash flow and holding cash incurs an agency cost, the presence of which implicitly predicts the presence of the optimal cash level (Opler et al. 1999; Dittmar et al. 2003).

Recent studies shift the focus to CG and investigate how it has bearings on corporate liquidity. In addition, corporate liquidity has been shown to be influenced by cultural factors, such as risk avoidance, masculinity, preference for long-term orientation, and individualism (Chang and Noorbakhsh, 2009; Chen et al. 2015). Furthermore, religion should play a role in determining corporate liquidity because of the established relationship between religion and CG and the aforementioned relationship between CG and corporate liquidity (Kim and Daniel, 2016; Chen et al. 2016; McGuire et al. 2012).

1.2. Types of CG and Corporate Objectives

CG theories can be divided into shareholder- and stakeholder-based theories. The corporate objective based on shareholder-based theory, which applies to Anglo-Saxon countries, is shareholder wealth maximization. Agency problems resulting from the conflict of interests between managers and shareholders are the focus of this theory. By contrast, the corporate objective based on stakeholder-based theory, which is applicable to continental Europe and Japan, is considerably broad because it deals with the maximization of stakeholder wealth. The situation is apparently complicated under such circumstances because stakeholders involve several groups, such as managers, shareholders, creditors, employees, suppliers, consumers, and governments. Accordingly, shareholder wealth maximization is unlikely to be achieved under such circumstances because managers are supposed to care for all stakeholders.

The 2008 global financial crisis induced scholars to reconsider whether to continue promoting shareholder wealth maximization as the corporate objective (The Economist 2010). When shareholders' wealth is the only concern, managers are likely to adopt strategies that are highly risky to seek high short-term return. Consequently, firms under such circumstances are subject to financial distress or bankruptcy in economic meltdowns. Therefore, the focus should change from shareholders to other stakeholders. Although a few scholars promote the maximization

of a particular stakeholder group's wealth as the objective of firms, CG that is tailored toward all types of stakeholders is considered better than that serving particular group(s).² Under the stakeholder-based CG, the corporate objective is multifaceted rather than mere maximization of shareholder wealth. Firms should be concerned with the satisfaction of consumers and good relationship with employees and suppliers apart from the maximization of shareholder wealth.

The convergence of the two theories has been observed in recent years. Although determining CG that is purely stakeholder- or shareholder-based is difficult, the former seems to become trendy, particularly after the global financial crisis. This situation is evident in the awareness on and emergence of corporate social responsibility, which involves engagement in activities that benefit society rather than focusing on profit maximization or shareholder wealth maximization (Aguinis and Glavas, 2012).

1.3. CG in Muslim Majority Countries

Research on CG in Muslim majority countries remains scarce and inconclusive. A few studies indicate poor CG in Muslim majority countries. For example, a survey on CG in the Middle East and North Africa (MENA), where Muslim majority countries are concentrated, reveals that the independence of directors and auditors in this region is questionable. Board liabilities are also not clearly defined, thereby rendering it difficult for shareholders to file lawsuits against board members (Amico, 2005). However, any arguments on poor CG in Muslim majority countries are made from the Western perspective. Quantitative analysis on CG in Muslim majority countries remains lacking as well.^{3,4}

Islamic teachings and Sharia reign supreme in Muslim majority countries. For a system that is considerably unique and distinct from the rest of the world, the quality of CG in Muslim majority countries should be reconsidered and reevaluated using different approaches.⁵ Given the established positive relationship between national governance (NG) and CG (Stulz 2005), institutional environment outside the firms should be understood to probe the quality of CG. This idea is particularly true for Muslim majority countries where transparency is lacking and the true image of CG remains unveiled. Recent studies have also shown that religion has bearings on CG (Kim and Daniel, 2016; Chen et al. 2016; McGuire et al. 2012). Therefore, exploring CG necessitates the consideration of religion or religiosity in a given country,

² According to Arthur (1987), "a good corporate culture is also expected to satisfy the needs of stakeholders". Ljubojević and Ljubojević (2011) also argued that "Serving all stakeholders is the best way to create long-term results and developing, prosperity company."

³ According to Amico (2014), "the effectiveness of existing corporate governance frameworks has not been subject to analysis, and only a few regulators in the region such as Saudi Arabian and Omani CMAs as well as financial center regulators such as the DFSA, have taken a dynamic approach, amending existing rules to suit emerging corporate realities and global good governance practices."

⁴ Safieddine (2009) argued that CG of Islamic financial institutions is likely worse than that of conventional counterpart because it has a complicated structure (e.g., presence of investment account holders (IAHs)) and compliance with Sharia introduces additional agency costs, among other reasons.

⁵ Safieddine (2009) also suggested CG of Islamic financial institutions to be examined using a different approach due to its unique features.

particularly for countries characterized by high religiosity and unique religious doctrines, such as Muslim majority countries.⁶

Despite criticisms on CG in Muslim majority countries, several unique features associated with Islam and Sharia should contribute to good CG in these countries, if not better than that in other countries. First, CG in Muslim majority countries is stakeholder-based and conceptually broad because it considers stakeholders other than shareholders (Sulphrey, 2015).⁷ In particular, managers guided by Islamic economic principles operate their firms for the benefit of the entire society rather than mere shareholders. In theory, if firms are completely Sharia-compliant, then they should care for all stakeholders fairly, such that agency problems between any two parties are mitigated. This situation is unlike that in other countries where the maximization of shareholder wealth is the sole corporate objective. Even if the agency problems arising from the conflict of interests between managers and shareholders are lessened, such problems can still emerge or worsen between shareholders and debt holders and among any other groups of stakeholders. CG should be good in Muslim majority countries because the shareholders and other stakeholders are equally valued in these countries (García-Castro et al. 2013).

Second, devout Muslim managers are concerned with the utility of stakeholders in this life and in the afterlife. In particular, these managers have a strong conviction that they and all stakeholders should do good deeds in this life for a rewarding afterlife. Such a belief and the accompanying foresight (i.e., dual worldviews that value this world and the Hereafter equally) should facilitate the reduction of agency costs and improvement of CG. The reason is that with the eternal perspective, managers should look and think beyond before making any business decisions, such that they strive to maximize the benefit of the entire society in an infinite perspective. By contrast, in other countries where the worldview is secular (care for this life only) or religious (care for the afterlife only), managers are likely to be myopic or irresponsible, such that they merely pursue short-term benefits at the cost of the stakeholders.⁸ In fact, *falah*

⁶ Kim and Daniel (2016) provided evidence indicating a positive relationship between a country's proportion of Protestants and the quality of CG. However, as acknowledged by the authors, their empirical work was conducted based on the country-level data and the CG variable (i.e., GMI ratings) is measured using the same standard to the entire world. These limitations might render their results not applicable to all firms, particularly for Muslim majority countries where Sharia likely overwhelms all other things.

⁷ By the Islamic economic principles, Islamic firms aim to maximize not only the profit for shareholders but also the welfare for other kinds of stakeholders such as consumers and employees (Azid et al. 2007).

⁸ The western worldview is secularism whereas the Christian worldview is religious (Asri and Mohamed 2004).

and awareness of accountability in the Hereafter are considered two factors that contribute to good CG in the Muslim point of view (Htay, 2012).^{9,10}

Third, Sharia is a highly religion-based law and well-known for its strict rules and regulations. The penal code of Sharia is considered the strictest in the world. That is, people who violate the law in Muslim majority countries often receive more severe punishments than in other countries (Ghassemi, 2009). Therefore, people in Muslim majority countries are less likely to challenge and violate the law and corporate managers are no exceptions. Apart from the strict laws that limit criminal behavior, firms are prohibited from engaging in such businesses related to gambling, alcohol, pork, arms, and conventional banking that involves interest-bearing or speculative investment. Moreover, firms are discouraged from holding high levels of cash and debt via taxation because Sharia expects firms to engage in businesses that produce real output rather than keeping idle cash or its equivalents. Sharia also expects firms to hold no interest-bearing debt (Farooq and Alahkam, 2016). Therefore, CG should be good in a setting where corporate operations are strictly regulated by law. Such good CG should further be reinforced by an external legal environment that is also strict given the established positive relationship between country- and firm-level governance (Doidge et al. 2007; Dittmar et al. 2003).

Fourth, the high moral code to which Sharia belongs is deeply rooted in Muslim majority countries and strongly affects the daily lives of Muslims. This situation is evident in the low crime rates in Muslim majority countries compared with other countries (Fish, 2011). In fact, the content of the religion (i.e., Islam) that Sharia is based upon, rather than Sharia itself, has been shown to contribute to the low crime rates in Muslim majority countries (Fish, 2011; Serajzadeh, 2001). Any prohibitive effect of the Islamic penal law or Sharia on crime can be traced back to the content of Islam (Serajzadeh, 2001). After all, a law is legislated based on the social norms in a country and is a synopsis of the ethical code in a society. That is, the law is the moral bottom line. People are prone to violate the moral code without breaking the law when morality is not valued in society. However, people in Muslim majority countries are generally self-disciplined and unlikely to challenge the law not only because of strict law enforcement, but also because of the underlying high moral standard that is deeply rooted in their culture. They are prone to moral guilt because of any wrongdoings, such that they are less likely to engage in any criminal behavior that leads to legal punishment compared with people in other countries. Corporate managers in Muslim majority countries are no exceptions.

⁹ CG in Muslim majority countries stresses accountability for not only this life but also afterlife. Such a broader horizon should ensure good quality of CG (Abu-Tapanjeh 2009). This is because managers in Muslim majority countries should be more careful in making any business decisions for the benefit of entire society in this life and afterlife, compared to those who are myopic and eager to pursue short-term returns in the rest of the world.

¹⁰ The principles of social fairness, contract and property right are all well defined in Muslim majority countries (Iqbal and Mirakhor 2004). They should therefore facilitate good practice of CG, unlike other stakeholder-based CG that is subject to scrutiny because the rights and obligations of stakeholders are not clearly defined in other countries.

These managers are also strongly influenced by their belief, which highly emphasizes morality. Accordingly, agency problems resulting from any conflict between stakeholders and managers (fiduciaries) should be less severe in Muslim majority countries than in other countries. CG should be good where morality is highly valued and strongly backed by law, such as in Muslim majority countries. This situation is evident in the relatively few occurrences of corporate scandals in Muslim majority countries compared with other countries.¹¹ In sum, in a setting where morality is highly valued, any corporate misconduct should be highly intolerable and unlikely to happen. Any business risk should also be effectively under control, such that the agency cost is low under such circumstances. More importantly, ethical compliance has proven to be more capable of promoting the effectiveness of CG than legal compliance.¹²

Fifth, compared with other countries, Muslim majority countries are characterized by high religiosity (nearly 100% in a few countries), thereby contributing to good CG because of the established positive relationship between religiosity and CG (Chen et al. 2016; McGuire et al. 2012).

1.4. CG and Corporate Liquidity

Ample evidence has indicated that corporate liquidity (cash) is a good channel through which the quality of CG can be assessed (Dittmar et al. 2003; Yun 2009; Chen 2011; Kalcheva and Lins, 2007). In particular, cash and its sensitivity to the CG variables can be used to infer the severity of agency problems or CG quality because CG has been shown to directly and indirectly affect cash. For example, cash level is determined to be lower when CG is better because the agency and external financing costs are lower. Thus, the precautionary motive for holding cash is reduced under such circumstances. Any means to reduce agency costs, such as debt issuance and dividend payment, are also determined to be more effective when CG is better, thereby rendering the expected negative effects of debt and dividend payment on cash more pronounced under such circumstances (Dittmar et al. 2003; Chen and Yang, 2017).¹³

1.5. Hypotheses

Willsdon (2008) indicated that the trade participants in Muslim majority countries are not expected to profit simply by lending. They are supposed to interact by sharing risk in the

¹¹ None of the world's biggest business scandals occurred in Muslim majority countries. Refer to the following website for details. <http://list25.com/25-biggest-corporate-scandals-ever/5/>

¹² Muslim majority countries emphasize ethics and morality that Sharia is based upon. According to Azid et al. (2007), "ethical principles (trust, trustworthiness and cooperativeness) are the basic ethos of the Islamic culture and a significant attribute of the Islamic firm." For example, Muslims consider excessive profit sinful such that they feel obligated to make "normal" profit rather than maximize their profit as other conventional firms. Al-Zuhayli (2003) also pointed out that "The Maliki scholars defined excessive disadvantage as a profit of one third or more, since that corresponds to the rules of limited will. Therefore, a profit rate of one third or less is considered acceptable."

¹³ Debt is an effective tool of market discipline in the sense that managers are constrained by the debt contract such that managerial expropriation of outside shareholders is less likely when there is debt (Jensen and Meckling 1976). Agency costs also have been shown to decrease with debt (Opler et al. 1999; Gamba and Triantis 2014). Dividend payout likewise has been found a substitute for CG and able to reduce cash held for managerial discretion in prior studies (Benjamin and Zain 2015; Jiraporn et al. 2011).

investment that needs their financing. Less lending and more real investments translate into lower cash holdings in Muslim majority countries. In addition, cash holdings are taxed regardless of whether they are used for investments (Mills and Presley, 1999). Therefore, cash holdings should be lower in Muslim majority countries because taxation discourages cash pileup. Furthermore, prior studies have established a negative relationship between CG and cash because when CG is good, the agency and external financing costs are low. Therefore, the precautionary motive for holding cash weakens (Dittmar et al. 2003; Chen 2011; Kalcheva and Lins, 2007). Given the aforementioned good CG in Muslim majority countries, the cash level should be low in such countries (Chen et al. 2011), particularly for Sharia-compliant firms. Thus, the first hypothesis is formulated as follows.

Hypothesis 1. Cash is lower in Muslim majority countries than in other countries; such a phenomenon is more pronounced for Sharia-compliant firms in Muslim majority countries.

Islamic firms are expected to make “normal” profit rather than the highest possible one based on economic theory (Yusof and Amin, 2007). To verify such a claim, this study examines whether firms are less inclined to hoard cash to take advantage of any upcoming growth/investment opportunities in Muslim majority countries than in other countries. The reason is that holding cash is admittedly the best method to grasp any investment projects. Firms that are profit-driven in other countries should be sensitive to any upcoming growth opportunities, such that they tend to hoard cash to increase the likelihood of taking up any growth opportunities. By contrast, firms in Muslim majority countries are not as profit-oriented. Thus, they should be less inclined to hoard cash for upcoming growth opportunities than those in other countries. Alternatively, a lower cash sensitivity to growth opportunities in Muslim majority countries is also predicted because CG in these countries is stakeholder-based. Managers in Muslim majority countries are expected to maximize the wealth of all types of stakeholders rather than shareholders alone compared with other countries. Given the managers’ aim to serve the interests of all stakeholders in Muslim majority countries, managerial and shareholders’ interests should be less aligned. Thus, managers are less inclined to hoard cash for upcoming growth opportunities in Muslim majority countries than in other countries where shareholder-based CG dominates.¹⁴ Nevertheless, if CG is better in Muslim majority countries than in other countries, interests between management and stakeholders, including shareholders, should be more aligned such that the propensity to hoard cash for upcoming growth opportunities should be greater. Given the opposing effects of Islam on the cash sensitivity to growth opportunities, the net effect is uncertain. However, if the negative effect outweighs the positive effect, the cash sensitivity to growth opportunities should be lower in Muslim majority countries than in other countries. This phenomenon

¹⁴ Dittmar et al. (2003) found that the sensitivity of cash to growth/investment opportunities is higher when shareholder rights are stronger, suggesting that the interests of managers and shareholders are more aligned when shareholders are better protected such that managers are inclined to hoard cash to take advantage of greater investment opportunities under such circumstances.

should also be more pronounced for Sharia-compliant firms than for other firms in Muslim majority countries. Thus, the second hypothesis is formulated as follows.

Hypothesis 2. The positive effect of growth opportunities on cash is weaker in Muslim majority countries than in other countries; such a phenomenon is more pronounced for Sharia-compliant firms than for other firms in Muslim majority countries.

When firms issue debt or pay out dividends, agency problems can be mitigated. Thus, the agency and external financing costs decrease, thereby resulting in the precautionary motive for holding cash to weaken (Gamba and Triantis, 2014; La Porta et al. 2000b). Therefore, debt and dividend payment should negatively affect cash. Given that CG in Muslim majority countries is stakeholder-based, the interests of managers and shareholders should be less aligned to provide extensive opportunities for improvement in terms of mitigating the agency problem between managers and shareholders. Therefore, debt and dividend payment that are intended to mitigate agency problems should be more effective in reducing agency costs in Muslim majority countries than in other countries where shareholder-based CG prevails and interests of managers and shareholders are more aligned. Alternatively, prior studies have determined a positive effect of NG on the effectiveness of CG (Dittmar et al. 2003; Doidge et al. 2007; Chen and Yang, 2017). The CG mechanisms also have a complementary relationship to one another (Misangyi and Acharya, 2014).¹⁵ Given the strict legal and institutional environment outside the firms and the aforementioned good CG in Muslim majority countries, any means intended to reduce agency costs (e.g., debt and dividend payment) should be more effective in Muslim majority countries than in other countries. The two arguments translate into a stronger negative effect of debt and dividend payment on cash for Muslim majority countries than for other countries. Such a phenomenon should also be more pronounced for Sharia-compliant firms than for other firms in Muslim majority countries. The third hypothesis is formulated as follows.

Hypothesis 3. Any negative effect of debt and dividend payment on cash is stronger for Muslim majority countries than for other countries; such a phenomenon is more pronounced for Sharia-compliant firms than for other firms in Muslim majority countries.

The abovementioned hypotheses may be subject to the effects of country characteristics, which have been proven to have an overriding impact on CG (Doidge et al. 2007). Specifically, the improvement of CG needs the backing of quality institutional environment to ensure its effectiveness. For example, economic development should contribute to good CG because economic resources are more sufficient to support CG improvement when economic development is high than when it is low. That is, CG reform should be effective and feasible in the presence of a well-established infrastructure, which is usually accompanied by a high

¹⁵ Since no particular CG mechanism alone is sufficient to ensure good CG for a firm, the relationship between different CG variables should be complementary rather than substitutable (Hill 1999).

level of economic development (McGee, 2009).¹⁶ Similarly, financial development should matter because disclosure and transparency, which are the key factors contributing to good CG, come with financial development. Financial structure is related to financial development. Countries or economies can be classified into bank- and market-based financial systems (Demirgüç-Kunt and Levine, 1999). Most developing countries adopt a bank-based system, which is considered optimal for such countries (Arestis et al. 2001; Rajan and Zingales, 1998, 2001; Tadesse 2002 Chakraborty and Ray 2006).¹⁷ Countries seem to evolve naturally into a market-based financial system when their economic development exceeds a certain level (Demirgüç-Kunt and Levine, 1999).¹⁸ However, which system is better in terms of CG improvement has been a debate, and empirical evidence has remained inconclusive in this regard (Levine, 2002). Shareholder protection should promote CG because CG improvement is highly effective when the outside legal environment grants shareholders strong rights (La Porta et al. 2000a). National governance should positively affect CG because strong national governance facilitates CG improvement as supported by ample evidence (Stulz, 2005; Coglianesi 2007; Doidge et al. 2007; Judge et al. 2008; Chen 2011; Filatotchev et al. 2013; Chen and Yang, 2017).

The discussion thus far indicates that the country-level governance-related variables positively affect CG except for financial structure. Thus, these variables are considered the complements to CG mechanisms. However, governance mechanisms need not be complements; they can sometimes be substitutes (Aslan and Kumar, 2014; Misangyi and Acharya, 2014). That is, the abovementioned complementary effect of country-level governance variables on CG can turn substitutionary under certain circumstances. Thus, the hypothesized effects of Islam and SC on cash and its sensitivities to growth opportunities, leverage, and dividend payment can be reinforced or weakened by these country-level governance-related variables. As a result, the modifying effects of these country-level variables are ambiguous, depending on the relative magnitudes of the opposing effects. However, if the complementary effect overwhelms (underwhelms) the substitution effect, the hypothesized effects of Islam and SC in H1–H3 should strengthen (weaken).

The modifying effects of the country-level variables on CG and cash are unclear and deserve deep thoughts. In particular, economic development should have an overriding impact when considering the modifying effects of other country-level variables on cash and its determination. For example, financial development and a market-based financial structure should drive better CG in developing countries because their accompanying high

¹⁶ According to McGee (2009), “Corporate governance issues are especially important in developing economies, since these countries do not have a strong, long-established financial institution infrastructure to deal with corporate governance issues.”

¹⁷ Arestis et al. (2001) found that “bank-based financial systems may be more able to promote long-term growth than capital-market-based ones.”

¹⁸ According to Demirgüç-Kunt and Levine (1999), “Looking at financially underdeveloped economies, we see that they are disproportionately bank-based as expected, since financial structures become more market-based as countries develop.”

transparency and disclosure should help ensure and facilitate CG improvement (Dutta and Mukherjee, 2018; Fung, 2014).¹⁹ As a result, any negative effect of Islam on cash should be stronger in the presence of high financial development or a market-based financial structure in developing countries.²⁰ However, a bank-based financial structure should be preferable and conducive to good CG for developing countries compared with developed countries because this financial structure is optimal for developing countries (Chakraborty and Ray, 2006).²¹ As a result, the negative effect of Islam on cash should be stronger when Muslim majority countries are bank-based rather than market-based. Regarding the modifying effect of shareholder protection, at least two possibilities can be considered. First, shareholder protection at the national level should positively affect that at the firm level given the established positive relationship between national governance and CG (Stulz 2005). Although anti-director rights, a proxy of shareholder protection, negatively affect cash (Dittmar et al. 2003; Kalcheva and Lins, 2007), they also likely positively affect cash. The underlying reason is that, when shareholder protection is strong, managers are less inclined to spend cash quickly on capital expenditure and acquisitions. Shareholders can also allow managers to hold more cash to take advantage of investment opportunities because they are better protected, agency problems are less severe, and the agency cost of cash is lower (Harford et al. 2008). Thus, the effect of shareholder protection on cash is ambiguous, depending on the relative magnitudes of the opposing effects. Second, shareholder protection at the national level can be a substitute for CG. It follows that, when shareholder protection is strong, the original hypothesized negative effect of Islam on cash may become weaker instead of stronger.

The same logic applies to the effect of SC on cash and its determination. That is, whether and how the abovementioned country-level governance variables modify the effect of SC on cash and its determination is also an empirical question that calls for further investigation. In particular, financial structure's modifying effect on CG and transitively cash and its determination may be difficult to predict. Specifically, the results of prior research are mixed in terms of financial structure's effect on economic growth. Thus, the exact modifying effect of

¹⁹ Dutta and Mukherjee (2018) found that financial development positively affects information and overall transparency. A well-functioning market, a feature of the market-based financial structure, is said to contribute to good CG (Levine 2002). Transparency also tends to be higher in a market-based financial system (Kwok and Tadesse 2006). According to Fung (2014), transparency and disclosure (T&D) are fundamentals of CG, meaning that T&D contributes to good CG.

²⁰ Love (2003) found a negative relationship between financial development and cash holdings of firms.

²¹ According to Chakraborty and Ray (2006), "although there may not be distinct growth advantages to having a particular financial regime, bank-based systems have an edge along other dimensions. Intermediated finance confers certain benefits for economic development. Two different financial structures may lead to similar growth rates, but a bank-based system has a level effect on per capita income and leads to a faster structural transformation. Moreover, developing countries contemplating financial sector reforms to reduce agency problems in the loanable funds market will obtain higher economic payoffs under bank-based systems due to the structural transformation that results."

financial structure on CG is uncertain even though economic growth should positively affect CG.²²

2. Methodology

2.1. Data

The sample consists of 34,895 non-financial firms from 68 countries for the period 1996–2011. Non-financial firms that belong to the public administration division are excluded because these are government-related and their cash management is different from other private firms (Opler et al. 1999; Dittmar et al. 2003). Firm-specific annual financial data are gathered from the Worldscope database. Country-level data are collected from a variety of sources. Specifically, the classification of countries into developed and developing countries is based on IMF (2012). Data on financial development and financial structure are from Demirgüç-Kunt and Levine, (1999). The revised anti-director rights index is from Djankov et al. (2008). World Governance Indicators are from World Bank's Databank. The raw data obtained are manipulated to obtain the variables used in this study.

Table 1 presents the cross-country descriptive statistics of the variables used in this study for Muslim majority countries and other countries. Countries that are member states of Organization of Islamic Cooperation (OIC) are classified as Muslim majority countries whereas other countries are classified as non-Muslim majority countries to serve as a control group.²³, ²⁴ Non-Muslim majority countries are further classified into developing and developed countries based on IMF (2012). For consistency, the statistics for the observations effectively used in regression analysis are reported. The sample then consists of 278,134 firm-year observations.²⁵ The selection and derivation of financial variables used in this study essentially follows the work of seminal liquidity studies (Dittmar et al. 2003; Kalcheva and Lins 2007; Opler et al., 1999).

Cash holding (cash) is defined as cash plus its equivalents plus short-term investments (CH) divided by total assets net of cash (i.e., net assets (NA)). Firm size (Size) is the book value of total assets in millions of USDs. Size is included to take into account the economy of scale, thereby a negative relationship between Size and cash is expected. Profitability is measured by cash flow (CF) divided by NA, where CF is earnings before interest and taxes, depreciation and amortization, less interest, taxes, and common dividends. Given that managers are incentivized to hold cash under their discretion, a positive relationship between CF/NA and cash is expected. Additional liquid assets are measured by net working capital (NWC) divided

²² Levine (2002) indicated irrelevance of financial structure in economic growth whereas Arestis et al. (2001) indicated that it is relevant for economic growth.

²³ For detailed member states of OIC, please visit <http://www.oic-oci.org/home/?lan=en>.

²⁴ There are 12 OIC countries in this study, where Muslim population range from 63.7% (Malaysia) to more than 99% (Morocco).

²⁵ British Virgin Islands and Faroe Islands are not included in Table 1 because they are not classified based on economic development by IMF (2012). The number of firm-year observations for the benchmark model in Column 1 of Table 3 is 278167, which is higher than that reported in Table 1 because these two countries are included in estimation.

by NA, where NWC is total current assets less cash less total current liabilities. Since NWC is a substitute of cash, a negative relationship between cash and NWC/NA is expected. Growth or investment opportunities are measured by capital expenditure (CAPX) divided by NA, where CAPX is additions to fixed assets. Since cash is the readiest form of fund that can be used to grasp growth opportunities, assuming that the interests of management and outside shareholders are aligned, firms are inclined to hoard cash for upcoming growth opportunities such that a positive relationship between CAPX/NA and cash is expected. A positive effect of CAPX on cash is also predicted in that growth opportunities as measured by CAPX signify information asymmetry. Higher information asymmetry incurs higher agency costs such that firms hoard cash in response to higher external financing costs under such circumstances. Sales growth (SG) is defined as the geometric mean growth rate of sales over the three-year period. SG has been used to substitute CAPX/NA (i.e., a proxy for growth opportunities) in La Porta et al. (2002) and Kalcheva and Lins, (2007).²⁶

²⁶ SG is used to substitute CAPX/NA in estimating the model and it also exhibits a positive effect on cash, consistent with the finding of Kalcheva and Lins (2007). However, the results are not reported for brevity. Another reason for not reporting the results based on SG is that the sample size decreases when including this variable because it takes three years' observations to compute the growth rate.

Table 1. Cross-Country Descriptive Statistics of Variables Used in This Study by Country Groups

Country	CH/NA	Size	CF/NA	NWC/NA	CAPX/NA	SG	LEV	DIV	RD/NA	SC	FD	FS	ARI	NG	N
Muslim majority countries															
Bahrain	0.209	898.774	0.103	0.025	0.055	0.117	0.119	0.793	0.000	0.828	.	.	.	0.135	29
Egypt	0.203	609.181	0.082	-0.007	0.068	0.164	0.218	0.762	0.000	0.605	0	1	3.0	-0.520	575
Indonesia	0.153	370.395	0.044	-0.100	0.070	0.117	0.401	0.421	0.000	0.438	0	1	4.0	-0.669	3172
Jordan	0.108	68.840	0.017	0.020	0.042	0.058	0.177	0.424	0.000	0.856	1	1	1.0	0.001	132
Kuwait	0.184	769.928	0.068	-0.018	0.062	0.274	0.301	0.541	0.000	0.541	.	.	.	0.236	61
Malaysia	0.166	345.891	0.027	-0.015	0.056	0.097	0.277	0.582	0.001	0.607	1	0	5.0	0.360	9392
Morocco	0.155	636.240	0.078	0.135	0.070	0.101	0.149	0.857	0.000	0.750	.	.	2.0	-0.306	224
Pakistan	0.125	194.854	0.069	-0.049	0.073	0.091	0.347	0.563	0.000	0.433	0	1	4.0	-0.981	1758
Qatar	0.175	2680.543	0.100	-0.016	0.100	0.424	0.227	0.717	0.000	0.687	.	.	.	0.551	99
Saudi Arabia	0.124	2434.549	0.108	0.063	0.110	0.165	0.234	0.724	0.000	0.653	.	.	.	-0.349	366
Turkey	0.126	677.334	0.068	0.044	0.072	0.119	0.252	0.395	0.004	0.670	0	0	3.0	-0.122	2224
United Arab Emirates	0.189	1832.251	0.089	0.047	0.083	0.222	0.180	0.705	0.000	0.697	.	.	.	0.482	234
Total	0.155	461.652	0.044	-0.021	0.064	0.108	0.296	0.543	0.001	0.575	0.552	0.327	4.329	-0.057	18266
Non-Muslim majority countries															
<i>Developing countries</i>															
Argentina	0.091	978.542	0.057	-0.006	0.059	0.059	0.237	0.399	0.001	0.700	0	1	2.0	-0.207	892
Bermuda	0.265	1239.983	-0.019	-0.081	0.122	0.326	0.348	0.393	0.015	0.367	.	.	.	1.095	349
Brazil	0.172	2410.096	0.046	-0.069	0.078	0.140	0.311	0.695	0.002	0.525	0	0	5.0	0.005	3073
Bulgaria	0.099	63.903	0.047	0.056	0.039	0.059	0.184	0.227	0.000	0.758	.	.	3.0	0.213	913
Cayman Islands	0.260	1873.096	0.045	0.047	0.095	0.243	0.229	0.261	0.041	0.620	.	.	.	1.125	92
Chile	0.146	1169.363	0.033	0.033	0.063	0.107	0.222	0.839	0.000	0.683	0	0	4.0	1.146	1825
China	0.323	885.626	0.089	-0.072	0.091	0.238	0.241	0.514	0.006	0.576	.	.	1.0	-0.514	8667
Colombia	0.079	1308.679	0.050	0.004	0.048	0.137	0.141	0.745	0.000	0.906	0	1	3.0	-0.541	329
Cyprus	0.107	246.451	0.002	-0.017	0.044	0.072	0.292	0.388	0.000	0.551	1	1	.	1.074	379
Ghana	0.091	93.421	0.092	-0.018	0.121	0.052	0.226	0.707	0.000	0.653	.	.	5.0	0.052	75

Hong Kong	0.371	812.287	-0.024	-0.068	0.064	0.125	0.223	0.501	0.008	0.615	1	0	5.0	1.320	8736	
Hungary	0.101	789.702	0.073	0.055	0.111	0.095	0.196	0.398	0.005	0.741	.	.	2.0	0.883	332	
India	0.096	416.774	0.075	0.086	0.091	0.179	0.328	0.618	0.003	0.489	0	1	5.0	-0.242	15133	
Lithuania	0.045	55.503	0.098	-0.022	0.097	0.176	0.310	0.313	0.000	0.188	.	.	4.0	0.692	16	
Malta	0.122	488.855	0.092	-0.026	0.048	0.101	0.239	0.569	0.000	0.667	.	.	.	1.205	51	
Mexico	0.090	2802.580	0.065	0.030	0.055	0.086	0.253	0.418	0.000	0.683	0	0	3.0	-0.102	1405	
Peru	0.092	345.054	0.088	0.052	0.060	0.134	0.235	0.554	0.000	0.690	0	0	3.5	-0.329	870	
Philippines	0.118	569.830	0.042	-0.100	0.064	0.086	0.285	0.357	0.001	0.530	0	0	4.0	-0.390	1300	
Poland	0.193	411.786	0.071	0.047	0.083	0.191	0.172	0.376	0.000	0.771	.	.	2.0	0.634	2172	
Russia	0.114	2119.516	0.089	0.015	0.069	0.158	0.265	0.215	0.000	0.626	.	.	4.0	-0.728	2684	
South Africa	0.232	704.706	0.074	0.016	0.079	0.149	0.179	0.618	0.003	0.762	1	0	5.0	0.346	3374	
Sri Lanka	0.116	64.508	0.068	0.022	0.061	0.112	0.245	0.607	0.000	0.662	0	1	4.0	-0.383	961	
Thailand	0.135	337.306	0.050	-0.056	0.064	0.094	0.343	0.605	0.000	0.503	1	0	4.0	-0.035	5167	
Venezuela	0.076	2350.850	0.059	0.033	0.048	0.085	0.143	0.674	0.000	0.937	0	1	1.0	-0.922	221	
Vietnam	0.162	47.238	0.125	0.059	0.088	0.179	0.280	0.038	0.000	0.539	.	.	.	-0.530	2254	
Zimbabwe	0.004	57.560	0.027	-0.006	0.009	.	0.002	0.000	0.000	1.000	0	1	4.0	-1.579	1	
Total	0.192	805.354	0.057	0.000	0.078	0.150	0.268	0.525	0.003	0.584	0.404	0.410	3.894	0.070	61271	
<i>Developed countries</i>																
Australia	0.379	723.699	-0.094	-0.096	0.097	0.218	0.222	0.470	0.014	0.623	1	0	4.0	1.596	8046	
Austria	0.224	1449.143	0.057	0.017	0.077	0.143	0.261	0.686	0.023	0.559	1	1	2.5	1.618	986	
Belgium	0.199	1844.634	0.067	0.011	0.078	0.130	0.264	0.638	0.024	0.566	1	1	3.0	1.328	1240	
Canada	0.351	1400.875	-0.069	-0.117	0.110	0.202	0.264	0.320	0.043	0.599	1	0	4.0	1.621	7571	
Czech Republic	0.082	1203.623	0.072	-0.034	0.094	0.102	0.156	0.570	0.001	0.842	.	.	4.0	0.798	342	
Denmark	0.287	1072.469	0.053	0.034	0.080	0.094	0.263	0.650	0.029	0.544	0	0	4.0	1.842	1679	
Finland	0.219	1555.036	0.056	0.047	0.076	0.104	0.256	0.801	0.043	0.598	1	1	3.5	1.882	1690	
France	0.200	3547.708	0.065	0.012	0.060	0.128	0.238	0.651	0.019	0.658	1	1	3.5	1.217	7182	
Germany	0.257	2828.546	0.040	0.069	0.068	0.121	0.214	0.516	0.027	0.640	1	1	3.5	1.503	7793	
Greece	0.095	654.982	0.030	0.027	0.066	0.121	0.322	0.685	0.003	0.487	0	1	2.0	0.631	1872	
Iceland	0.057	659.237	0.061	-0.001	0.045	0.152	0.450	0.438	0.012	0.163	.	.	4.5	1.704	80	

Corporate Liquidity: Evidence from Islamic and non-Islamic Countries

Ireland	0.312	1497.824	0.015	-0.057	0.069	0.163	0.279	0.514	0.031	0.528	0	1	5.0	1.531	769
Israel	0.404	649.645	0.017	0.006	0.048	0.115	0.299	0.430	0.063	0.429	1	1	4.0	0.564	2147
Italy	0.161	3241.734	0.048	0.017	0.056	0.132	0.267	0.641	0.007	0.583	1	1	2.0	0.697	2827
Japan	0.231	1755.926	0.044	-0.016	0.045	0.046	0.255	0.833	0.015	0.582	1	1	4.5	1.138	40806
Korea, South	0.212	1033.741	0.044	0.005	0.070	0.107	0.272	0.571	0.012	0.540	1	0	4.5	0.685	13443
Luxembourg	0.119	16942.650	0.087	-0.001	0.045	0.217	0.203	0.660	0.007	0.720	.	.	2.0	1.712	50
Netherlands	0.145	3575.087	0.071	0.020	0.068	0.109	0.252	0.631	0.016	0.635	1	0	2.5	1.743	2165
New Zealand	0.144	583.131	0.022	0.033	0.067	0.130	0.268	0.731	0.007	0.623	1	1	4.0	1.766	1125
Norway	0.352	1461.051	0.017	-0.043	0.110	0.191	0.316	0.474	0.021	0.420	1	1	3.5	1.701	1858
Portugal	0.069	2092.792	0.057	-0.065	0.056	0.104	0.348	0.610	0.000	0.460	1	1	2.5	1.160	720
Singapore	0.263	449.140	0.043	0.014	0.069	0.125	0.222	0.606	0.003	0.624	1	0	5.0	1.481	6231
Slovakia	0.069	634.684	0.062	-0.013	0.062	0.064	0.173	0.414	0.005	0.886	.	.	3.0	0.689	70
Slovenia	0.116	3.197	0.048	-0.054	0.066	0.069	0.305	0.717	0.000	0.478	.	.	.	0.970	138
Spain	0.131	4512.366	0.069	-0.018	0.060	0.132	0.256	0.713	0.004	0.606	1	1	5.0	1.054	1628
Sweden	0.287	1376.077	-0.001	0.044	0.056	0.165	0.195	0.548	0.036	0.656	1	0	3.5	1.745	3519
Switzerland	0.309	2461.889	0.061	0.068	0.057	0.099	0.227	0.704	0.038	0.654	1	0	3.0	1.748	2533
Taiwan	0.249	426.883	0.070	0.063	0.070	0.125	0.226	0.506	0.033	0.619	.	.	3.0	0.848	14231
United Kingdom	0.267	1577.215	-0.009	-0.052	0.069	0.155	0.214	0.628	0.031	0.688	1	0	5.0	1.526	16895
United States	0.391	2451.963	-0.071	-0.100	0.074	0.140	0.312	0.293	0.072	0.511	1	0	3.0	1.347	48961
Total	0.285	1805.425	0.003	-0.030	0.067	0.118	0.261	0.552	0.034	0.580	0.976	0.395	3.795	1.269	198597

Notes: This table presents the mean values of variables used in the study. Cash holding (CH/NA) is the ratio of cash plus its equivalents plus short-term investment (cash) to net assets (NA), which are total assets net of cash. Firm size (Size) is total assets in millions of U.S. dollars. CF/NA is the ratio of cash flow to net assets, where cash flow is earnings before interest and taxes, depreciation and amortization, less interest, taxes, and common dividends. NWC/NA is the ratio of net working capital (NWC) to net assets, where NWC is total current assets less cash less total current liabilities. CAPX/NA is the ratio of capital expenditure (CAPX) to net assets, where CAPX is additions to fixed assets. Sales growth (SG) is the geometric mean growth rate of sales over the three-year period. Leverage (LEV) is the ratio of total debt to total assets. Dividend (DIV) is a dummy variable that takes a value of 1 if a firm pays dividends and 0 otherwise. RD/NA is the ratio of expense on research and development to net assets. Sharia compliance (SC) is a dummy variable that returns a value of 1 if a firm is Sharia-compliant and 0 otherwise. Financial development (FD) is a dummy variable that returns a value of 1 (zero) if a country is classified as a financially developed (underdeveloped) economy. Financial structure (FS) is a dummy variable that returns a value of 1 (zero) if a country is classified as a bank-based (market-based) economy (Demirgüç-Kunt and Levine, 1999). ARI refers to the revised anti-director rights index constructed by Djankov et al. (2008) and its value ranges from 1 to 5. NG is the mean of all six World Governance Indicators, with values ranging from -2.5 to 2.5. Higher values indicate higher level of national governance (Kaufmann et al. 2010). All financial ratios are winsorized at the 1% and 99% level. *N* represents the number of firm-year observations.

Leverage (LEV) is total debt divided by total assets. The financing hierarchy theory predicts a negative relation between cash and debt. Such a negative relation is also predicted by agency theory. This is because issuing debt can mitigate the agency problem within the firm (Gamba and Triantis, 2014). Agency costs are therefore lower when leverage is higher such that the external financing cost decreases and the demand for cash weakens under such circumstance.^{27,28} Dividend (DIV) is a dummy variable that returns a value of 1 if a firm pays dividends and 0 otherwise. DIV is used as a proxy of CG given that a firm can mitigate agency problems and reduce agency costs by paying out dividends. Information asymmetry is measured by expense on research and development (RD) divided by NA (Dittmar et al. 2003). Since the precautionary motive for holding cash should be stronger when information asymmetry is higher and the external financing cost is higher, a positive relationship between RD/NA and cash is expected. Prior to model estimation, all financial variables are winsorized at the 1% and 99% levels to remove outliers.

Islam is a dummy variable that returns a value of 1 if a firm is in Muslim majority countries and 0 otherwise. Since not all firms in Muslim majority countries comply with Sharia, a dummy variable Sharia compliance (SC) is created to distinguish between Sharia compliant firms and other firms so as to account for the effect of Sharia compliance. SC equals 1 if the following two conditions are satisfied and 0 otherwise: one, a firm does not engage in the businesses prohibited by Islam such as those related to hogs, arms, and gambling; two, CH/TA and LEV are both less than 0.33 (Farooq and Alahkam 2016).²⁹

Given that this study covers multiple countries that likely have cross-country differences, country-level differences should be considered to make the estimation results reliable. Thus, key variables are considered, including financial development (FD), financial structure (FS), anti-director rights (AR), and national governance (NG). FD and FS are dummy variables derived based on country classification by Demirgüç-Kunt and Levine (1999). FD is a dummy variable that returns a value of 1 if a country is classified as a financially developed economy and 0 otherwise (i.e., a financially underdeveloped economy). FS is a dummy variable that returns a value of 1 if a country is classified as a bank-based economy and 0 otherwise (i.e., a market-based economy). AR is a dummy variable that returns a value of 1 if a country's revised anti-director rights index (ARI) ≥ 4 and 0 otherwise. ARI is constructed by Djankov et al. (2008), and its value ranges from 1 to 5.

²⁷ According to Jensen and Meckling (1976), debt is a tool to mitigate agency problems resulting from the conflict of interests between managers and shareholders. Increased debt means reduced equity and concentrated managerial equity, which strengthen the incentive of managers to work for shareholders. Debt issuance is also a market discipline, as mentioned previously in the present study.

²⁸ Chen et al. (2017) highlighted the importance of collateral-based debt capacity, which can be used to support future investment. Since debt capacity is similar to cash in terms of financing further investment, debt is a direct substitute for cash.

²⁹ SC is also calculated for non-Muslim majority countries. The mean values of SC are close among three country groups. However, firms in non-Muslim majority countries do not comply with Sharia although some of them meet the abovementioned two conditions. Thus, the current study focuses on the effect of SC on cash holdings for Muslim majority countries only to see if SC explains low cash holdings for these countries.

NG is derived by taking the simple average of all six Worldwide Governance Indicators, namely, voice and accountability, political stability and absence of violence or terrorism, government effectiveness, regulatory quality, rule of law, and control of corruption (Kaufmann et al. 2010). The value for each of these indicators and NG ranges from -2.5 to 2.5. Higher values indicate a higher level of NG. Justification for including all these country-level variables has been provided in the Literature review section.

Based on Table 1, the mean value of cash (CH/NA) is lower for Muslim majority countries than for other developing and developed countries, with the mean values equal to 0.155, 0.192, and 0.285 respectively. The results support H1. The mean value of leverage (LEV) is higher for Muslim majority countries than for other developing and developed countries. Thus, there is a negative relationship between cash and debt, consistent with the prediction based on financing hierarchy theory and agency theory.

Table 2 presents the correlation matrix of all variables used in estimation and the variance inflation factors (VIFs) for the independent variables in the benchmark model in Column 1 of Table 3. Cash is highly correlated with its determinants, so their inclusion in the model is justified. All VIFs are also low, ranging from 1.01 to 1.56, so the concern about multicollinearity can be alleviated.³⁰

2.2. Model

Given that the data consist of multiple firms and span several years, the panel data model is selected. The study first estimates the random-effects panel data model to examine whether and how Islam and SC affect cash holdings because these two variables are not time-varying and can be retained with such a model. The fixed-effects panel data model is then estimated to examine whether and how Islam and SC modify the cash sensitivities to CAPX/NA, LEV, and DIV. The underlying reasons are that the fixed-effects model is selected based on the Hausman test results and that the focus is on the modifying effects of Islam and SC on the cash sensitivities rather than their standalone effects. This model is also used in prior liquidity studies to help mitigate the endogeneity problem (Bates et al. 2009; Dittmar and Mahrt-Smith, 2007; Cremers and Ferrell, 2014; Huang et al. 2013). More importantly, fixed-effects, such as firm- and country-specific effects that are not considered but may cause concerns in this cross-country study, can be effectively controlled using this model. Given the potential correlations within firms, the Huber/White/sandwich robust standard errors are estimated to perform statistical inference.³¹

³⁰ Other country-specific variables are not included in calculating VIFs because they are highly correlated such that they are included in the model one at a time in the subsequent analysis.

³¹ Variables that are not time-varying (e.g., industry dummies, country dummies, etc.) are not included in the fixed-effects panel data model because they get dropped with the fixed-effects panel estimation.

Table 2. Correlation Matrix and Variance Inflation Factors

	ln(CH/NA)	ln(Size)	CF/NA	NWC/NA	CAPX/NA	LEV	DIV	RD/NA	Islam	SC	FD	FX	AR	NG	VIF
ln(CH/NA)	1.000														
ln(Size)	-0.090	1.000													1.240
CF/NA	-0.094	0.265	1.000												1.500
NWC/NA	-0.109	0.163	0.466	1.000											1.560
CAPX/NA	0.064	-0.027	-0.014	-0.077	1.000										1.010
LEV	-0.256	0.007	-0.262	-0.466	0.006	1.000									1.350
DIV	0.009	0.361	0.196	0.143	-0.023	-0.151	1.000								1.200
RD/NA	0.258	-0.137	-0.378	-0.225	0.042	0.012	-0.139	1.000							1.200
Islam	-0.060	-0.076	0.022	0.001	-0.017	0.033	-0.002	-0.059	1.000						1.010
SC	-0.062	0.002	0.143	0.223	-0.057	-0.539	0.142	-0.103	-0.003	1.000					
FD	0.179	0.080	-0.066	-0.042	-0.048	-0.059	-0.023	0.085	-0.222	0.032	1.000				
FS	0.022	0.088	0.100	0.059	-0.066	0.009	0.220	-0.084	-0.038	-0.017	-0.247	1.000			
AR	-0.004	-0.074	0.032	0.006	-0.026	-0.008	0.185	-0.125	0.129	0.008	-0.132	0.122	1.000		
NG	0.100	0.103	-0.105	-0.030	-0.018	-0.055	0.006	0.122	-0.368	0.030	0.709	-0.247	-0.145	1.000	

Notes: Cash holding (CH/NA) is the ratio of cash plus its equivalents plus short-term investment (cash) to net assets (NA), which are total assets net of cash. Firm size (Size) is total assets in millions of U.S. dollars. CF/NA is the ratio of cash flow to net assets, where cash flow is earnings before interest and taxes, depreciation and amortization, less interest, taxes, and common dividends. NWC/NA is the ratio of net working capital (NWC) to net assets, where NWC is total current assets less cash less total current liabilities. CAPX/NA is the ratio of capital expenditure (CAPX) to net assets, where CAPX is additions to fixed assets. Leverage (LEV) is the ratio of total debt to total assets. Dividend (DIV) is a dummy variable that takes a value of 1 if a firm pays dividends and 0 otherwise. RD/NA is the ratio of expense on research and development to net assets. Islam is a dummy variable that returns a value of 1 if a firm is in Muslim majority countries and 0 otherwise. Sharia compliance (SC) is a dummy variable that returns a value of 1 if a firm is Sharia-compliant and 0 otherwise. Financial development (FD) is a dummy variable that returns a value of 1 (0) if a country is classified as a financially developed (underdeveloped) economy. Financial structure (FS) is a dummy variable that returns a value of 1 (0) if a country is classified as a bank-based (market-based) economy (Demirgüç-Kunt and Levine 1999). AR is a dummy variable that returns a value of 1 if a country's revised anti-director rights index (ARI) ≥ 4 and 0 otherwise. ARI is constructed by Djankov et al. (2008) and its value ranges from 1 to 5. NG is the mean of all six World Governance Indicators, with values ranging from -2.5 to 2.5. Higher values indicate higher level of national governance (Kaufmann et al. 2010). All financial ratios are winsorized at the 1% and 99% level. VIFs indicate the variance inflation factors for the independent variables in the benchmark model in Column 1 of Table 3.

3. Results

3.1. Cash Holdings

Table 3 presents the results regarding the difference in cash holdings between Muslim majority countries and other countries after controlling for the benchmark cash determinants. Column 1 presents the results based on the full sample. Columns 2 to 5 present the results based on developing countries, including Muslim majority countries and other developing countries. Columns 6 to 9 present the results based on the sample that consists of Muslim majority countries and developed countries.³²

The coefficient of Islam is significantly negative in Column 1, indicating that corporate liquidity is generally lower in Muslim majority countries than in other countries. The results support H1 and concur with the findings in Table 1. The results are more revealing when Muslim majority countries are compared with other developing countries (Columns 2 to 5) and developed countries (Columns 6 to 9). In Column 2, the coefficient of Islam is insignificant though negative, indicating no significant difference in cash holdings between Muslim majority countries and other developing countries likely because of the missing variable problems. Considering the effect of financial development in Column 3, the effect of Islam on cash holdings is measured as $0.324 - 0.522 \text{ FD}$, which is negative (positive) when FD takes on the value of 1 (0). Thus, cash holdings are lower in Muslim majority countries than in other developing countries when financial development is high in the former. Considering the effect of financial structure in Column 4, the effect of Islam on cash holdings is measured as $-0.098 + 0.582 \text{ FS}$, which is negative (positive) when FS takes on the value of 0 (1). Thus, cash holdings are lower in Muslim majority countries than in other developing countries when the former has a market-based financial structure. Considering the effect of anti-director rights in Column 5, the effect of Islam on cash holdings is measured as $-0.72 + 0.997 \text{ AR}$, which is negative (positive) when AR takes on the value of 0 (1). Thus, cash holdings are lower in Muslim majority countries than in other developing countries when the former has weak anti-director rights. In summary, the results from Columns 2 to 5 indicate that cash holdings are lower in Muslim majority countries than in other developing countries when the former has high financial development, a market-based financial structure, or weak anti-director rights. Therefore, H1 is supported under these circumstances. The results suggest that financial development negatively affects agency costs such that the cost of external financing decreases and the precautionary motive for holding cash weakens when financial development increases in Muslim majority countries. The agency and external financing costs are also lower when financial structure is market-based because such financial structure is often accompanied by high financial development (Demirgüç-Kunt and Levine, 1999), which can contribute to low cash holdings. Stronger (weaker) anti-director rights signify more (less) severe conflicts between shareholders and other stakeholders (e.g., bondholders) such that the agency cost of debt is higher

³² Please note that all Muslim majority countries in the present study are developing countries.

(lower), resulting in a stronger (weaker) precautionary motive for holding cash (Opler et al. 1999; Stout, 2013).³³ Alternatively, given the established negative relationship between shareholder rights and debt financing (Wagner and Wenk, 2019) and the cost of debt being lower than that of equity, a positive relationship between shareholder rights and the cost of external financing is also predicted. Thus, when shareholder rights strengthen, the external financing cost increases such that the precautionary motive for holding cash strengthens.³⁴

Results are different and noticeable when Muslim majority countries are compared with developed countries. More specifically, the coefficient of Islam is significantly negative in Column 6, indicating that cash holdings are lower in Muslim majority countries than in developed countries. Considering the effect of financial development in Column 7, the effect of Islam on cash holdings is measured as -0.207 , indicating that cash holdings are lower in Muslim majority countries than in developed countries, regardless of the level of financial development. In Column 8, where the effect of financial structure is considered, the effect of Islam on cash holdings is measured as $-0.174-0.537 FS$, which is essentially negative and becomes more negative when FS takes on the value of 1. Therefore, the results suggest that cash holdings are always lower in Muslim majority countries than in developed countries. This phenomenon is more pronounced when the former has a bank-based financial structure. Considering the effect of anti-director rights in Column 9, the effect of Islam on cash holdings is measured as $-0.627+0.218 AR$, which is essentially negative but becomes less negative when AR takes on the value of 1. The results continue to indicate that cash holdings are lower in Muslim majority countries than in developed countries, regardless of the strength of anti-director rights. This phenomenon is more pronounced when anti-director rights are weak in the former. In summary, the results in Columns 6–9 are consistent and robust to different model specifications. Therefore, H1 is strongly supported.

The results on control variables are also consistent with the findings of prior studies. For example, the coefficient of NWC/NA is significantly negative, indicating the substitutability between cash and net working capital. The coefficient of CAPX/NA is significantly positive, indicating that firms are inclined to hoard cash in response to greater growth opportunities. The coefficient of LEV is significantly negative, indicating that cash and leverage are substitutes in terms of financing, which is consistent with the prediction of financing hierarchy and agency theories. The coefficient of DIV is significantly positive, indicating that the precautionary motive for holding cash for dividend payment outweighs the negative effect of dividend payment on cash associated with agency cost reduction. The coefficient of RD/NA is significantly positive, highlighting the

³³ Opler et al. (1999) asserted that cash holdings be higher when the agency cost of debt and transitively the external financing cost are higher. Stout (2013) highlighted the intensified conflict between managers and creditors when the conflict between managers and shareholders is improved.

³⁴ According to Nguyen et al. (2020), the net effect of increased debt financing that results from weakened shareholder rights on firm value is ambiguous, depending on the relative magnitude of two opposing effects, namely, the positive effect of increased tax shield and market discipline and the negative effect of aggravated agency problems and reduced disclosure. Similarly, the net effect of decreased debt financing resulting from strong shareholder rights on agency costs and cash holdings is uncertain and therefore deserves examination.

importance of precautionary motive for holding cash to pay for R&D. Alternatively, given that R&D can be a proxy of information asymmetry, the results indicate that managers are inclined to hold more cash under their discretion when information asymmetry and transitively the external financing cost increase.

Thus, H1 is firmly supported when Muslim majority countries are compared with developed countries, but the validity of H1 depends on the values of the abovementioned country-level variables when Muslim majority countries are compared with other developing countries. Moreover, the results in Columns 2 to 5 and Columns 6 to 9 are largely different in terms of the modifying effects of country-level variables, such as financial development, financial structure, and the strength of anti-director rights. Specifically, financial development and a market-based financial structure appear to reduce agency costs and transitively cash holdings for Muslim majority countries relative to other developing countries. By contrast, financial development does not seem important, and a bank-based financial structure happens to strengthen the negative effect of Islam on cash holdings when comparing Muslim majority countries with developed countries. The negative effect of Islam on cash holdings being reinforced by a bank-based financial structure can be attributed to the possibility that a bank-based financial structure is considered better for developing countries (including Muslim majority countries) than developed countries (Chakraborty and Ray, 2006). A market-based financial structure does not usually dominate until a country becomes highly developed economically and financially (Demirgüç-Kunt and Levine 1999). Strong anti-director rights appear to mitigate or counteract the negative effect of Islam on cash holdings whether Muslim majority countries are compared with other developing or developed countries. Such results support the view that CG in Muslim majority countries is essentially stakeholder-based such that an increase in anti-director rights or shareholder protection heightens the conflicts between shareholders and other stakeholders. Therefore, the agency and external financing costs are high such that the precautionary motive for holding cash strengthens. Moreover, anti-director rights and the practice of Islam could be substitutes in improving CG such that the negative effect of Islam on cash is weakened or reversed when anti-director rights strengthen.

Table 3. Islam and Cash Holdings

Dependent variable = ln(CH/NA) Independent variable	(1) Full sample	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
		Muslim majority countries vs. other developing countries				Muslim majority countries vs. developed countries			
Ln(Size)	-0.028*** (0.004)	0.047*** (0.008)	0.011 (0.009)	-0.009 (0.010)	0.042*** (0.008)	-0.062*** (0.004)	-0.063*** (0.005)	-0.068*** (0.005)	-0.062*** (0.004)
CF/NA	-0.001 (0.016)	0.316*** (0.046)	0.265*** (0.049)	0.271*** (0.049)	0.299*** (0.047)	-0.019 (0.017)	-0.034** (0.017)	-0.038** (0.017)	-0.021 (0.017)
NWC/NA	-0.500*** (0.013)	-0.535*** (0.028)	-0.479*** (0.030)	-0.471*** (0.030)	-0.512*** (0.028)	-0.489*** (0.014)	-0.481*** (0.014)	-0.480*** (0.014)	-0.489*** (0.014)
CAPX/NA	0.895*** (0.041)	0.848*** (0.068)	0.798*** (0.080)	0.816*** (0.080)	0.847*** (0.071)	0.889*** (0.049)	0.923*** (0.052)	0.940*** (0.052)	0.894*** (0.049)
LEV	-1.514*** (0.027)	-1.457*** (0.050)	-1.299*** (0.054)	-1.283*** (0.054)	-1.391*** (0.051)	-1.507*** (0.030)	-1.480*** (0.031)	-1.483*** (0.031)	-1.505*** (0.030)
DIV	0.083*** (0.008)	0.192*** (0.013)	0.219*** (0.016)	0.223*** (0.016)	0.204*** (0.014)	0.056*** (0.009)	0.038*** (0.010)	0.022** (0.010)	0.049*** (0.009)
RD/NA	1.619*** (0.058)	2.256*** (0.391)	1.799*** (0.367)	1.819*** (0.374)	2.220*** (0.390)	1.512*** (0.058)	1.467*** (0.058)	1.494*** (0.058)	1.525*** (0.058)
Islam	-0.260*** (0.026)	-0.013 (0.028)	0.324*** (0.045)	-0.098** (0.039)	-0.720*** (0.066)	-0.395*** (0.027)	-0.207*** (0.065)	-0.174*** (0.035)	-0.627*** (0.066)
FD			0.852*** (0.033)				0.362*** (0.049)		
Islam×FD			-0.522*** (0.061)				-0.038 (0.074)		
FS				-0.742*** (0.034)				0.390*** (0.016)	

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Islam×FS				0.582*** (0.064)				-0.537*** (0.061)	
AR									0.139*** (0.015)
Islam×AR					0.997*** (0.073)				0.218*** (0.073)
Constant	-2.739*** (0.071)	-3.463*** (0.095)	-3.926*** (0.106)	-3.254*** (0.111)	-3.118*** (0.099)	-2.430*** (0.087)	-2.779*** (0.101)	-2.568*** (0.091)	-2.519*** (0.088)
<i>N</i>	278167	79537	60919	60919	75623	216863	200939	200939	215936
<i>n</i>	34895	11508	7516	7516	10666	25523	23489	23489	25344
<i>R</i> ²	0.180	0.142	0.188	0.171	0.146	0.201	0.197	0.212	0.206

Notes: Cash holding (CH/NA) is the ratio of cash plus its equivalents plus short-term investment (cash) to net assets (NA), which are total assets net of cash. Firm size (Size) is total assets in millions of U.S. dollars. CF/NA is the ratio of cash flow to net assets, where cash flow is earnings before interest and taxes, depreciation and amortization, less interest, taxes, and common dividends. NWC/NA is the ratio of net working capital (NWC) to net assets, where NWC is total current assets less cash less total current liabilities. CAPX/NA is the ratio of capital expenditure (CAPX) to net assets, where CAPX is additions to fixed assets. Leverage (LEV) is the ratio of total debt to total assets. Dividend (DIV) is a dummy variable that takes a value of 1 if a firm pays dividends and 0 otherwise. RD/NA is the ratio of expense on research and development to net assets. Islam is a dummy variable that returns a value of 1 if a firm is in Muslim majority countries and 0 otherwise. Financial development (FD) is a dummy variable that returns a value of 1 (0) if a country is classified as a financially developed (underdeveloped) economy. Financial structure (FS) is a dummy variable that returns a value of 1 (0) if a country is classified as a bank-based (market-based) economy (Demirgüç-Kunt and Levine 1999). AR is a dummy variable that returns a value of 1 if a country's revised anti-director rights index (ARI) ≥ 4 and 0 otherwise. ARI is constructed by Djankov et al. (2008) and its value ranges from 1 to 5. All financial ratios are winsorized at the 1% and 99% level. *N* represents the number of firm-year observations and *n* the number of firms. Year and industry dummies are included but results are not reported for brevity.

After establishing that Islam negatively affects cash holdings and that this negative effect is modified by country-level variables, such as economic development, financial development, financial structure, and anti-director rights, exploring whether SC (i.e., acting according to Islamic law or Sharia at the firm level) contributes to lower cash holdings in Muslim majority countries than in other countries is worthwhile. Table 4 presents the results regarding whether and how SC affects cash holdings in Muslim majority countries. In Column 1, where the baseline model is estimated, the coefficient of SC is significantly negative, indicating that SC negatively affects cash holdings in Muslim majority countries. In Column 2, the effect of SC on cash holdings is measured as $-0.507+0.203$ FD, which is essentially negative but becomes less negative when FD takes on the value of 1. In Column 3, the effect of SC on cash holdings is measured as $-0.341-0.167$ FS, which is essentially negative but becomes more negative when FS takes on the value of 1. In Column 4, the effect of SC on cash holdings is measured as $-0.531+0.163$ AR, which is essentially negative but becomes less negative when AR takes on the value of 1. In summary, the results suggest that SC negatively affects cash holdings in Muslim majority countries, regardless of financial development, financial structure, and anti-director rights. Such a negative effect is weaker when these countries have high financial development, a market-based financial structure, or strong anti-director rights. The negative effect of SC on cash holdings is more pronounced under these circumstances to the extent that Muslim majority countries under examination are generally characterized by low financial development, a bank-based financial structure, and weak anti-director rights.³⁵ Moreover, given that high financial development and strong anti-director rights prove to attenuate the negative effect of SC on cash holdings in Muslim majority countries, financial development and anti-director rights can be substitutes for SC in improving CG and reducing agency costs.

3.2. Cash Sensitivity to Growth Opportunities, Leverage and Dividend Payment

The results thus far indicate that cash holdings are generally lower in Muslim majority countries than in other countries and that such a phenomenon is more pronounced when Muslim majority countries are compared with developed countries. Moreover, SC explains why cash holdings are lower in Muslim majority countries than in other countries. Thus, delving into the research question and further explaining lower cash holdings in Muslim majority countries from the perspective of the sensitivities of cash to its determinants are worthwhile. The objective is to see whether lower cash holding in Muslim majority countries can be attributed to lower cash sensitivities to variables such as growth opportunities, leverage, and dividend payment. These three cash determinants are selected because prior studies have shown that they consistently exhibit the expected effects and serve as good candidates to help probe the quality of CG (Dittmar et al. 2003; Chen and Yang, 2017). Given that Muslim majority countries under examination are

³⁵ The mean values of FD, FS, and ARI for Muslim majority countries are 0.333, 0.667, and 3.143, respectively. Hence, FD and ARI are generally lower whereas FS is generally higher for Muslim majority countries than for other countries (Table 1).

all developing countries, focusing on the comparison between Muslim majority countries and other developing countries is more appropriate primarily because the former share more similarities with the latter than with developed countries. To show the effect of Islam and SC on cash determination, using a control group similar to Muslim majority countries for comparison purposes is appropriate. In fact, as shown in Table 3, the contrast between Muslim majority countries and developed countries is noticeable, whereas the difference between Muslim majority countries and other developing countries is relatively small. Thus, focusing on the comparison between Muslim majority countries and other developing countries is valuable to see whether any significant difference in the cash sensitivities exist between these two country groups with high similarities.

Table 4. Sharia Compliance and Cash Holdings in Muslim Majority Countries

Dependent variable = ln(CH/NA) Independent variable	(1)	(2)	(3)	(4)
Ln(Size)	0.012 (0.019)	0.013 (0.020)	0.004 (0.020)	0.013 (0.020)
CF/NA	0.664*** (0.092)	0.662*** (0.093)	0.660*** (0.093)	0.657*** (0.093)
NWC/NA	-0.648*** (0.054)	-0.645*** (0.054)	-0.639*** (0.054)	-0.643*** (0.054)
CAPX/NA	0.624*** (0.136)	0.667*** (0.142)	0.655*** (0.142)	0.636*** (0.141)
LEV	-1.794*** (0.107)	-1.763*** (0.109)	-1.756*** (0.108)	-1.774*** (0.109)
DIV	0.288*** (0.028)	0.293*** (0.029)	0.302*** (0.029)	0.291*** (0.029)
RD/NA	0.531 (1.055)	0.601 (1.060)	0.586 (1.038)	0.593 (1.072)
SC	-0.410*** (0.036)	-0.507*** (0.053)	-0.341*** (0.041)	-0.531*** (0.072)
FD		0.221*** (0.068)		
SC×FD		0.203*** (0.064)		
FS			-0.097 (0.070)	
SC×FS			-0.167** (0.070)	
AR				0.211** (0.089)
SC×AR				0.163** (0.078)
Constant	-3.011*** (0.169)	-3.212*** (0.183)	-2.991*** (0.178)	-3.235*** (0.195)
<i>N</i>	18266	17253	17253	17477
<i>n</i>	2142	1945	1945	1992
<i>R</i> ²	0.194	0.199	0.198	0.202

Notes: Cash holding (CH/NA) is the ratio of cash plus its equivalents plus short-term investment (cash) to net assets (NA), which are total assets net of cash. Firm size (Size) is total assets in millions of U.S. dollars. CF/NA is the ratio of cash flow to net assets, where cash flow is earnings before interest and taxes, depreciation and amortization, less interest,

taxes, and common dividends. NWC/NA is the ratio of net working capital (NWC) to net assets, where NWC is total current assets less cash less total current liabilities. $CAPX/NA$ is the ratio of capital expenditure (CAPX) to net assets, where CAPX is additions to fixed assets. Leverage (LEV) is the ratio of total debt to total assets. Dividend (DIV) is a dummy variable that takes a value of 1 if a firm pays dividends and 0 otherwise. RD/NA is the ratio of expense on research and development to net assets. Sharia compliance (SC) is a dummy variable that equals one if a firm is Sharia compliant and 0 otherwise (Farooq and Alahkam 2016). Financial development (FD) is a dummy variable that returns a value of 1 (0) if a country is classified as a financially developed (underdeveloped) economy. Financial structure (FS) is a dummy variable that returns a value of 1 (0) if a country is classified as a bank-based (market-based) economy (Demirgüç-Kunt and Levine 1999). AR is a dummy variable that returns a value of 1 if a country's revised anti-director rights index (ARI) ≥ 4 and 0 otherwise. ARI is constructed by Djankov et al. (2008) and its value ranges from 1 to 5. All financial ratios are winsorized at the 1% and 99% level. N represents the number of firm-year observations and n the number of firms. Year and industry dummies are included but results are not reported for brevity.

Table 5 presents the results regarding whether and how the cash sensitivities to growth opportunities, leverage, and dividend payment differ between Muslim majority countries and other developing countries. In Columns 1–4, where the cash sensitivity to growth opportunities is examined, the coefficient of $CAPX/NA$ is significantly positive, whereas the coefficients of the interaction variables that consist of at least $CAPX/NA$ and Islam are all insignificant. Thus, growth opportunities positively affect cash, meaning that firms are inclined to hold more cash in response to greater growth opportunities, which is consistent with the findings of prior studies. However, such a positive effect is not significantly different between Muslim majority countries and other developing countries. Moreover, this positive effect is not influenced by country-level variables, such as financial development, financial structure, and national governance.

In Columns 5–8, where the cash sensitivity to leverage is examined, the coefficient of LEV is all significantly negative, whereas the significance of the coefficients of the interaction variables that consist of at least Islam and LEV depends on the model estimated. Specifically, in Column 5, the modifying effect of Islam on the cash sensitivity to LEV is measured as $0.381-0.717 FD$, which is negative (positive) when FD takes on the value of 1 (0). In Column 6, the modifying effect of Islam on the cash sensitivity to LEV is measured as $-0.296+0.783 FS$, which is negative (positive) when FS takes on the value of 0 (1). Considering the effect of AR in Column 7, the modifying effect of Islam on the cash sensitivity to LEV is measured as 0 because the corresponding coefficients are all insignificant. In Column 8, the modifying effect of Islam on the cash sensitivity to LEV is measured as $-0.774 NG$, which is negative (positive) when the value of NG is greater (less) than 0. In summary, the negative effect of LEV on cash for Muslim majority countries is reinforced when financial development is high, financial structure is market-based, or national governance is strong. The results are intuitive in the sense that advanced financial development and a market-based financial structure should contribute to high transparency, which transitively improves CG (Dutta and Mukherjee, 2018; Fung, 2014). Strong national governance also improves CG given the established positive relationship between NG and CG (Stulz, 2005). Improved CG then results in reduced agency costs and transitively external financing costs, which further weaken the precautionary motive for holding cash.

In Columns 9–12, where the cash sensitivity to dividend payment is examined, the coefficient of DIV is all significantly positive, whereas the significance of the coefficients of the interaction

variables that consist of at least Islam and DIV depends on the model estimated. Specifically, in Column 9, the modifying effect of Islam on the cash sensitivity to DIV is measured as 0.1, indicating that the positive effect of DIV on cash is stronger for Muslim majority countries than for other developing countries. The possible reason is that Muslim majority countries under examination are characterized by a bank-based financial structure, which is associated with low economic development, low transparency, and high agency costs, all of which should counteract the positive effect of Islam on CG. As a result, the hypothesized negative modifying effect of Islam on the cash sensitivity to DIV is non-existent. In Column 10, the modifying effect of Islam on the cash sensitivity to DIV is measured as 0.142 FS, indicating that the positive effect of DIV on cash is stronger for Muslim majority countries when financial structure is bank-based. A bank-based financial structure is associated with low transparency and high agency cost such that the expected negative modifying effect of Islam on the cash sensitivity to DIV is non-existent. Considering the effects of anti-director rights and national governance in Columns 11 and 12, the modifying effect of Islam on the cash sensitivity to DIV is measured as 0, indicating no significant difference in the effect of DIV on cash between Muslim majority countries and other developing countries, regardless of the strength of anti-director rights and the level of national governance.

Table 5. Islam and Cash Sensitivities to CAPX/NA, LEV and DIV in Developing Countries

Dependent variable: ln(CH/NA)	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)
Independent variable												
Ln(Size)	-0.039** (0.017)	-0.039** (0.017)	0.007 (0.016)	0.007 (0.015)	-0.039** (0.017)	-0.041** (0.017)	0.007 (0.016)	0.005 (0.015)	-0.038** (0.017)	-0.039** (0.017)	0.007 (0.016)	0.007 (0.015)
CF/NA	0.276*** (0.048)	0.277*** (0.048)	0.292*** (0.045)	0.296*** (0.045)	0.268*** (0.048)	0.266*** (0.048)	0.293*** (0.045)	0.293*** (0.045)	0.277*** (0.048)	0.277*** (0.048)	0.293*** (0.045)	0.297*** (0.045)
NWC/NA	-0.439*** (0.033)	-0.439*** (0.033)	-0.457*** (0.030)	-0.464*** (0.030)	-0.448*** (0.033)	-0.444*** (0.033)	-0.452*** (0.030)	-0.465*** (0.030)	-0.438*** (0.033)	-0.439*** (0.033)	-0.457*** (0.030)	-0.465*** (0.030)
CAPX/NA	0.715*** (0.122)	0.887*** (0.155)	0.931*** (0.168)	0.757*** (0.081)	0.764*** (0.085)	0.771*** (0.085)	0.782*** (0.076)	0.773*** (0.072)	0.759*** (0.084)	0.765*** (0.084)	0.785*** (0.075)	0.765*** (0.072)
LEV	-1.137*** (0.059)	-1.136*** (0.059)	-1.210*** (0.056)	-1.242*** (0.055)	-1.166*** (0.089)	-1.144*** (0.081)	-1.661*** (0.121)	-1.312*** (0.064)	-1.136*** (0.059)	-1.135*** (0.059)	-1.209*** (0.056)	-1.241*** (0.055)
DIV	0.188*** (0.017)	0.188*** (0.017)	0.171*** (0.015)	0.175*** (0.015)	0.187*** (0.017)	0.188*** (0.017)	0.171*** (0.015)	0.176*** (0.014)	0.198*** (0.027)	0.187*** (0.025)	0.193*** (0.028)	0.163*** (0.017)
RD/NA	1.404*** (0.392)	1.401*** (0.391)	1.561*** (0.360)	1.563*** (0.355)	1.387*** (0.392)	1.393*** (0.392)	1.543*** (0.358)	1.547*** (0.355)	1.406*** (0.391)	1.408*** (0.394)	1.561*** (0.361)	1.566*** (0.355)
Islam×CAPX/NA	0.215 (0.247)	-0.122 (0.245)	0.112 (0.370)	-0.013 (0.170)								
FD×CAPX/NA	0.078 (0.206)											
Islam×FD×CAPX/NA	-0.328 (0.369)											
FS×CAPX/NA		-0.280 (0.198)										
Islam×FS×CAPX/NA		0.419 (0.377)										

AR×CAPX/NA	-0.186 (0.194)					
Islam×AR×CAPX/NA	-0.151 (0.419)					
NG	0.198*** (0.060)			0.179*** (0.062)		0.219*** (0.063)
Islam×NG	-0.406*** (0.127)			-0.164 (0.135)		-0.410*** (0.130)
NG×CAPX/NA	0.211 (0.130)					
Islam×NG×CAPX/NA	-0.374 (0.310)					
Islam×LEV		0.381*** (0.147)	-0.296** (0.136)	0.322 (0.245)	0.053 (0.108)	
FD×LEV		0.017 (0.121)				
Islam×FD×LEV		-0.717*** (0.213)				
FS×LEV			-0.026 (0.128)			
Islam×FS×LEV			0.783*** (0.217)			
AR×LEV				0.515*** (0.132)		
Islam×AR×LEV				-0.292 (0.269)		
NG×LEV					0.132* (0.077)	

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Islam×NG×LEV									-0.774*** (0.170)				
Islam×DIV									0.100* (0.055)	0.020 (0.044)	0.047 (0.082)	0.050 (0.034)	
FD×DIV									-0.068* (0.039)				
Islam×FD×DIV									-0.052 (0.074)				
FS×DIV										-0.060 (0.039)			
Islam×FS×DIV										0.142* (0.078)			
AR×DIV												-0.055 (0.034)	
Islam×AR×DIV												0.024 (0.091)	
NG×DIV													-0.023 (0.024)
Islam×NG×DIV													-0.060 (0.062)
Constant	-2.820*** (0.079)	-2.822*** (0.079)	-2.880*** (0.071)	-2.877*** (0.069)	-2.820*** (0.079)	-2.815*** (0.079)	-2.874*** (0.071)	-2.860*** (0.068)	-2.825*** (0.079)	-2.820*** (0.079)	-2.878*** (0.071)	-2.877*** (0.069)	
<i>N</i>	60919	60919	75623	79537	60919	60919	75623	79537	60919	60919	75623	79537	
<i>n</i>	7516	7516	10666	11508	7516	7516	10666	11508	7516	7516	10666	11508	
<i>R</i> ²	0.060	0.060	0.059	0.060	0.062	0.062	0.060	0.061	0.061	0.061	0.059	0.060	

Notes: Cash holding (CH/NA) is the ratio of cash plus its equivalents plus short-term investment (cash) to net assets (NA), which are total assets net of cash. Firm size (Size) is total assets in millions of U.S. dollars. CF/NA is the ratio of cash flow to net assets, where cash flow is earnings before interest and taxes, depreciation and amortization, less interest, taxes, and common dividends. NWC/NA is the ratio of net working capital (NWC) to net assets, where NWC is total current assets less cash less total current liabilities. CAPX/NA is the ratio of capital expenditure (CAPX) to net assets, where CAPX is additions to fixed assets. Leverage (LEV) is the ratio of total debt to total assets. Dividend (DIV) is a dummy variable that takes a value of 1 if a firm pays dividends and 0 otherwise. RD/NA is the ratio of expense on research and development to net assets. Islam is a dummy variable that returns a value of 1 if a firm is in Muslim majority countries and 0 otherwise. Financial development (FD) is a dummy variable that returns a value of 1 (0) if a country is classified as a financially developed (underdeveloped) economy. Financial structure (FS) is a dummy variable that returns a value of 1 (0) if a country is classified as a bank-based (market-based) economy (Demirgüç-Kunt and Levine 1999). AR is a dummy variable that returns a value of 1 if a country's revised anti-director rights index (ARI) ≥ 4 and 0 otherwise. ARI is constructed by Djankov et al. (2008) and its value ranges from 1 to 5. NG is the mean of all six World Governance Indicators, with values ranging from -2.5 to 2.5. Higher values indicate higher level of national governance. All financial ratios are winsorized at the 1% and 99% level. *N* represents the number of firm-year observations and *n* the number of firms. Year dummies are included but results are not reported for brevity.

Thus, the results in Table 5 fail to support H2 but lend partial support to H3. The failure to fully support H2 and H3 can be attributed to the fact that the sampled countries belong to the same country group (i.e., developing countries) such that Muslim majority countries and other developing countries share substantial commonalities, which cause differences in the cash sensitivities between these two kinds of countries to be indistinguishable.

Table 6 presents the results regarding whether and how SC has bearings on the cash sensitivities to growth opportunities, leverage, and dividend payment in Muslim majority countries. In Columns 1–4, where the modifying effect of SC on the cash sensitivity to CAPX/NA is examined, the results are significant only in Column 2. Specifically, the modifying effect of SC is measured as $-0.71+1.146 FS$, which is negative (positive) when FS takes on the value of 0 (1). That is, when firms in Muslim majority countries are Sharia-compliant, the propensity to hoard cash for upcoming growth opportunities is weaker (stronger) when financial structure is market-based (bank-based), suggesting that SC reduces agency costs and the precautionary motive for holding cash in the presence of a market-based financial structure, which is often characterized by high transparency and disclosure. The results also suggest that CG is stakeholder-based and that profit or shareholder wealth maximization may not be the only objective for Sharia-compliant firms in Muslim majority countries. Thus, the results support H2. Moreover, the results suggest the absence of the modifying effect of SC on the cash sensitivity to growth opportunities through the channels of financial development, anti-director rights, and national governance.

In Columns 5–8, where the cash sensitivity to leverage is examined, the coefficients of LEV are all significantly negative, whereas the coefficients of the interaction variables that consist of at least SC and LEV are all insignificant. Thus, the negative effect of leverage on cash is further confirmed, consistent with the findings of prior studies. However, such a negative effect is not significantly different between Sharia-compliant firms and other firms in Muslim majority countries after controlling for financial development, financial structure, anti-director rights, and national governance.

In Columns 9–12, where the modifying effect of SC on the cash sensitivity to dividend payment is examined, the coefficient of DIV is significantly positive, whereas the coefficients of the interaction variables that consist of at least SC and DIV are significant in Column 11 only. Specifically, SC plays no role in modifying the cash sensitivity to dividend payment through the channels of financial development, financial structure, and national governance. However, the results in Column 11 indicate that the modifying effect of SC on the cash sensitivity to dividend payment is measured as $-0.239+0.232 AR$, which is essentially negative but becomes more negative when AR takes on the value of 0. The results suggest that SC can improve CG and reduce agency costs in Muslim majority countries such that it weakens the positive effect of DIV on cash, meaning that the effectiveness of dividend payment in reducing agency costs is higher for Sharia-compliant firms than for other firms. The results support H3. This phenomenon is also more pronounced when anti-director rights are weak, suggesting that the interests of stakeholders are

more aligned and that agency costs are lower under such circumstances. By contrast, when anti-director rights are strong, any conflict between shareholders and other stakeholders is more severe, meaning that agency costs are higher such that SC, which is a kind of CG mechanism, becomes less functional in increasing the effectiveness of dividend payment in reducing agency costs.

Thus, the results in Table 6 lend partial support for H2 and H3. That is, lower cash holdings in Muslim majority countries can be explained by lower cash sensitivities to growth opportunities and dividend payment because of SC, particularly when financial structure is market-based and anti-director rights are weak, respectively.

Table 6. Sharia Compliance and Cash Sensitivities to CAPX/NA, LEV and DIV in Muslim Majority Countries

Dependent variable: ln(CH/NA)	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)
Independent variable	X = CAPX/NA				X = LEV				X = DIV			
Ln(Size)	0.000 (0.037)	-0.004 (0.037)	0.000 (0.037)	0.000 (0.036)	0.001 (0.037)	-0.004 (0.037)	0.001 (0.037)	-0.005 (0.036)	0.003 (0.037)	-0.003 (0.037)	0.001 (0.037)	0.002 (0.036)
CF/NA	0.627*** (0.093)	0.632*** (0.093)	0.636*** (0.092)	0.639*** (0.092)	0.605*** (0.095)	0.594*** (0.095)	0.630*** (0.093)	0.610*** (0.094)	0.628*** (0.093)	0.627*** (0.093)	0.632*** (0.092)	0.636*** (0.092)
NWC/NA	-0.604*** (0.059)	-0.599*** (0.058)	-0.598*** (0.059)	-0.608*** (0.058)	-0.628*** (0.059)	-0.615*** (0.058)	-0.575*** (0.058)	-0.638*** (0.057)	-0.599*** (0.058)	-0.599*** (0.058)	-0.594*** (0.059)	-0.606*** (0.058)
CAPX/NA	0.739*** (0.261)	0.835*** (0.284)	1.041** (0.435)	0.647*** (0.214)	0.590*** (0.150)	0.608*** (0.150)	0.577*** (0.149)	0.567*** (0.144)	0.559*** (0.149)	0.572*** (0.149)	0.560*** (0.148)	0.526*** (0.143)
LEV	-1.537*** (0.115)	-1.525*** (0.115)	-1.518*** (0.115)	-1.571*** (0.114)	-1.275*** (0.138)	-1.819*** (0.169)	-2.091*** (0.264)	-1.692*** (0.137)	-1.529*** (0.116)	-1.530*** (0.115)	-1.510*** (0.116)	-1.567*** (0.115)
DIV	0.231*** (0.031)	0.232*** (0.031)	0.228*** (0.031)	0.231*** (0.030)	0.231*** (0.030)	0.233*** (0.030)	0.228*** (0.030)	0.234*** (0.029)	0.327*** (0.060)	0.242*** (0.054)	0.422*** (0.116)	0.247*** (0.042)
RD/NA	0.555 (0.879)	0.529 (0.922)	0.499 (0.861)	0.535 (0.907)	0.442 (0.910)	0.497 (0.929)	0.665 (0.858)	0.371 (0.929)	0.633 (0.885)	0.628 (0.915)	0.586 (0.885)	0.607 (0.903)
SC	-0.468*** (0.066)	-0.268*** (0.051)	-0.423*** (0.095)	-0.353*** (0.044)	-0.346*** (0.091)	-0.375*** (0.075)	-0.669*** (0.125)	-0.379*** (0.062)	-0.466*** (0.077)	-0.268*** (0.060)	-0.353*** (0.106)	-0.348*** (0.052)
SC×FD	0.223*** (0.083)				0.019 (0.122)				0.224** (0.098)			
SC×X	-0.035 (0.359)	-0.710** (0.339)	-0.624 (0.560)	-0.271 (0.258)	-0.301 (0.305)	0.026 (0.245)	0.463 (0.450)	-0.024 (0.200)	-0.020 (0.078)	-0.082 (0.062)	-0.239* (0.129)	-0.039 (0.051)
FD×X	-0.104 (0.424)				-0.555*** (0.212)				-0.143* (0.083)			
SC×FD×X	-0.455 (0.534)				0.287 (0.402)				-0.028 (0.103)			

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SC×FS	-0.230** (0.090)				0.082 (0.133)				-0.254** (0.109)			
FS×X	-0.241 (0.416)				0.675*** (0.206)				0.033 (0.085)			
SC×FS×X	1.146** (0.554)				-0.398 (0.430)				0.170 (0.113)			
SC×AR	0.097 (0.104)				0.402*** (0.143)				0.016 (0.118)			
AR×X	-0.404 (0.490)				0.685** (0.284)				-0.198 (0.123)			
SC×AR×X	0.383 (0.632)				-0.752 (0.501)				0.232* (0.141)			
NG	-0.297** (0.134)				0.031 (0.158)				-0.266* (0.136)			
SC×NG	0.166** (0.079)				-0.148 (0.116)				0.195** (0.096)			
NG×X	0.041 (0.365)				-0.659*** (0.186)				-0.080 (0.073)			
SC×NG×X	-0.717 (0.496)				0.589 (0.377)				-0.109 (0.099)			
Constant	-2.483*** (0.170)	-2.475*** (0.170)	-2.484*** (0.170)	-2.451*** (0.168)	-2.482*** (0.173)	-2.455*** (0.173)	-2.474*** (0.175)	-2.397*** (0.171)	-2.491*** (0.169)	-2.475*** (0.170)	-2.492*** (0.170)	-2.451*** (0.167)
<i>N</i>	17253	17253	17477	18266	17253	17253	17477	18266	17253	17253	17477	18266
<i>n</i>	1945	1945	1992	2142	1945	1945	1992	2142	1945	1945	1992	2142
<i>R</i> ²	0.076	0.075	0.074	0.075	0.077	0.078	0.075	0.078	0.076	0.076	0.074	0.076

Notes: Cash holding (CH/NA) is the ratio of cash plus its equivalents plus short-term investment (cash) to net assets (NA), which are total assets net of cash. Firm size (Size) is total assets in millions of U.S. dollars. CF/NA is the ratio of cash flow to net assets, where cash flow is earnings before interest and taxes, depreciation and amortization, less interest, taxes, and common dividends. NWC/NA is the ratio of net working capital (NWC) to net assets, where NWC is total current assets less cash less total current liabilities. CAPX/NA is the ratio of capital expenditure (CAPX) to net assets, where CAPX is additions to fixed assets. Leverage (LEV) is the ratio of total debt to total assets. Dividend (DIV) is a dummy variable that takes a value of 1 if a firm pays dividends and 0 otherwise. RD/NA is the ratio of expense on research and development to net assets. Sharia compliance (SC) is a dummy variable that equals one if a firm is Sharia compliant and 0 otherwise (Farooq and Alahkam 2016). Financial development (FD) is a dummy variable that returns a value of 1 (0) if a country is classified as a financially developed (underdeveloped) economy. Financial structure (FS) is a dummy variable that returns a value of 1 (0) if a country is classified as a bank-based (market-based) economy (Demirgüç-Kunt and Levine 1999). AR is a dummy variable that returns a value of 1 if a country's revised anti-director rights index (ARI) ≥ 4 and 0 otherwise. ARI is constructed by Djankov et al. (2008) and its value ranges from 1 to 5. NG is the mean of all six World Governance Indicators, with values ranging from -2.5 to 2.5. Higher values indicate higher level of national governance. All financial ratios are winsorized at the 1% and 99% level. *N* represents the number of firm-year observations and *n* the number of firms. Year dummies are included but results are not reported for brevity.

Conclusion

Corporate liquidity in Muslim majority countries has remained minimally explored. CG in Muslim majority countries has also remained a mystery and a matter of debate, particularly for non-financial firms. However, no research has yet to provide firm-level evidence supporting any claim. The current study contributes to the existing literature by examining corporate liquidity and using the results obtained to infer CG of non-financial firms in Muslim majority countries.

This study uses 34,895 non-financial firms from 68 countries (12 Muslim majority countries and 56 other countries, which consist of 26 developing and 30 developed countries) from 1996 to 2011 as the study sample. The results indicate that, controlling for other variables, cash is lower in Muslim majority countries than in other countries and that such a phenomenon is more pronounced when compared with developed countries. This negative effect of Islam on cash is also stronger when Muslim majority countries are financially developed or have weak anti-director rights. The modifying effects of Islam and SC on cash determination prove to explain lower cash holdings in Muslim majority countries. More importantly, the negative effect of leverage on cash is stronger in Muslim majority countries than in other developing countries, particularly when the former have high financial development, a market-based financial structure, or strong national governance, suggesting higher effectiveness of debt in reducing agency costs in the former than in the latter. Moreover, SC directly and negatively affects cash, and this negative effect is stronger when Muslim majority countries have low financial development, a bank-based financial structure, or weak anti-director rights. Furthermore, SC indirectly and negatively affects cash through the channels of growth opportunities and dividend payment. Specifically, the positive effect of growth opportunities on cash is weakened by SC when Muslim majority countries have a market-based financial structure, suggesting that the inclination of firms to hoard cash to take advantage of any growth opportunities is lower in Muslim majority countries with a market-based system. This situation is likely because the corporate objective in Muslim majority countries is the maximization of stakeholder wealth rather than shareholder wealth as in other countries. The positive effect of dividend payment on cash is also weakened by SC, and this phenomenon is more pronounced when Muslim majority countries have weak anti-director rights, suggesting that dividend payment is more effective in reducing agency costs for Sharia-compliant firms than for other firms in Muslim majority countries. Overall, the results highlight the uniqueness of the cash policy and CG in Muslim majority countries. These results strongly suggest that CG in Muslim majority countries is stakeholder-based rather than shareholder-based. CG in Muslim majority countries also proves to be good, if not better than that in other countries. Therefore, the results of this study challenge the findings of prior studies on poor CG in Muslim majority countries, which have been solely based on country-level governance data.

The results provide implications for researchers, practitioners, and policymakers. For researchers, the results suggest that CG in Muslim majority countries is stakeholder-based and profit

maximization is not the corporate objective in Muslim majority countries. CG also proves to be good in Muslim majority countries, particularly for Sharia-compliant firms. Therefore, future related studies should consider all these findings. For practitioners, the results suggest that firms in Muslim majority countries should hold limited cash and care for the falah of the entire society instead of shareholders only. For policymakers, given the contribution of Sharia to good CG in Muslim majority countries, governments in these countries should effectively enforce Sharia for the benefit of firms.

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Level of Shariah Compliance in the Operation of Islamic Banks in Bangladesh: An Empirical Study

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Abstract

This paper has tried to assess the level of Shariah compliance in the operation of the Islamic Banks in Bangladesh. The data were collected from questionnaire survey on 400 respondents from six Islamic banks regarding banking operations and from personal interview with bank officials & regulators of the banks in the month December 2019. Other data were attained from different journals, books, *Qur'an*, *Sunnah* and the websites of the sample banks. Descriptive statistics are used to analyze the data. Although most of the Islamic banks have policy for shariah deposit, they offer fixed profit rate which is violation of shariah. In case of investment, significant non-compliance is found in *Musharakah* contract although moderate level of compliance is found in *Mudarabah*, *Ijarah* and *Quard Hasanah* contracts. Highest level of non-compliance is found in shariah based annual audit. The underlying reasons for the non-compliance are the absence of mandatory Shariah guidelines, lack of Shariah scholarly officials, dual audit compliance, absence of penalties for non-compliance and some other external factors. If the Central bank and other regulatory bodies are concerned enough to form a uniform guideline for all the Islamic banks operating in Bangladesh, it will be easier for the Islamic banks to comply with Shariah. This is the sole study that deals with different areas of operations in the Islamic Banks to assess the shariah compliance. It has incorporated both survey and interview findings to assess the real picture.

Keywords: Shariah, Islamic bank, Islamic financial institutions, Shariah compliance, Bangladesh

Jel Codes: G10, G21, G28, G38

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Introduction

Shariah is an Arabic word which means following the Islamic rules and regulations that are provided with *Qur'an & Sunnah* (Omar, 2010). Shariah is the operational foundation for Islamic Financial Institutions (IFI) such as Islamic banks and if anybody or any institution is not following Shariah in all its activities, he/she will not be treated as Muslim and that institution will not be regarded as Islamic institutions (Al-Quran, 5:44).

The main differentiating point between Islamic and conventional banks is the interest (*riba*) which is strictly prohibited in Islam. Islamic banks follow profit and loss sharing (PLS) system to comply with *shariah*. It offers *Mudarabah* (which is trust based financing), *Musharakah* (which is participatory based financing) and *Murabaha* (which is mark-up-based financing) based contract to ensure profit instead of interest (Miah & Suzuki, 2020).

The definite characteristics of Islamic banking are the prevalence of Shariah supervisory board that consists of Shariah scholars (Abbas et al., 2009). This board affects the operational activities of Islamic banks according to Abbas et al. (2009) and Iqbal et al. (1998). Shariah experts play a substantial character in the practice of Islamic banks (Siddiqi, 2006a) although shariah based governance has several limitations e.g. lack of experts, dual compliance etc. (Siddiqi, 2006a). The followings are some concepts from Al Baraka bank, Lebanon (2004) that defines the Islamic banks' main characteristics:

- *Prohibition of usury or interest*: Interest is basically known as usury or *riba* which is strictly forbidden for Islamic banks either in case of giving or receiving. Islamic banks are not only strictly prohibited from discharging any *riba* or interest payments but also disallowed to involve in speculation. They mainly run business based on profit-loss sharing (Choudhury & Hoque, 2006).
- *Ethical Standards*: Islamic banks follow an ethical standard in case of choosing investment sector because it is their duty to investigate where it investing in, what goods it generates, what services it supplies and finally what is the impact of it on the society and the economy.
- *Moral/social values*: Islamic banks will not work only for profit. It should care and support the poorer section of the community by profit free loan, donation, grants etc. for their betterment.
- *Liability and business risk*: The Islamic Shariah supports the concept of fairness and justice- that all the parties involved in the contract shall share the profit as well as risk among them. The profit will be shared based on the predetermined rate and the risk.

The growth in Islamic finance and banking has been unrivalled not only in Muslim countries but also in western countries (Khan & Bhatti, 2008). The banking industry that started on a modest scale since its inception in the mid-1970s has shown a rapid expansion and evolution over the past five decades. It is in fact one of the fastest growing industries, having posted double-digit annual growth rates for almost 50 years (Bangladesh bank, 2020).

Islamic bank is a socially responsible organization that conducts business by using society's resources (Omar and Haq, 1996). But it is not possible for a sound person to consider that the Islamic bank or banking system is a benevolent organization that merely have apprehension for the people being unprivileged or to offer monetary support as requested (Rosly and Bakar, 2003). In the same way, it is incompatible for the Islamic banks management to put emphasis on profit maximization policy only by neglecting other public obligations. As an alternative, Islam aims for getting a sense of balance between social objectives and profit. If Islamic banks are not capable of providing adequate profits to shareholders and depositors who have trusted them with money, it will be injustice to them. Besides, they are not assumed to make extreme earnings at the cost of customers or neglecting and undermining their social accountability and obligations to their different Stakeholders (Chapra, 1985; Ahmad, 2000).

1. Emergence of Islamic Banking Concept in Bangladesh

Bangladesh is an eminent center for Islamic banking within south Asia. Here Islamic banking concept was first initiated in 1983 by founding Islami bank Bangladesh Ltd. as a commercial private bank with the ingenuity of few Muslim entrepreneurs and under the guidance of intercontinental Islamic institutions and Bangladesh government. After foundation, the number of Islamic banks in Bangladesh has increased enormously with the massive retaliation from the Muslim people of Bangladesh. The second founding Islamic bank was Al-Baraka Bank Bangladesh Ltd. This has been lately rebranded as ICB Islamic Bank Ltd. From 1995, a great number of commercial banks that are conventional in nature initiated to start Islamic banking by introducing Islamic banking branches or windows such as prime bank (BMB Islamic, 2011; Sarker, 2005;). Till June 2020, eight full-fledged Islamic banks having branches of 1274, 9 conventional banks with 19 Islamic banking branches and 12 conventional banks with 155 Islamic banking windows are providing Islamic banking services in Bangladesh (Bangladesh Bank, 2020).

Table 1. Recent Information about Islamic Banks in Bangladesh

Category	Bank name	Total number of branch/ windows
A)	Full-fledged Islamic Banks (branches)	1278
1	Islami Bank Bangladesh Limited	358
2	First Security Islami Bank Limited	189
3	Al-Arafah Islami Bank Limited	184
4	Social Islami Bank Limited	161
5	EXIM Bank Limited	131
6	Shahjalal Islami Bank Limited	132
7	Union bank Limited	90
8	ICB Islamic Bank Limited	33
B)	Islamic banking branches of conventional banks	19
1	The City bank Limited	1
2	AB Bank Limited	1
3	Dhaka Bank Limited	2
4	Premier Bank Limited	2
5	Prime Bank Limited	5
6	Southeast Bank Limited	5
7	Jamuna Bank Limited	2
8	Bank Alfalah Limited	1
C)	Islamic banking windows of conventional banks	156
1	Sonali Bank Limited	58
2	Janata Bank Limited (has permission but not yet started)	0
3	Agrani Bank Limited	15
4	Pubali Bank Limited	12
5	Trust Bank Limited	15
6	Standard Bank Limited	5
7	Bank Asia Limited	5
8	Standard Chartered Bank	1
9	NRB Global Bank	25
10	Mercantile Bank	10
11	Midland Bank	2
12	NRBC Bank	8

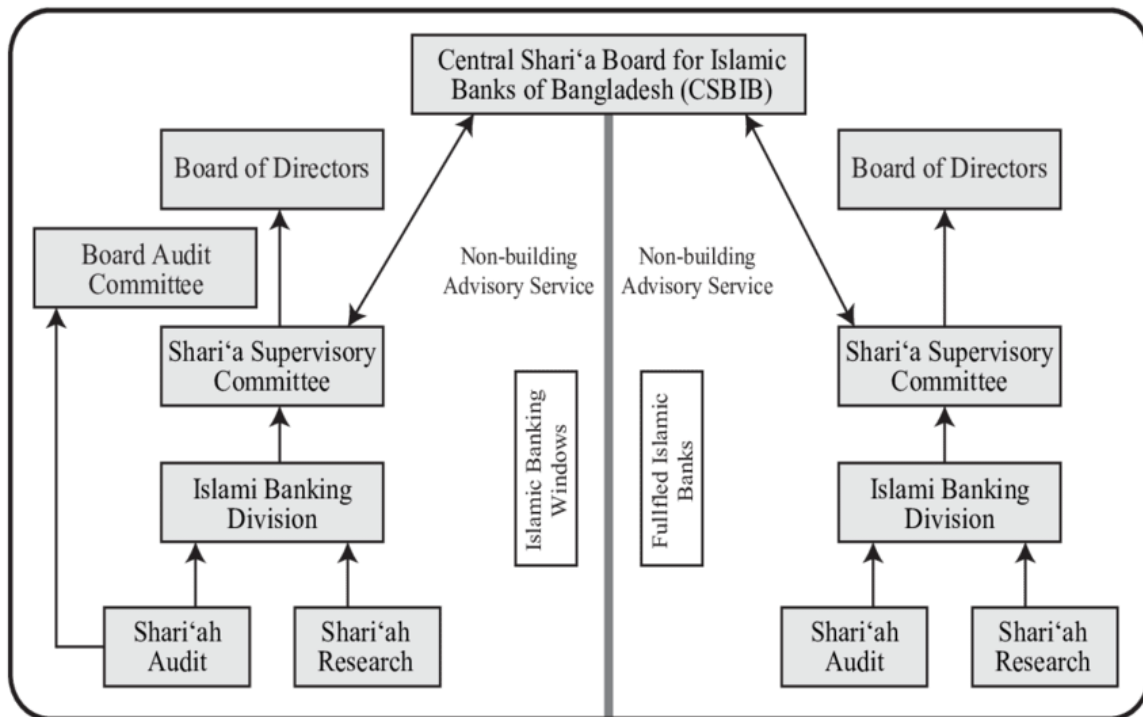
Source: Websites of the banks (Accessed October 25, 2020)

According to Nabi, Islam, Bakar, Akter (2015), Approximately 20% of the market share in banking sector is controlled by the Islamic banks although current market share has

risen to around 25% (The Financial Express, February 18, 2020; Bangladesh Bank, 2020). However, Shariah compliance system can hardly be known fully as no separate law has been introduced in regards of performing Islamic banking activities in Bangladesh. The regulatory authority, Bangladesh bank regulates the activities of not only conventional banks but also the Islamic banks. The central bank has placed Shariah compliance guidelines for the functions of Islamic banks in Bangladesh in 2009. The guideline forms severe criteria for the competencies as well as qualities of a member of a Shariah supervisory council (Bangladesh Bank, 2014).

Bangladesh bank does not contain a board regarding Shariah to oversee Bangladeshi Islamic banks. However, there is a Central Shari’ah Board for Islamic Banks of Bangladesh (CSBIB) which is a private non-corporate organization. CSBIB comprises almost all the Islamic banks in Bangladesh as their member. It is composed of a great number of well-known scholars within Bangladesh and holds habitual meetings regularly to talk about Shariah issues associated with the Islamic banking sector. It also conducts research and publishes journals and books to provide guidance to its members (BMB Islamic, 2011). Nevertheless, Shariah resolutions provided by CSBIB anyway are not obligatory rather than voluntary, it only gives advisory services. However, due to reputation risks (e.g. non-compliance), Islamic banks do not contravene the guidance provided by the CSBIB (Abdullah & Rahman, 2017).

Figure 1. Shariah Governance Structure of Islamic Banks in Bangladesh



Source: Abdullah and Rahman (2017)

From the literature, Shariah is the utmost standard followed from Quran and Sunnah for Islamic Financial Institutions (IFI). An increasing trend in the number of Islamic Banks and Islamic Banking divisions in Bangladesh raised the question whether they are complying with the Shariah in its operation. This paper has tried to assess the operational compliance from the perspective of deposits, investment, audit and other activities.

2. Literature Review

Banks that continue their activities as per the instructions of Islamic Shariah are called the Islamic banks and only the Shariah is the major instructing principle for performing bank's operational activities (Ahmad, 2000; Ahmad, 1984; Siddiqui, 2001, Siddiqi, 1985; Siddiqi, 1983; Khan and Mirakhor, 1986;). Shariah governance performs as an overall system controls that ensure that all the transactions and activities of Islamic financial institutions and banks comply with the principles of Shariah (Haridan, Hassan and Karbhari, 2018). Except the things explicitly forbidden by Shariah guidance, every single economic affair is permitted (Kamali, 2000).

In Shariah, interest is prohibited (Al-Quran, 2:275, 3:130, 4:161) and Islamic banks should involve in transactions that are not associated with interest (Ahmad, 2008). Studies of Chapra and Khan (2000) identified that Islamic Shariah banking system seems as interest-based products but they are not, because there are some major distinctions between the interest & profit e.g. interest is fixed but profit is not fixed. Interest creates injustice and cruelty (burdensome for payment) that can be replaced by launching the profit-loss sharing based investment methods (e.g. Mudarabah, Musharakah etc.) that are Halal methods of conducting business (Jalil and Rahman, 2010; Rarick, 2009; Abdul Rahman, 2007; Imam and Kpodar, 2010).

Conventional banks comprise of single layer governing body with the board of directors and executives while the Islamic banks have an additional layer as Shariah supervisory board for monitoring the Shariah related activities. The role of Shariah supervisory board is to oversee whether Islamic banks involve trading with any prohibited activity (Mollah & Zaman, 2015).

Islamic institutions must follow a set of Shariah principles so that they can grab the general peoples' trust and confidence (Rashid *et al.*, 2014; Ghayad, 2008; Ahmad and Haron, 2002; Laldin, 2008; Metawa & Almossawi, 1998; Naser *et al.*, 1999; Archer & Karim, 2002). Shariah compliance is the key factor that ensures the trustworthiness of banks following Islamic Shariah and stimulates credence in the stakeholders specially the shareholders for selecting Islamic banks (Bhambra, 2002; Rammal, 2006). Shariah compliance ensures justice and growth in the economy (Chapra & Ahmed, 2002). Higher

shariah compliance helps IFIs to sustain in the market (Sori *et al.*, 2015), on the other hand Poor Shariah compliance results in market failure (Sori *et al.*, 2015; Hassan *et al.*, 2017).

Although Islami banks are established to provide shariah services to the customer, the mission statement of these banks fails to communicate clearly its objectives & goals (Ahmed *et al.*, 2017). Some study strongly claim that there are no difference between the Islamic banks with those of the conventional banks (Yousef, 2004; Abozaid and Asyraf, 2007; Meera and Dazuljastri, 2005; and Kuran, 2004). Yusof and Fahmy (2008) has stated that the difference between Islamic and conventional banks is the use of the term “profit rate” rather than interest rate. Malik *et al.* (2011) claimed that financing products offered by Islamic banks generally have a closer resemblance to the debt instruments other than profit-loss partnership. Usmani (2008), has found that most of the Sukuk (bond) issued by the Islamic banks are not complying with shariah. Meera & Larbani (2009) have confirmed that the model of Islamic bank is simply the resemblance of conventional banking which violates Shari’ah; as a result, the objectives of establishing Islamic banks fail. Ullah (2014) has found that shariah compliance in Islamic banks are in vulnerable state specially in investment activities. Again, Islamic banks claim to contribute its large portion from profit in social activities but it has been seen that recently Islamic banks have fallen drastically in regards of social reporting (Hossain & Khatun, 2014). Although Islamic banks are thought as an ethical organization, they are found less compliance with Islamic ethics (Febianto, 2010). They comply with profit-loss sharing in theory rather than in practice (Chong and Liu, 2009; Obaidullah, 2008).

There are lots of reasons for non-compliance of shariah in Islamic banks. The major obstacle of complying with shariah is the absence of shariah framework from the regulators (Alam *et al.*, 2019; Ullah, 2014; Ahmad and Hassan, 2007). Alam *et al.* (2019) has found that the Board of Directors use the Shariah Supervisory Board in achieving their objectives. Another big problem is the lack of shariah experts who are supposed to have both conventional and shariah based banking knowledge (Malik *et al.*, 2011; Grais and Pellegrini, 2006). Moreover, different interpretations by different scholar on a particular issue (Grais and Pellegrini, 2006; Ullah, 2012), lack of knowledge regarding shariah complaint products (Koch and Stenberg, 2010), time limitations and lack of supporting staffs of the shariah experts (Malik *et al.*, 2011; Chapra and Khan, 2000) and Chapra & Ahmed, 2002) are also responsible for the non-compliance.

3. Research Objective

The purpose of our study is to find out the current degree of Shariah compliance by Islamic banks that are conducting their business in Bangladesh. This study will try to

assess not only the degree of Shariah compliance but also the degree of Shariah violation by the Islamic banks. Sometimes this Shariah violation is caused by the external factors but in other case it is caused because of the bank's internal limitations. So, our objective is to find out both the internal and external limitations of Islamic banks and to suggest some actions to eliminate Shariah related non-compliance for ensuring a better banking service.

4. Research Methodology

The study has been conducted based on the qualitative research methodology. The qualitative data for the study has been collected from both primary and secondary sources. The primary data were collected from practitioners and the regulators point of view. Practitioner's opinion was collected through field survey on the Islamic bank's employees as they are well known regarding the compliance of *Shariah* in deposits, investments and other activities of the bank. For questionnaire survey we selected six (6) Islamic banks out of 8 full-fledged Islamic banks as sample which is 75% of total population. The samples are selected based on convenience method as the employees of these banks can be conveniently reached due to familiarity and more insightful information might be obtained. In total 400 respondent's opinion was collected through the survey from the 6 full-fledged Islamic banks. In full-fledged Islamic banks, for survey 20-25 employees were approached in each branch of Islamic banks. This study basically targeted corporate branches of the sampled banks as they possess more information. For Islami Bank Bangladesh Limited 6 branches, for Social Islami bank Ltd (SIBL) 2 branches, for Shahjalal Islami bank Ltd (SJIBL) 2 branches, for Al-Arafa Islami bank Ltd (AIBL) 3 branches, for ICB Islami bank Ltd (ICBIBL) 2 branches and for Union bank Ltd (UBL) 3 branches were visited. Due to lack of time and accessibility, it was not possible to cover more branches. The respondents were approached graciously and explained the objective of the study so that they give their unbiased opinion to us. They were permitted to take the questionnaires at home and return it on the following day in their information desk. This gives them the opportunity to fill the questionnaire at their convenient time and at the same time their working hours or their break periods were not affected. Furthermore, employees were explained carefully that their management was not involved, and the confidentiality and anonymity of their opinions was guaranteed for reducing the probability of response favoritism. Total 425 forms of questionnaire were distributed in late December 2019 and among them 405 were collected. Among the 405 answered questionnaires, 400 were properly usable. As the response rate is about to 94%, the rate can be considered as large enough as well as satisfactory for the statistical inferences.

Table 2. Information about the Questionnaire Survey

SL #	Selected bank name	Distributed questionnaire	Received & completed questionnaire	Response rate
1	Islami bank Bangladesh Ltd (IBBL)	137	129	94.16%
2	Social Islami bank Ltd (SIBL)	52	45	86.53%
3	Shahjalal Islami bank Ltd (SJIBL)	54	51	94.44%
4	Al-Arafa Islami bank Ltd (AIBL)	70	66	94.28%
5	ICB Islami bank Ltd (ICBIBL)	40	38	95.00%
6	Union bank Ltd (UBL)	72	71	98.61%
	Total	425	400	94.11%

Source: Author's own constructed

The questionnaire having four sections concentrating on Shariah compliance in Deposit, Shariah compliance in Investment activities, Shariah compliance in Auditing and Other Shariah Compliance Issues were given to every respondent. 5-point Likert Scale was used for data collection as: 5-Strongly Agree, 4-Agree, 3-Neutral, 2-Disagree, 1-Strongly Disagree. Likert scale is used here as it is better able to assess the level of compliance (Sarea, Muslih and Hawaldar, 2017).

The practitioner's view regarding shariah compliance is obtained from personal interview with two Shariah Supervisory Board (SSB) members from IBBL and SIBL respectively. Due to time limitations and difficulty of accessibility, Shariah Supervisory Board members of other banks were not possible to reach. They have informed about their current actions for ensuring successful Shariah compliance. The regulators point of view was received through a personal interview on top management level's employees of Bangladesh bank. Due to time constraint of the officials, two executives of Bangladesh bank head office were interviewed to understand their initiatives regarding Shariah compliance in the operations of Islamic banks.

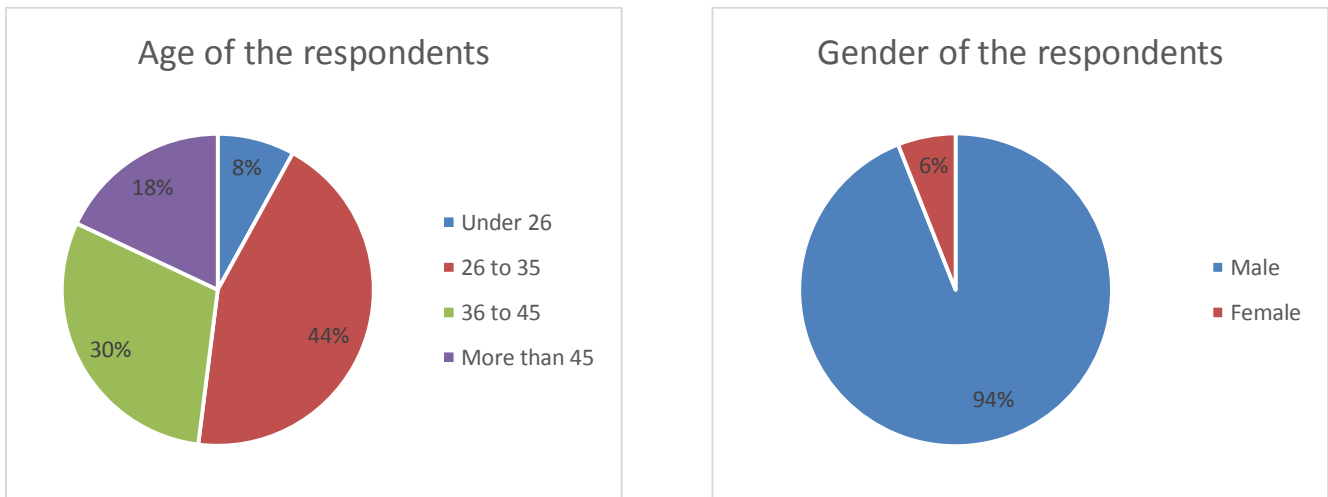
Secondary data was collected from Islamic banks annual report, Islamic banks websites, *Qur'an*, *Sunnah*, articles regarding Islamic Shariah, reports published on Islamic bank's performance by Bangladesh bank etc. Data were analyzed through the calculation of mean, maximum, minimum, standard deviations and data were presented through tables, chart/graphs.

5. Analysis of the Questionnaire Survey

5.1. Demographic Information of the Respondents

Out of 400 respondents, most of them are male (94%) as banking sector hires more male employees than female. Most of the respondents' age is between 26 to 45 (74%).

Figure 2. Demographic Information of The Respondents



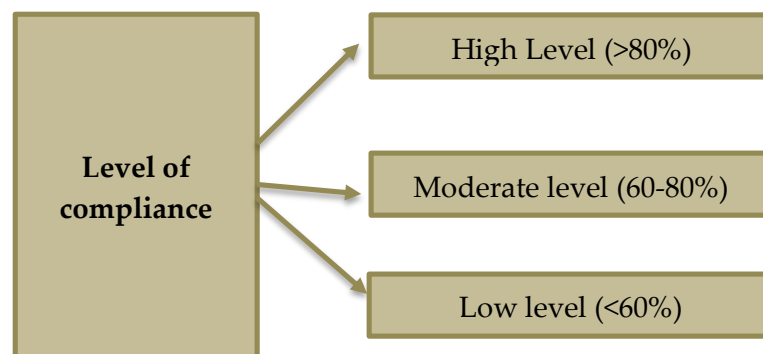
Source: Author's own constructed

5.2. Shariah Compliance in Deposits

The compliance level is categorized in to three type:

1. High level of compliance: Here the level of compliance is above 80%.
2. Moderate level of compliance: Here, compliance is found in between 60% and 80%
3. Low level of compliance: Here compliance is very low. Its below 60% (Sarea, Muslih and Hawaldar, 2017).

Figure 3. Three Level of Compliance



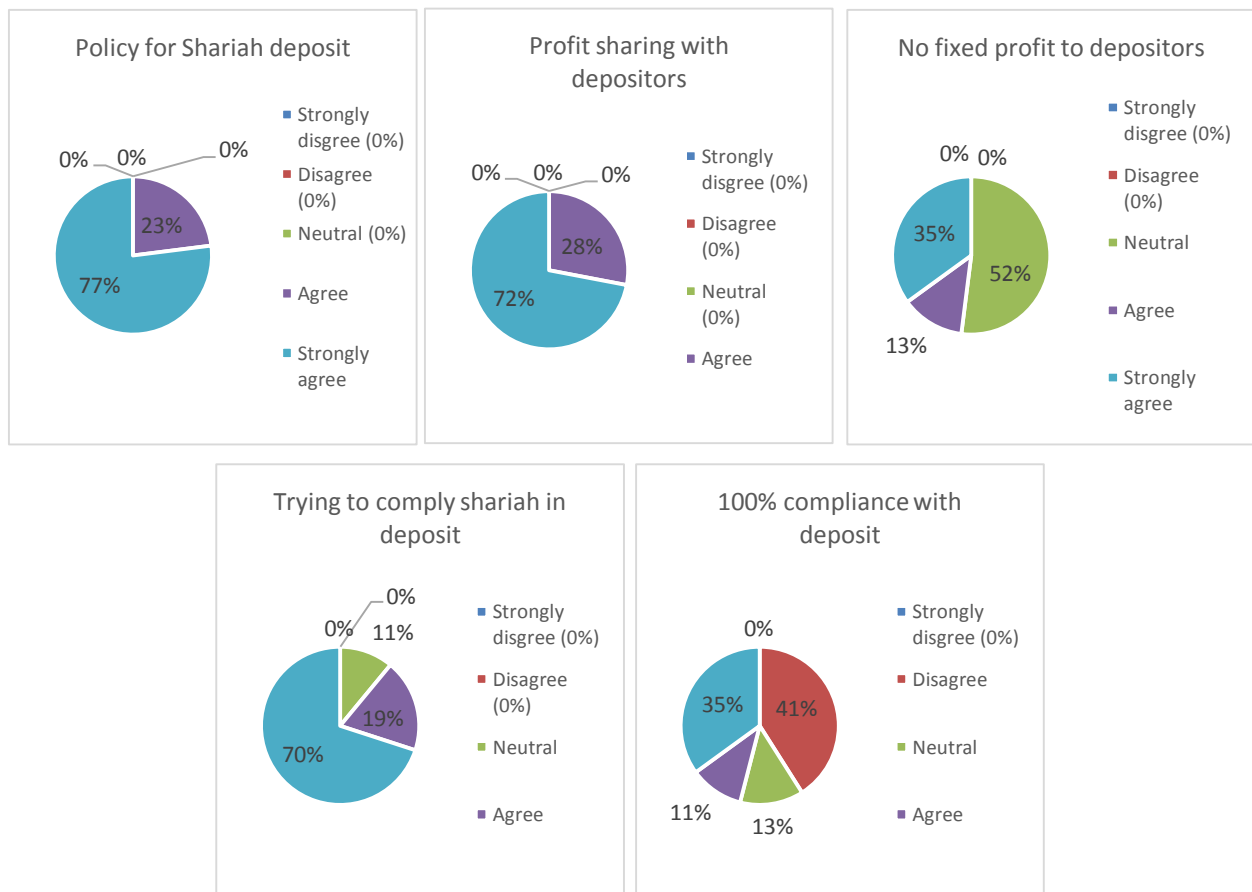
Source: Author's own constructed

Table 3: Descriptive Statistics in Deposits Survey

SL. #	Shariah compliance in deposits:	Min	Max	Mean	SD
Q-01	The bank has a policy for Shariah deposit.	4.00	5.00	4.77	.42
Q-02	The bank shares the profits with depositors.	4.00	5.00	4.72	.45
Q-03	No fixed profit is offered to the depositors.	3.00	5.00	3.22	.76
Q-04	The bank is trying to comply with the Shariah regarding deposits.	3.00	5.00	4.51	.58
Q-05	The bank has 100% compliance with the Shariah regarding deposits.	2.00	5.00	4.29	.61

Most of the employees believe that their banks comply the Shariah in providing deposit schemes as well as they give profit to the deposit holders. But the non-compliance can be traced from the question whether they comply 100%, where the minimum score is 2 and standard deviation is .6134. Moreover, neutral position in the question whether their banks offer fixed profit to the depositors cast doubt regarding profit sharing principles. So, non-compliance is found from the deposit’s perspective.

Figure 4. Shariah Compliance in Deposits



The pie chart above shows that almost all the Islami banks have policy for shariah deposits; they share profit with the depositors, and they try to comply with shariah regarding deposits. But the fact is the majority neutral position (52%) with the statement 'no fixed profit is offered to depositors' casts doubt about the compliance with shariah deposit policy. Moreover, 41% respondents disagree with the statement that Islami banks have 100% compliance with shariah in deposit. This implies that by offering fixed profit rate in deposit, Islami banks violates shariah in deposit.

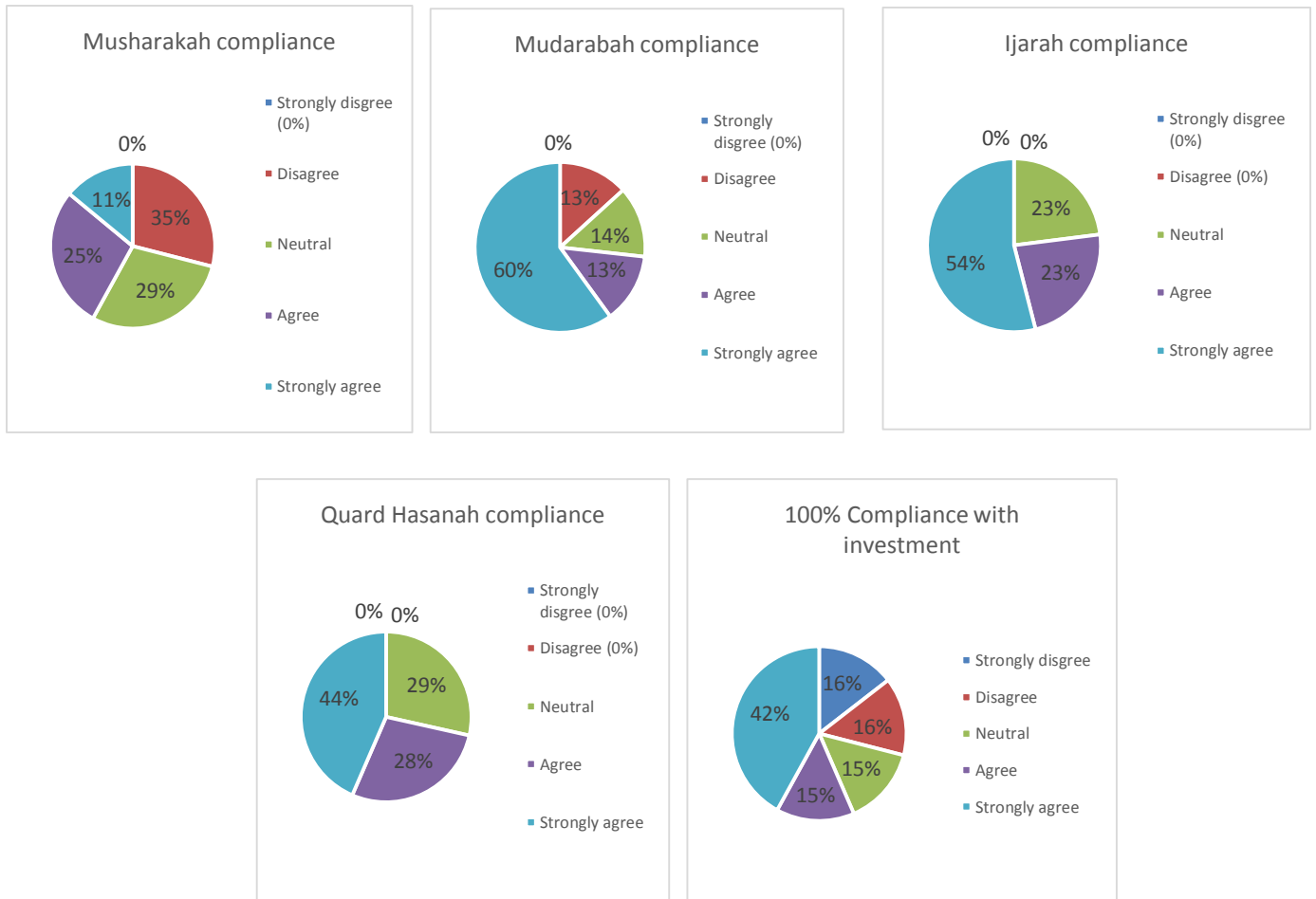
5.3. Shariah Compliance in Investment Activities

Table 4. Descriptive Statistics on Investment Activities Survey

SL. #	Shariah compliance in investment activities:	Min	Max	Mean	SD
Q-01	The bank follows Islamic <i>shariah</i> in <i>Musharakah</i> (profit-loss sharing partnership).	2.00	5.00	3.27	.68
Q-02	The bank follows Islamic <i>Shariah</i> through <i>Mudarabah</i> (venture capital).	2.00	5.00	4.20	.63
Q-03	The bank follows <i>Shariah</i> in <i>Ijarah</i> (Lease).	3.00	5.00	4.31	.60
Q-04	The bank follows <i>Shariah</i> while providing <i>Quard Hasanah</i> (Benevolent loan).	3.00	5.00	4.15	.75
Q-05	The bank has 100% compliance with the <i>Shariah</i> regarding investments.	1.00	5.00	3.55	.87

The overall average score of investment section is 3.55 which indicates the neutral position in investment activities. The minimum value (1) of 100% compliance with shariah based investment cast substantial doubt regarding the compliance in this section as well. Most of the Islamic banks do not provide investment loans following the *Musharakah* method as concluded from the survey where 209 (out of 400) respondents opposed to agree with the statement. The minimum value (2) of *Musharakah* and *Mudarabah* investment also support the inference. Although the *Ijarah* related shariah compliance is mostly found, the overall compliance is not satisfactory at all.

Figure 5. Shariah Compliance in Investments



The chart above shows that most of the respondents believe that Islami banks have moderate level of compliance with *Mudarabah* investment (73%), *Ijarah* (77%) and *Quard Hasanah* (72%) and very low level of compliance with *Musharakah* investment (36%). Overall compliance with the investment is also low (57%).

5.4. Shariah Compliance in Auditing

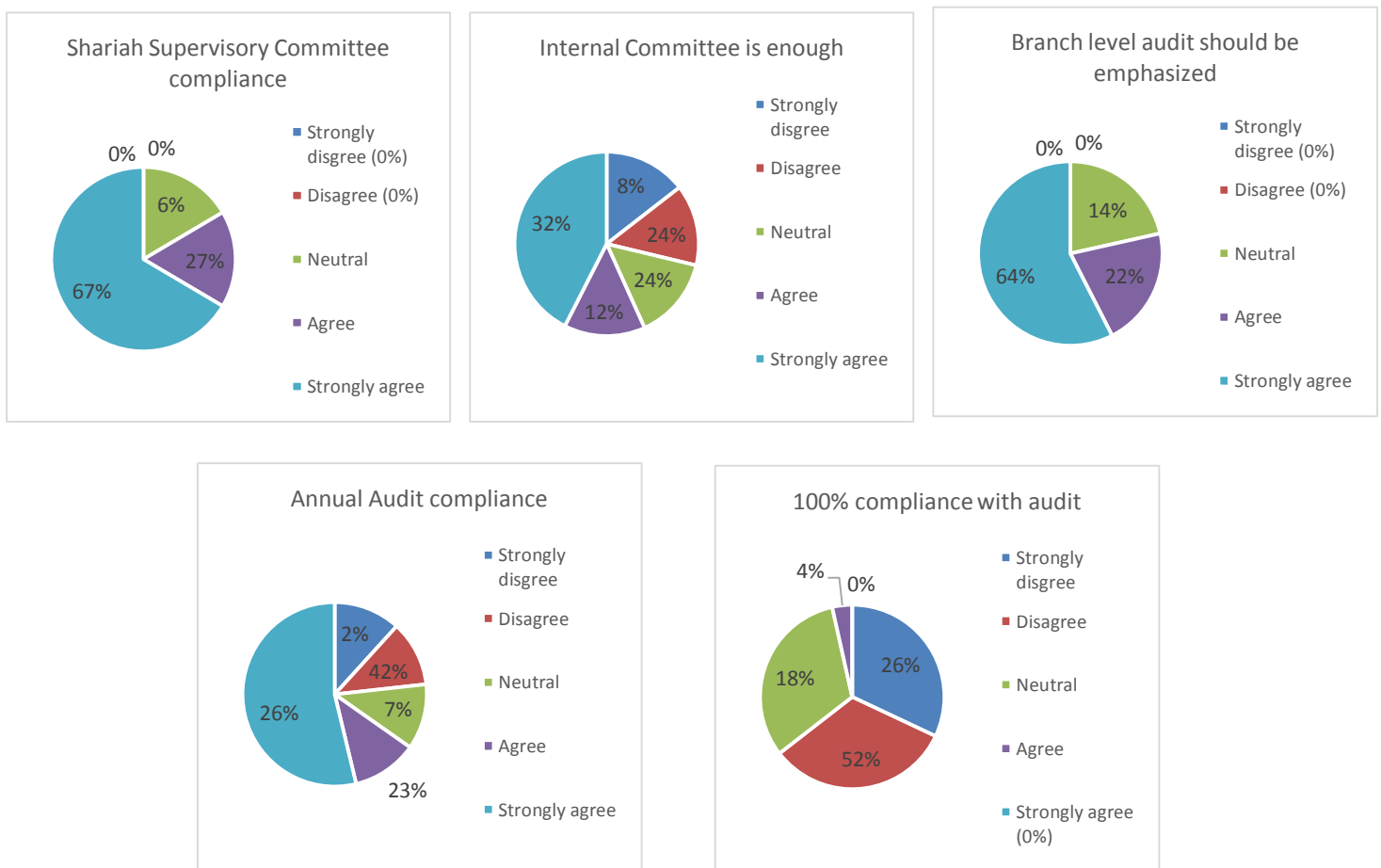
Table 5. Descriptive Statistics on Auditing Activities Survey

SL. No:	Shariah compliance in auditing:	Min	Max	Mean	SD
Q-01	The bank has a Shariah supervisory committee that overlooks the Shariah based activities.	3.00	5.00	4.50	.54
Q-02	Existing internal committee is enough to ensure Shariah compliance at all levels.	1.00	5.00	3.56	1.38
Q-	Branch level Shariah audit system needs to be	3.00	5.00	4.36	.53

Q-03	given more emphasis for ensuring Shariah compliance of the bank.				
Q-04	The bank is audited annually based on Shariah by an expert audit firm.	1.00	5.00	3.84	.91
Q-05	The bank has 100% compliance with the Shariah regarding audit.	1.00	5.00	2.07	.82

Although most of the banks have Shariah supervisory committee but this committee is not capable to ensure shariah compliance as the board dominates the committee (interview finding from SSB). Most of the banks have non-compliance in shariah audit as conventional statutory audit is mandatory and dual audit is cost burden for the banks. The mean score (2.07) of 100% compliance with audit related issues confirms the deduction.

Figure 6. Shariah Compliance in Auditing



The chart indicates that most of the banks have compliance with shariah supervisory committee (SSC) and most of the respondents agree that branch level audit or supervisory activities should be given more emphasis. But the committee is not enough to ensure vigilant supervision (majority disagree and neutral position). Islami banks have server non-compliance in shariah audit (according to more than 50% respondents) as they need to comply with conventional audit as well. There is no shariah audit firm in Bangladesh which can be blamed for that.

5.5. Shariah Compliance in Other Issues

To find the level of Shariah compliance in the field other than deposits, investments and Auditing, we had asked some Shariah related questions to the respondents. Then the descriptive analysis of their responses is presented below:

Table 6. Descriptive Statistics on Other Shariah Compliance Survey

SL. No:	Other Shariah compliance issues	Min	Max	Mean	SD
Q-01	The objective of Islamic bank establishment is to offer Shariah based banking needs to customer.	3.00	5.00	4.43	.48
Q-02	Islamic banks do not involve in Riba (interest) instead it uses the method of profit-loss sharing.	1.00	5.00	4.29	1.02
Q-03	Islamic banks never invest in industries that provide HARAM products and services (e.g. alcohol, pork, gambling etc.).	3.00	5.00	4.86	.41
Q-04	Employees of Islamic banks have advanced knowledge in Shariah.	1.00	5.00	2.02	.76
Q-05	Products and services provided by Islamic bank are like those of conventional banks.	1.00	5.00	1.81	1.28
Q-06	Only Muslim clients are attracted by Islamic banks as they follow Islamic Shariah compliance.	1.00	3.00	1.86	.67
Q-07	Shariah compliance is an obstacle for coping with the interest-based economy of Bangladesh.	1.00	5.00	2.83	1.26
Q-08	Shariah compliance is an advantage rather than impediment for a Muslim majority country like Bangladesh.	1.00	5.00	3.81	.97

Q-09	100 percent Shariah compliance is not possible.	1.00	5.00	2.95	1.36
Q-10	Higher authority gives 100 percent effort to ensure Shariah compliance.	1.00	5.00	3.35	.88
Q-11	More training sessions are needed to provide Shariah complying knowledge to increase employee's efficiency level.	3.00	5.00	4.14	1.18
Q-12	More Shariah based research needed to be performed for the formation of new and effective guidelines for Islamic banks.	4.00	5.00	4.54	.54

Although 97% respondents believe that Islamic banks are established to offer Shariah based banking services to their customers, mostly agreed that 100% shariah compliance is not possible in Bangladesh as the economy is interest based. In interest-based economy, depositors ask for fixed interest rate but Islamic banks can't offer fixed profit rate. Most of the Islamic banks follow interest-based model but use the term 'profit' instead (interview finding) as they offer fixed profit rate. The finding is consistent with that of Yusof and Fahmy (2008). The products offered by Islamic bank are like conventional bank (interview finding and mean score of Q-5: 1.81). Moreover, Non-Muslims are also attracted by the Islamic bank customer services as the average value (1.86) supports the fact that only Muslims are attracted by the Islamic banks.

The fact is Islamic bank's employees lack Shariah related advance knowledge, which is agreed by 91% respondents (Mean value 2.02). They believe that more training and knowledge sharing session can increase their knowledge and efficiency on shariah activities (Mean score 4.14). The higher-level authority lacks enthusiasm and efforts to comply 100% with shariah which is challenging but not impossible to achieve (interview finding, mean score 3.35). Finally, mostly agreed that Shariah based study and research can play a great role in drawing the attention of the regulators of banking sector in Bangladesh (means score 4.54).

5.6. Findings from Interview of Shariah Supervisory Board

After having face to face conversations with Shariah supervisory board members, it is found that:

- The banks Shariah supervisory board consists of at least five (5) members having both the inside and outside members. Though the external members are being selected based on their Shariah knowledge, but the interviewees accepted that the inside members lack qualifications instructed in the AAOIFI standards such as educational background, shariah knowledge etc.

- Every Islamic bank has specific shariah principles formed by their own Shariah Supervisory Board.
- As there is a lack of co-ordination among different banks' Shariah Supervisory Boards, there is no possibility to have a uniform guideline or reporting standard.

The interviewees think that it is a necessity for the Islamic banks to have a uniform guideline. They also agree with the fact that CSBIB and Bangladesh bank can play a great role in this regard, but they could not come up with any solution so far.

5.7. Findings from Interview of the Regulators

An interview with the general managers of banking regulation and policy department, Bangladesh bank revealed that Bangladesh Bank is continuously investigating the performance of the Islamic banks and they publish quarterly report on it. The report shows that Islamic banking system has extended about to three times from 2007 in more than 12 countries with 15% of market share worldwide. Islamic Banking sector in Bangladesh has about 25% share of the whole banking sector in case of investments and deposits (Bangladesh Bank, 2020).

The interview about their regulatory actions regarding Islamic banks' Shariah compliance revealed the following facts:

- BB does not have any strict regulatory framework that would make possible proper monitoring of the Islamic banking sector. Though they provided a guideline for the Islamic banks in 2009 describing only the modes of Islamic financing which is voluntary to comply in nature. So, Islamic banks are conducting their activities following their own Shariah board-based standard.
- Islamic banks enjoy regulatory facilities such as maintaining lower reserves in the form of liquid assets: 11 percent as opposed to 18.5 percent for conventional banks. As a result, Islamic banks have more investable funds than other types of banks. For this purpose, a steady growth has been shown over the last couple of years in term of assets, deposits, loans and advances etc. In April-June 2020 quarter, the deposits and investments have grown by 2.35% & 3.05% respectively.
- In recent times more and more banks are showing their interest in converting into full-fledged Islamic bank or opening Islamic banking window because of advantages received by Islamic banks. But for the last seven years, Bangladesh bank is not giving any new licenses for the expansion of the Shariah compliant finance as they unable to regulate it with Shariah principles due to lack of resources.

But the officers said that Bangladesh bank has long been working on a uniform Shariah law framework but could not finalize yet because of central bank's lack of enough resources and manpower needed to regulate the Islamic banking industry. But they are working to develop a uniform and complete Shariah guideline for regulating Islamic banks.

6. Limitations of the Study

During this study, we faced some limitations which are given below:

- Lack of depth knowledge regarding Shariah as well as Islamic Financial Institutions.
- It was very hard to manage the bank officials for the purpose of the survey and personal interview as they have a very busy schedule.
- Research on Shariah compliance of Islamic banks is a new concept and consists of a vast research area but time constraint is always a big challenge.

7. Recommendations and Implementation Process

Based on the research findings, some recommendations along with suggestions and implementation process are provided to the official employees, management teams, regulators and others whose spontaneous participation may ensure 100% Shariah compliance of the Islamic banks in Bangladesh.

- Regulators (e.g. Bangladesh bank) should introduce uniform shariah guideline and should introduce penalty for non-fulfilment of the Islamic Shariah as well as rewards for ensuring full Shariah compliance.
- The higher authority of the Islami banks need to take more initiatives to increase the knowledge and dedication of the officials and other employees to maintain sound Shariah compliance as well as increasing devotion to Shariah in their personal, political and social life.
- The bank shall need to give more emphasis on the Shariah compliance of their transactions, documentations, deposits, investments, audit and all other activities.
- Islamic banks authority should arrange more training and open seminar programs incorporating their employees and clients so that both the parties can have a good knowledge about the bank's actual activities.
- Islamic banks need to recruit more Shariah knowledge-based employees. For this purpose, priority should be given to the graduates of Islamic finance. Government should take initiative to establish institutes specializing in Islamic finance.

- Shariah compliance inspection at branch level should be given more emphasized by the Islamic banks. For that they can have a policy of weekly or monthly report as well as meeting on Shariah compliance in all its branches.
- Islamic banks must have an internal Shariah audit committee to check their internal Shariah deviations.
- The Institute of Chartered Accountants of Bangladesh (ICAB) should take initiatives to develop expertise in shariah audit and should provide license to shariah audit firm.
- A great number of study and research is needed for a sound development of Islamic banking instruments such as savings instruments, shariah audit procedure, cash waqf, sukuk, Islamic credit card, debit card etc.

Conclusion

Shariah compliance at all level is a key function for the Islamic banks around the world. From a survey of 400 employees of Islamic banks and interview with Shariah Supervisory Board member and Bangladesh Bank officials it is found that Islamic banks in Bangladesh have non-compliance in Shariah with respect to fixed deposits, *Musharakah* investment and shariah audit. If the higher authority is devoted and determined enough then they can ensure full Shariah compliance and can provide better Shariah services to their clients and customers. Islamic banks management and Shariah supervisory bodies may have knowledge from this study about their limitations and gap regarding Shariah compliance and they may take initiatives to resolve their limitations at branch level as well as in corporate level. Compliance of the Islamic Shariah successfully can help the organization to advance their business and customer services to a saturated level of customer satisfaction. Again, Shariah compliance system in Bangladesh is generally based on deliberate initiatives by the banks. The degree of Shariah compliance can further be accelerated by Bangladesh bank and other concerned regulators by introducing laws and guidelines on operational model. BB can also empower the CSBIB so that it can oversee as well as monitor the Shariah supervisory committee's activities and auditing activities of Islamic banks. This study may draw the attention of the regulators and the concern parties to make a revised and enforceable guideline that will ensure 100% Shariah compliance. Researchers may find the issues rose in this study as useful for their further study to help the sector to develop smoothly. They can evaluate Shariah compliance level at the Islamic Shariah "windows" in the traditional interest-based conventional banks as well as a comparative study regarding the Shariah compliance of the full-fledged Islamic banks and conventional interest-based banks having Islamic banking branches or "windows".

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Applying IFRS9 with Sukuk by IFRS's Compliant Firms

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Abstract

This paper explores the applying of the IFRS 9 by the IFRS's compliant firms with Sukuk, concentrating on the problems of Sukuk classification and using the expected credit loss model. Employing the methodology of three stages; started through a written survey with listed firms financial managers then semi-structured interviews language with Islamic accounting and IFRS's experts. Finally, a questionnaire distributed to external auditors. The article concluded; the IFRS's compliant firms could apply the IFRS9 with Sukuk with considering some Islamic rules related to the Sukuk.

The article gives a practical guide to deal with Sukuk under IFRS9. Instructions were suggested to classify and measure the Sukuk. listed firms shall justify that treatment according to the IFRS's conceptual framework. Additionally, using the equity methods as IAS 28 and classifying as financial assets by fair value through profit or loss. Debt-based Sukuk are classified only under amortised cost since they are not tradable. The listed firms should apply the ECLM on Debt-based Sukuk only, and by using other prevailed factor than the interest rate when involving the expected credit loss. providing solutions to the mentioned problems will increase the willingness of the IFRS's compliant firms to invest in Sukuk and advance the Sukuk market.

Keywords: Sukuk, IFRS 9, Financial assets classification, Expected credit loss model, Listed firms in Jordan.

Jel Codes: M41

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Introduction

Islamic financial organisations and institutions attempted to issue a financial instrument based on Shariah's rules, in the direction of promoting the Islamic financial market and facilitating the operation of the Islamic banking sector. These efforts reached out issuing investment tools called Sukuk as certificates of equivalent value (Hasan, Ahmad, and Parveen 2019). These certificates are representing undivided shares in ownership of assets, usufruct, and services. These Sukuk can be a possession of the assets of particular projects or specific investment venture, after receiving the value of the Sukuk, the closing of subscription and the employment of funds received for the purpose for which the Sukuk were issued (Ahmad 2016). As Hossain et al. (2020) an argument has arisen related to the sukuk function centred on that the similarity of sukuk with bonds. Studies like (Safari and Ariff, 2013; Ahmed et al., 2015) expressed that the Sukuk even it seems doing the same bond work but it different. This opinion came from sukuk are comprised of various contracts which are completely diverse from the components of bonds. On the other side; Fathurahman and Fitriati (2013); Godlewski et al. (2013); Siswantoro (2018); Bhuiyan et al. (2019) indicated an only petty distinction between sukuk and bonds in the function; that caused by Sukuk have fixed-term maturity and a contractual profit rate. This argument directs to several accounting treatments for the Sukuk. The Accounting and Auditing Organization for Islamic Financial Institutions AAOIFI issued two accounting standards in 2019; FAS 33 - Investment in sukuk, shares and similar instruments and FAS 34 - Financial reporting for Sukuk-holder (Accounting and Auditing Organization for Islamic Financial Institutions 2020). Indonesia issued its accounting standards for Sukuk, SFAS No. 110, by the Indonesian Institute of Accountants (Siswantoro 2018). In Malaysia; studies discussed the acceptance of applying the IFRS's with Islamic financial products as (Mohammed et al. 2019); moreover, Shafii and Abdul Rahman (2016) focused on the accounting treatment of Sukuk under the IFRS9 considering the instructions of Bank Negara Malaysia and Islamic Financial Services Act. Jordan introduced the Islamic finance in the financial market at the end of 1970s. Recently, four Islamic banks are working, these banks had been obliged by the central bank of Jordan to adopt the AAOIFI accounting standards. On the other hand, the listed companies have to publish their financial reports in compliance with IFRS's (Ahmad 2018). A survey was done by the researcher to investigate the willingness and the problems of Sukuk investment between the listed companies in Jordan. The survey showed that a significant number of these firms have the desire to invest in Sukuk. This willingness is caused by avoiding interest (usury) and increase investment diversification. The listed companies face the problem of being compliant under IFRS when investing in Sukuk. Although the application of IFRS9 with Sukuk is possible in Malaysia, listed firms in Jordan can not use the applied instruction in Malaysia since two reasons 1- different Islamic jurisdiction school (Hikmany and Oseni, 2016) 2- the rules of Bank Negara Malaysia are valid in Malaysia only. The survey summarized the problem in two themes; Sukuk classification and measuring under IFRS9 and

avoiding interest with Sukuk when applying the expected credit loss model. This study aims to find solutions for the themed problems, which Jordanian listed firms face when investing in sukuk, regarding the jurisdiction differences and the external audit acceptance. This aim gains its value from the predicted growth in the Sukuk market when the mentioned problem is resolved (Smaoui and Khawaja 2017). The next section discusses the literature review following by the methodology. Section four is data and results. The last two sections are discussion and implication then summary and conclusion.

1. Literature Review

1.1. Sukuk Classification

According to Huian (2012); Shafii and Abdul Rahman (2016); Mohamad and Hamed (2017); Gornjak (2017) the IFRS9 introduced the business model for classifying and measuring the financial assets. Measuring at amortised cost when the assets are held within a business model aim to keep assets to receive future cash inflows, and the payments of principal and the interest were determined to flow on specified dates by the assets contract. When the entity held any financial assets for trading, the assets are measured at fair value through profit or loss. Financial assets are measured at fair value through other comprehensive income if they are held in a business model aim to both collecting cash flows and trading. Equity instruments are measured at fair value, with value changes recognised in profit or loss. Excluding those equity investments for which the entity has selected to present value changes in 'other comprehensive income.

On the other hand, Hidayat (2013); Ahmed et al. (2015); Biancone and Shakhathreh (2016); Smaoui and Khawaja (2017); Alswaidan et al. (2017); Borhan and Ahmad (2018); Hasan et al. (2019) contributed in the interpretation of the AAOIFI FAS 34 - Financial reporting for Sukuk-holder. The standard classifies the Sukuk to two categories;

Business Sukuk, which structured on an underlying business contract. It can be a single contract as an investment; Musharakah and Mudarabah, or trade; Murabahah and Salam, or a compounded.

Sukuk were structured on Murabahah and Salam contracts are debt-based Sukuk (selling based Sukuk). The revenue of the holder is contractual and depending on the credit risk of the issuer, and this Sukuk are not tradeable. Sukuk were structured on partnership contracts, Musharakah and Mudarabah, are equity-based Sukuk. The holders contribute to investing in a project and their revenue is volatile depending on the performance of the project.

The recognition and measuring of these Sukuk are according to the related Islamic accounting standard for each contract which comprises the Sukuk.

Not business (Assets) Sukuk, which is any Sukuk which is not a business Sukuk.

Sukuk Ijara are a common example of this type of Sukuk. The issuer still has the legal ownership of the underlying assets and transfers only the usufruct of the asset to Sukuk holders, and Sukuk holders have the recourse to the issuer and their revenue is contractual.

However, the initial recognition at a cost which is the consideration paid or payable for the same. After initial recognition, the underlying assets shall be measured at fair value at each reporting date. When the fair value cannot reasonably be determined, measuring is at carrying amount calculated at cost or amortised cost. Fair valuation of the assets, on an individual or collective basis, shall be determined with suitable frequency ensuring that the decision making of the stakeholders might not be affected by the obsolescence of information.

It is presumed that the FAS 34 implements different methodology of classification. This methodology relay on the sukuk structure not on the business model as IFRS 9. This variation means that the AAOIFI did not consider the harmonization effort by ACCA and KPMG in 2010 (Gharbi 2016; Ahmed et al. 2016). Moreover, this distinction made using FAS 34 as a reference by the listed firms in Jordan when dealing with Sukuk useless. This opinion is supported by survey proceed [...] *I studied FAS 34 to use it as a guide for the Sukuk accounting under IFRS 9. I found it inconspicuous and not connected with IFRS 9. Moreover, it wants me to be expert in Islamic accounting and finance.* The last sentence is a response to the business sukuk accounting since the standard required the accounting treatment for this sukuk to be according to the related Islamic accounting standard for each contract that comprises the Sukuk.

On the other hand, concerning the Shariah Advisory Council (SAC) of Bank Negara Malaysia and the Asian-Oceanian Standard Setters Group (AOSSG) instructions Shafii and Abdul Rahman (2016) provided a proposal to classify and measure the Sukuk by a treatment that simulates the business model under IFRS 9. Unfortunately listed firms in Jordan can not use the functional instruction in Malaysia since two reasons 1- different Islamic jurisdiction school (Hikmany and Oseni 2016) 2- the rules of Bank Negara Malaysia are valid in Malaysia only.

Accordingly, the question “**what is the accounting treatment, classification and measuring, of Sukuk that the listed firms in Jordan should apply under IFRS’s?**” becomes essential.

1.2. The Expected Credit Loss Model (ECLM)

Gornjak (2017) mentioned that the IFRS9 introduced the expected credit loss model (ECLM) as a unified model to run the impairment of financial assets held under amortization cost. This model produces tangible changes in accounting policies, which adapts future losses; moreover, stakeholders have a vision into an instrument with increase the credit risk. Novotny-Farkas (2016) said the recent recognition of credit losses would diminish the accumulated of loss continuations and the overemphasis of regulatory capital. Furthermore, protracted disclosure requirements are possible to contribute to more effective market discipline. Through these channels, IFRS 9

improve financial stability. Gomaa et al. (2018) realised that the FASB requires the current judgment of all cash flows not assumed to be settled by an entity, that includes all financial instruments at each reporting date.

According to IFRS's reports the general model for impairment based on fluctuations in credit quality since initial recognition in three steps (IFRS in-depth-expected-credit-losses.pdf 2018; Schutte et al. 2020):

The first Stage involves financial instruments that do not have a meaningful increase in credit risk after the initial recognition, or that has low credit risk at the reporting date. For these assets, twelve -months expected credit losses are recognised, and interest revenue is calculated on the gross carrying amount of the asset; considering that is, without deduction for credit allowance. Twelve -months are the expected credit losses that result from default events that are apparently within twelve -months after the reporting date. It is not the predicted cash shortfalls over the 12 months but the entire credit loss on an asset-weighted by the probability that the loss will happen in the following twelve -months.

The second Step involves financial instruments that have a significant increase in credit risk after the initial recognition, but there is no actual indication of an impairment unless they have low credit risk at the reporting date. Accordingly; the lifetime of expected credit losses of these assets are recognised, and the calculation of the interest will be on the gross carrying amount of the asset. The period of anticipated credit losses are the expected credit losses that occur from all possible default cases of the whole assumed life of the financial instrument. Expected credit losses are the weighted average credit losses with the probability of default as the weight.

The third Stage includes financial assets that have objective evidence of impairment at the reporting date. For these assets, the entity recognises the lifetime of expected credit losses, and interest revenue is calculated on the net carrying amount.

On the other hand, the expected credit loss has been not mentioned in AAOIFI FAS 34. Nevertheless, the AAOIFI issued FAS 30 – Impairment and Credit Losses and Onerous Commitments in 2017 FAS 30 provides an expected credit loss approach that simulates the ECLM of IFRS 9. This approach is only for receivable and off-balance sheet exposures without mentioning the Sukuk since FAS 34 required the accounting treatment for business sukuk to be according to the related Islamic accounting standard for each contract that comprises the Sukuk. Accordingly, there is no clear reference provided by the AAOIFI to the IFRS's compliant institution for implementing the ECLM with Sukuk. This situation opened the discussion for the directions to how to apply the ECLM with Sukuk by the IFRS's compliant institution.

Shafii and Abdul Rahman (2016) found that Muslim jurists have different views on the use of interest rates as a criterion for determining the discount rate though many agree that interest is

just a reference rate. Therefore, the use of interest rate as a criterion is a problem from an Islamic perspective, although the discount is acceptable in Islam and desirable because it allows enhancing the efficiency and use of investment. Misman and Ahmad (2011) said, Malaysia adapts the impairment based on discount rates. The Malaysian argument is that discount rates used in the Impairment are only for calculation, and it is not for crediting interest to a debtor. Siswanto (2018) mentioned that the Islamic Sharia Council in Indonesia has not authorized the use of interest as a discount factor.

Accordingly, the question “**how to apply the ECLM with Sukuk by the listed firms in Jordan?**” becomes essential.

2. The Research Methodology and Design

This paper started with an open written survey about Sukuk investment desire and obstacles. The survey has been written with Arabic then sent by e-mail to the financial managers of listed firms, which have financial transaction with Islamic banks, in Jordan except for banks. When surveys had been replied, the researcher translated them to English and coded them manually. The surveys' results were connected with the literature review and used as a base for the semi-structured interviews of the next step. The next stage, according to the small number of people in Jordan they are awareness of the Islamic finance and the need to an in-depth discussion about the issue, in addition to the literature review as mostly adapted the qualitative methods; for example, Mohammed et al. (2019). Examine the opinions of interviews gathered from semi-structured interviews with two segments of participants. The first group is consisting of eight experts in Islamic accounting (professors of Islamic accounting at Islamic finance departments, financial managers of Islamic banks and five Islamic scholars). The second group is eight International Financial Reporting Standards experts (audit managers and financial accounting professors). All the persons interviewed above are actively involved in the preparation, review and teaching of the financial statements of IFIs, Islamic accounting and IFRS. They can, therefore, provide a rich interpretation of reporting practices. Most of them represent the major financial institutions in the Jordanian banking sector. Those interviewed found a strong desire for Islamic finance and thus produced a fruitful penetration in this current paper. The sample as follow:

Table 1. Research Sample

Description	Qualifications
Islamic finance researcher, lecturer, and Islamic accounting expert	Full professor in Islamic banking
Islamic finance researcher and lecturer and a member of Sukuk issuing agency	Associate professor in Islamic finance
Islamic finance researcher and lecturer	Associate professor in Islamic finance

Islamic finance researcher and lecturer	Associate professor in Islamic finance
An assistant general manager at Islamic financial institution	PhD in Islamic banking, JCPA*, and CIPA**
Financial manager at Islamic financial institution	CIPA
Assistant Financial manager at Islamic financial institution	Master's in finance
Senior Accountant at Islamic financial institution	CPA*** and CIPA
Shariah scholar	PhD in Islamic commercial law
Shariah scholar	PhD in Islamic jurisdiction
Shariah scholar	PhD in Islamic jurisdiction
Shariah internal control manager at Islamic financial institution	PhD in Islamic jurisdiction
Shariah internal control manager at Islamic financial institution	PhD in Islamic jurisdiction
IFRS's researcher, lecturer, and expert	Full professor in financial accounting
IFRS's researcher, lecturer, and expert	Full professor in financial accounting
IFRS's researcher, lecturer, and expert	Associate professor in financial accounting
Audit partner at big four audit firms	CPA
Audit Manager at big four audit firms	ACCA****
Audit Manager at big four audit firms	ACCA
Audit Manager at big four audit firms	ACCA
Manager at a central bank	Master's in accounting and finance
*JCPA: Jordan certified public accountant, **CIPA: certified Islamic professional accountant , *** CPA: certified public accountant, ****ACCA: associated chartered certified accountant.	

The interviews began with the Islamic accounting experts, in the purpose of providing practical and juristic instructions for Sukuk classification and applying ECLM with sukuk under the IFRS9. When a conflict between the IFRS 9 and Sukuk features has arisen, the researcher conducted the other interviews with the IFRS's experts to reach justified accounting treatments for Sukuk, considering the Sukuk features and be complied with IFRS's.

Consequently, the semi-structured meetings were envisioned to capture the crucial evidence concerning the research purpose. Semi-structured interviews were held within a reasonably open context; hence, the questions asked were not necessarily prepared in advance only the main question to start the conversation. Numerous questions were automatically asked through the interview, providing elasticity to both the interviewer and the participant to investigate and explain additional details or to consider other relevant points, unlike structured interviews, where all questions are designed and arranged beforehand. The meetings were in the form of a conversation rather than a question-and-answer method. All of the interviews were conducted face to face to consider the face expression and sound of the interviewed. The interviews were in Arabic and were translated into English. They were tape-recorded and then transcribed and were then coded manually by the researcher. The researcher also authenticated that their interviews are strictly confidential, as no one identity will be published. Researchers ended the conversations by asking interviewees whether they had any problems for discussion. The process continued with the analysis of interview transcripts and documentary data using qualitative coding and manual recoding researchers this technique depends on the researcher qualifications of the subject since the researcher has an eleven years' experience in Islamic finance and auditing; additionally, professional certificates in Islamic finance and accounting.

The last step; a questionnaire was built on the semi-structured interviews' result. The researcher sent the questionnaire on Excel form by e-mail to 72 external auditors. The questionnaire aims to support the results of the interview and make them more reliable. When the questionnaire received the researcher analysed them using SPSS.

3. Data and Results

The researcher received 37 answered surveys. The answering period was almost three months. The residual financial managers, some had apologized since they do not have the desire to invest in Sukuk, the others with no reply.

Reasons for the Sukuk investment' desire have been concluded from the surveys' answers. The first reason is **avoiding interest**. Since the most redundant sentence[...] *our financing policy is to deal with the Islamic banks only to arise fund, so investing in the bond is rejected. The Islamic alternative for investing is required.* The second reason is **the investment diversification**. The participators replied [...] *investing in another tool like Sukuk is attractive. [...] adding Sukuk to the portfolio will improve our investment.*

On the other side, obstacles related to the accounting treatments of Sukuk under IFRS9 were coded as follow.

- IFRS9 does not provide detailed accounting treatment for the Sukuk. [...] *I did not find any treatment for the Sukuk under IFRS9*

-Difficulties in understanding the Sukuk structure to realize their classification. [...] *I trying to understand the Sukuk structure. Yet books set an explanation and the AAOIFI used another methodology in their accounting standards. [...] assets based Sukuk, they are equity investment or financial assets.*

- Difficulties in understanding the FAS 34 to use it as a reference. [...] *I studied FAS 34 to use it as a guide for the Sukuk accounting under IFRS 9. I found it inconspicuous and not connected with IFRS 9. Moreover, it wants me to be expert in Islamic accounting and finance.*

-Apply the ECLM with interest factor on Islamic financial instruments. [...] *is there another acceptable factor than the interest rate under IFRS 9, since using the interest rate with Sukuk does not make sense.*

The semi-structured interviews of the second stage, which have been built on the surveys' results, aim to reach acceptable clarification that could harmonize the accounting treatment under IFRS 9 with Sukuk and help these firm in the Sukuk investment.

The first main question was started with the **Islamic accounting professors**: the classification of the *Assets based Sukuk, as Sukuk Ijarah, should be under financial assets or equity instrument using IFRS 9?*

Islamic financial accounting professors insisted on classifying the assets bases Sukuk as an equity instrument. Additionally, they rejected the classification of them under financial assets as participants response.[...] *Classify assets based Sukuk as financial assets will produce accounting errors.* Other participant said, [...] *even they have fixed cash inflow, they are under equity instruments. [...] Sukuk Ijara have a fixed rate, yet they are equity instruments.* They clarified the accounting treatments of Sukuk Musharakah and Mudarabah as equity instruments. [...] *Musharakah and Mudarabah Sukuk it is not an obligation on the issuer to pay a profit, and [...]Sukuk Musharakah and Mudarabah have a right of the underlying assets.* Equity instruments are any contract that evidences a residual interest in the assets of an entity after deducting all of its liabilities (AAOIFI 2020). During the conversation, two participants mentioned [...] *the accounting treatment of Sukuk is not clear since Sukuk have the assets and equity criteria* this sentence supports the study problem and justify why the listed IFRS's compliant firms in are worried about the accounting problems when they intend to invest in Sukuk.

The same question was repeated to **Islamic banks financial managers** in the purpose of realising their real practice. The managers cited [...] *the central bank obliged us to classify all Sukuk types as financial assets.* While the Islamic banks in Jordan apply the AAOIFI accounting standard, they have to follow the instructions of the central and consider the all Sukuk as financial assets (application instruction of IFRS 9- central Jordan bank 2018) Accordingly, even this situation is related only to Islamic banks in Jordan, that also increases the accounting treatment conflict since it is utterly opposed to the professors' opinion.

To resolve the opinion conflict of the classification and find reasonable classification guidance for companies, which need to invest in assets based Sukuk and be IFRS's complied, The same question was repeated to **External auditors, financial accounting professors**, with a clear description of the concept and features of Sukuk.

One participant mentioned the ability of the IFRS's to govern the all financial transaction by referring to the conceptional framework [...] *IFRS's mentioned in the conceptional framework, if there is IFRS's does not cover an issue, the company must try to resolve it with proper justification.* That means if the firm invests in a complicated type of Sukuk, it can justify its accounting treatment according to the IFRS's conceptual framework and be IFRS's complied. The other option was realised from another conversation for the assets based (Ijara) and equity Sukuk. [...] *It can be covered by IAS 28 Investments in Associates and Joint Ventures.* When connecting this scenario with the first realisation; it will be an acceptable solution by using the equity method if the investment is more the 25 % of the invested firm (IASB 2018). The other solution classifies the assets based (Ijara) and equity Sukuk as financial assets under fair value through other comprehensive income, as a participant added [...] *these Sukuk have volatile cash, it has to be recognized by fair value through profit or loss.* Because in the case of irregular cash flow the Sukuk will not match the amortization cost method (Gornjak 2017) this accounting treatment will be similar to equity instruments since in this case the Sukuk will evaluate through fair value, and the expected credit loss model is not applicable.

The second main question was started with **Islamic accounting professors**. *Is there any availability to apply the expected credit loss model, that is included in IFRS 9, on the Sukuk?* The researcher explained the concept to the participants as a recognition of a loss provision against the future cash inflow from a loan of a bond, based on the company policies and the market interest rate. The professors mentioned the importance of the expected credit loss model [...] *anticipating the loss provision is an effective risk hedging, and it saves the stockholders interest.* That means the listed firms should apply this model with Sukuk for the reason of risk hedging and IFRS's compliance. However, the participants agreed to apply this model since they cited [...] *Islamic banks use the interest rate to determine the Murabaha markup, and it is for risk hedging not for charge interest.* During the conversation, they added [...] *to avoid any Islamic rules violation, the company should use another factor than the interest rate.* To emphasise the Islamic rules part, the researcher repeated the same question to the **Shariah scholars** with a clear and detailed clarification of the expected credit loss model. The Shariah scholars did not express sharp objection about applying this model [...] *no problem when using another factor than the interest rate.* and [...] *since it was applied to save the investors interest, it will be suitable.* These answers were given after two days since the participators were not well informed about ECLM, and they needed to study the matter. This discussion realises that the companies can apply the expected credit loss model on the Sukuk by using other rates than interest.

The question was repeated **to Islamic banks financial managers** in the purpose of realising their real practice. The financial managers mentioned that following the central bank rules by all bank in Jordan is obligatory (application instruction of IFRS 9- central Jordan bank 2018). [...] *The central bank rules are to apply IFRS 9 in the Sukuk by.* However, they do not make any objection to applying it, [...] *there is no problem with the provision possession itself since it will be amended if there are any positive indicators.* They added an important note for the accounting treatment " *debt-based Sukuk are not tradable and have to be only under amortised cost, so the holders should apply the ECLM with them*".

Accordingly; by looking at the results of the first question shows the following. Extract accounting transaction that is only debt-based instruments classified as financial assets because they are not tradable under Islamic finance rules and are measured at amortised cost as conventional bonds. Accordingly, the ECLM applies only to debt-based Sukuk.

The third stage in the finding is the questionnaire. The researcher received 49 questionnaires were filled by the external auditors. The answering period was almost three months. The other auditors did not reply. The questionnaires were analysed using SPSS. Only the mean was considered for the result. The adopted scale is 1 to 4 as highly rejected, rejected, accepted and highly accepted. The clarification of the Sukuk concept and structures was attached to the questionnaire. The question and their related results as the following table;

Table 2. Questionnaire Results

Question	Mean
Do you agree to use the equity method with assets and equity Sukuk when they represent more the 25 % of the assets or the projects?	3.4
Do you agree that assets and equity Sukuk should be measured under fair value through profit or loss ?	3.2
Do you agree that the debt-based Sukuk should be measured by the amortization cost method?	3.8
Do you agree to use another factor than the interest rate with the ECLM?	3.5
Do you agree to use the ECLM with the debt-based Sukuk only?	3.6

4. Discussion and Implication

The article reviewed the Sukuk structure and explained the related accounting treatment under the FAS of AAOIFI. On the other hand, explained the financial assets classification under the

business model and the application of the ECLM. However, Jordan has recognised the IFRS's as unified accounting standards and impose the listed firms to report and prepare their financial information according to the IFRS's, but only the Islamic banks have to apply the AAOIFI standards. This is the opposite of what Siswantoro (2018) mentioned that the Islamic banks in Jordan do not follow the AAOIFI. Therefore, the article pointed out two aspects of what the listed firms in Jordan are aware of reporting the Islamic Sukuk under IFRS9; classification and application of the ECLM. This issue reduces the willingness of these firms to invest in Sukuk; therefore, constrain the improvement of the Sukuk market.

The responses of the surveys revolved on what showed the literature review of the dilemmas faced by the IFRS compliant companies. Interestingly, the evidence shows that the interviewees of the semi-structured interviews placed acceptability of reporting the Sukuk under IFRS9 by the IFRS's compliant firms. Moreover, they provide a non-conservative opinion to Shariah's issues of application the expected credit loss model, as a risk provision on Sukuk. While, the conservative opinion has been expressed against the interest rate as a factor, including directions to use a Shariah's acceptable factor. On the other hand, the impasse of classification has raised. The literature review pointed out a dilemma of the conflict between the importance of the IFRS and the conservative shariah scholars on some problems.

The findings show the classification of the Sukuk under the IFRS 9 is critical since the researcher interviewed the IFRS's experts to find a solution for the classification to be IFRS's complied and Sukuk shariah features considered. The interviewees thoroughly recommend the application of ECLM on Sukuk by the IFRS's compliant firms, and they agreed that the application of the provision itself does not mistake the Islamic part of the Sukuk, and it is essential to the accounting information quality and risk hedging. They commented on the using of the interest rate event it just for risk appraisal and not for the gain interest, which is prohibited by Islamic law; using other Shariah's acceptable factor is preferable. This justification could harmonize another opinion in the literature review as Misman and Ahmad (2011) said, Malaysia adapts the impairment based on discount rates, and they argue that discount rates used in the Impairment are only for calculation. Yet, quite the opposite (Siswantoro 2018) IFRS 9 does not take into account any legitimate considerations since it uses the interest rate as a discount factor, the application of this standard by Islamic banks in Indonesia becomes inappropriate. It shows the need for a particular Islamic accounting standard.

The questionnaires results gave a reasonable assurance for the discussion results of the interviews since the mean of the responses is above 3 and that means more than accepted.

The practical implications of the study are; Firstly, the article suggested an accounting treatment for the Sukuk classification under the IFRS's. The assets based Sukuk can be classified under IFRS's using the equity methods as IAS 28 investments in associates and joint ventures if the

investment more than 25% in the same firm or it considered as equity method by the directors as the IAS 28 permit. Moreover, the listed firms shall justify that treatment according to the IFRS's conceptual framework. The other classification option is, according to IFRS 9 as financial assets. That can be by fair value through profit or loss because, in the case of irregular cash flow, the Sukuk will not match the amortization cost method. This accounting treatment will be similar to equity instruments since in this case, the Sukuk will evaluate through fair value and the expected credit loss model is not applicable. Debt-based Sukuk are classified only under amortised cost since they are not tradable. Portfolio can be made for each type of Sukuk (assets based, and debt-based) and apply the suitable business model for each one. Secondly, the evidence from the interviews implies how the application should be, which mentioned the priority to use another prevailed discount rate than the interest if available.

On the other hand, these results of Sukuk classification and measuring are not aligned with the FAS 34 classification of Sukuk as business Sukuk and non-business Sukuk. Meanwhile, the results are convergent with (Shafii and Abdul Rahman 2016) study.

Additionally, the results provide a radical accounting treatment, which is only the debt-based Sukuk classified under financial assets since they are non-tradeable under Islamic finance rules and they are measured by amortised cost method as conventional bonds. Accordingly, the expected loss model applies only to debt-based Sukuk with using another discount factor than interest rate as what (Siswanto 2018) mentioned, rather than a market interest rate, other rates are considered as rental or leasing (Ijarah) rate using the debt-based structure or a profit-sharing (Mudaraba) using the equity-based structure. This finding will provide a useful guide to how the firms will use the ECLM on Sukuk and be fully IFRS's complied.

Conclusion

The study exhibited the argument about the Sukuk mechanism if it replaces the bonds or not.

The opinion of Sukuk are different than bonds came from that sukuk are comprised of various contacts which are completely diverse from the components of bonds. While the view that indicated an only petty distinction between sukuk and bonds in the function; that caused by Sukuk have fixed-term maturity and a contractual profit rate. Moreover, it gave the consequences of this argument of Issuing variant of accounting standards to treat these Sukuk.

The dilemma has arisen when the IFRS's compliant firms as listed firms are becoming desirable in Sukuk investment. Accordingly, the willingness of the firm is reduced since they are aware of the accounting conflict and need to be IFRS's compiled since they are imposed to use the IFRS's only. Emphasising on the IFRS9, the radical issues related to the Sukuk are the classification and ECLM application on the Sukuk. The question of how can I as a financial manager classify the Sukuk and apply the ECLM with Sukuk under the IFRS9 to invest is Sukuk and be IFRS's

complied? The article studied the Jordanian market since Islamic finance is affordable, using a written survey with the listed firms' financial managers in the first stage to identify the problems of Sukuk investment. The next step was semi-structured interviews with Jordanian accounting and Islamic law experts. Finally, a questionnaire was sent to external auditors to provide reasonable assurance of the interviews' results.

The limitations concentrated on the sample and the methodology. The Islamic financial market in Jordan still emergent, that affected the sample by facing difficulties to find a person has the experience in both IFRS's and Islamic accounting. Also, shariah scholars, who are experts in Islamic finance, do not have sufficient information about Islamic accounting as their confession. Accordingly, expanding the sample size ignoring the participator qualification could lead to contain confusing information.

According to the small sample size, the research turned to use qualitative methods. Despite the positive interviews aspect, the challenges that encountered with the meeting compromised the severe limitation of the study. Setting up the meeting with the participators; most of the sample apologized in the first attempt, later many efforts the acceptance to conduct the meeting has been awarded. This situation has complicated the research time table and imposed the researcher to extend the research time plan to keep the methodology flow. Some meetings were time-restricted; therefore, gaining information to suggest other research paths was not in a perfect manner. Additionally, the delay of replying the survey and the questionnaire by the participators

Overcoming the mentioned limitation; this article illustrated how the Sukuk would be classified under IFRS's; on the other hand, obtained that the listed firms in Jordan can apply expected credit loss model on Sukuk investment and it should be by using other prevailed factor than the interest rate and constrained the application as mentioned in the implications.

During the meeting, the researcher realized; the central bank obliges the Islamic banks to apply rules are generally released to the whole banking industry in Jordan. Some of these rules are not satisfied in total with the Islamic finance principles. For example, they are adapting the new issues in IFRS 9 without considering the Islamic finance' differences. Moreover, the classification of all Sukuk as financial assets under the amortisation cost method. This situation opens new paths for discussing the effect of central bank behaviour with the Islamic banks on the development of Islamic finance. Adding more, the effects on the compliance of the Islamic banks with the AAOIFI accounting standards or Islamic accounting standards that issued by some nations.

Since there are organizations like the AAOIFI and other national committees are exerting effort to improve the Islamic financial products and the related accounting treatment. The article suggests conducting researches related to issuing accounting instruction to firms, which are legally imposed to apply the IFRS's or national GAAP, to how to treat the transaction of the Islamic financial product under the adapted standards. In the purpose of encouraging these firms

to invest in the Islamic finance and avoiding the financial reporting conflicts obstacles, that may lead to spread the acceptance and application of Islamic finance locally and globally.

In sum, the Islamic financial industry is growing at a rapid step internationally. The demand for accounting and reporting requirements that adequately meet the unique Islamic financial instruments is critical to ensuring the stability and sustainable growth of the industry.

This study indicates that there is a need for further studies and discussions on the linkages of Islamic financial instruments to international accounting and reporting requirements in the purpose of increasing the spreading of the Islamic finance in the international financial markets.

It is a hope that IFRS will take into account the features of the Sukuk. That will help meet the desire of Islamic finance to improve the global Islamic financial market as a whole by becoming attractive to international investors. A possible option to resolve this dilemma is to have guidance or opportunities for Islamic financial institutions within the framework of IFRS. To apply these guidelines globally, an Islamic organisation such as AAOIFI can work closely with the International Accounting Standards Board (IASB).

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Knowledge and Perception of Muslim and Non-Muslim Customers Towards Islamic Banking

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Abstract

In the past few decades, Islamic banking has gained popularity not only in Muslim countries but also in non-Muslim countries. This is due to the fact that the products and services provided by Islamic banking are not only intended for Muslims but also non-Muslims. As one of the largest Muslim population countries in the world, Indonesia has the potential to develop its Islamic banking. However, not all Indonesians have the same level of knowledge and perceptions about Islamic banking. Therefore, it will turn out to be an obstacle to Islamic banking growth in the future. This research is conducted to investigate the knowledge and perception of Muslim and non-Muslim about the products and services provided by Islamic banking in Papua Province, one of the regions in Indonesia with a minority Muslim population. Using the questionnaire to collect the data from 452 Muslim respondents and 231 non-Muslim respondents, the result showed that there is a correlation between religion and knowledge as well as religion and understandings of Islamic banking products, services, and operational activities. Furthermore, this study also reveals that both Muslims and non-Muslims have a good and positive perception of Islamic banking.

Keywords: Islamic banking, Knowledge, Perception, Muslim, Non-Muslim, Papua

Jel Codes: G29, G40, G53

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Introduction

The development of the Islamic financial system in Indonesia began since the establishment of Bank Muamalat Indonesia in 1991 as the first Islamic bank in Indonesia and began operating officially in 1992. However, at the beginning of its development, Islamic banking did not show a good performance as well as conventional banking. Rivai (2010) states that this is due to the regulation of Islamic banking that have not been well organized.

Anwar (2016) argues that Indonesia is lagged behind in the preparation of special regulations for Islamic banking when compared to Malaysia. It is due to the Islamic banking regulations in 1992 was only based on Indonesia Banking Act No.7 in 1992 and Government Rules No.72 in 1992. Meanwhile, the Malaysian government had prepared a special set of regulations regarding Islamic banking since 1983. However, since the implementation of the Banking Act No.10 of 1998 replaced the Banking Act No.7 of 1992, the development of Islamic banking started to change better. With the issuance of this regulation, Islamic banking was introduced to the public at large.

One of the most impressive things about Islamic banking is its resistance to the global economic crisis. The Central Bank of Indonesia explained that despite the financial crisis in 2008, the performance of Islamic banking in 2009 continued to show high performance, in addition to the channeling of funds carried out by Islamic banks consistently increasing. The Central Bank of Indonesia also stated that Islamic banking is one of the pillars supporting national financial system stability.

Islamic banking in Indonesia increasingly shows its existence with the enactment of Law No.21 of 2008 concerning Islamic Banking. It provides legal certainty and an adequate foundation to encourage its growth more quickly. One of the characteristics of Islamic Banking growth is the increase in the number of sharia commercial banks and sharia business units. According to the Financial Service Authority (2011), the Data of Sharia Banking Statistics shows that in 2008 there were only 5 Sharia Commercial Banks in Indonesia with 581 offices spread throughout Indonesia. Meanwhile, there were also 27 conventional commercial banks that run sharia business units with 241 offices spread throughout Indonesia. This number continues to increase until 2012 and 2017. Until August 2018, the data shows that currently there are 13 Sharia Commercial Banks, 21 Sharia Business Units and 101 Rural Banks in Indonesia.

However, with the increase in the number of Islamic commercial banks and sharia units which are expected to reach wider communities and increase fund mobilization, this does not directly indicate the high growth of Islamic banking. In terms of asset growth, data from the Financial Services Authority said that until the end of June 2018, the total assets of Islamic banking had only reached 5.70% of the total assets of national banks. Comparing to the potential of Indonesia, which has majority Muslim population, the value is still very low (OJK, 2018). According to Chairman of the Commissioners Board of Financial Service Authority Muliaman D. Hadad, this could be caused by a lack of penetration of Islamic

financial products where Islamic banking needs to intensively issue superior products. In addition, the results of OJK's survey in 2016 regarding the Islamic financial Inclusion and Islamic Financial Literacy indicates that the knowledge and understanding of the Indonesian people regarding Islamic products and finance are still very low. The results show that the Islamic Financial Inclusion index in Indonesia was only 11.06%. Likewise, the Islamic Financial Literacy index is only 8.11%. According to Umar (2017), generally, the Islamic Financial Inclusion in Indonesia is low. He suggests that the community do not fully use formal financial services as the main source of finance and financing.

According to the OJK's survey (2016), Papua is one of the regions that have the lowest Islamic Financial Literacy index and Islamic Financial Inclusion index in Indonesia. The index of Islamic Financial Literacy in Papua is 1.09% and the index of Islamic Financial index is 5.82%. Papua Province is located in the eastern part of Indonesia. Although demographically the majority of Papua citizen are Christian, currently there are several Islamic Banking operates in Papua regions. It is due to the universality of Islamic Banking which provides an equal service both for Muslim and non-Muslims costumers. The data of Sharia Banking Statistics reported that until the end of September 2018, there are 7 Sharia commercial banks in Papua.

This paper attempts to explore the level of knowledge and perceptions of Muslim and non-Muslim in Papua towards Islamic Banking service and products. Therefore, there are several questions, namely: 1) is there any correlation between religion and the knowledge of Islamic banking in Papua regarding Islamic banking? 2) What is the understanding of Muslim and non-Muslim in Papua regarding the products, services, and operational system of Islamic banking? What are the perceptions of Muslim and non-Muslim in Papua towards Islamic banks?

1. Literature Review

The level of Islamic financial literacy of each community in Indonesia varies, including their knowledge of Islamic financial product features, uses, risks, sources of information, and financial goals. There are several studies that have been conducted to analyze knowledge and attitudes of the community towards Islamic banking. One of them is carried out by Rahman (2012) which investigated the attitude of Muslims towards Islamic banking in the North West of England using community-based research approach. The collected the primary data by survey questionnaire and semi-structured interview which found that the Islamic financial system has enormous opportunities and potential to achieve economic growth in the UK. In addition, the Islamic finance system can also create financial stability, build a multicultural society Meanwhile, Soud and Sayilir (2017) analyzed the perception among Muslims and non-Muslims in Tanzania towards Islamic Banking suggested that there are significant differences between the perceptions of Muslim and non-Muslim communities regarding Islamic banking in Tanzania. Moreover, the also concluded that

there are differences in factors that influence Muslims and non-Muslims to a bank account in Islamic banks.

Abdullah, Sidek and Adnan (2012) examined the perception of non-Muslim costumers of Islamic banking services and products in Malaysia. They found that even though Islamic banking services are gaining popularity in non-Muslims costumer, the level of knowledge on Islamic banking has to be increased. On the other hand, the study also suggested that non-Muslim customers in Malaysia are unsure about the future development of Islamic banking, although most of the customers strongly believe that Islamic banking will take control the banking industry in Malaysia. In addition, Kaakeh, Hassan and Almazor (2018) found that the determinants of the intention to use Islamic banking are attitude, religious motivation and awareness. They also suggest that the potential Islamic banking costumer in Spain base on their religion (Muslim), gender (Male), and education (did not reach university). Several other studies also have been conducted by the following researchers which are shown in table 1. Other previous studies such as conducted by Hossain and Roy (2017); Wan Omar and Rahim (2015) also investigates the non-Muslim perception on Islamic banking using quantitative method, which is concluded that the the non-Muslim has a positive perception thus correlate with the reception of Islamic banking. Several other studies also have been conducted to investigate the perception of the consumer both Muslim and non-Muslim towards Islamic banking, such as by Akber, Shah, and Kalmadi (2012); Ringim (2014); Buchari, Rafiki, and Qassab (2015); Saiti (2015); Chaouch (2017); Ul Islam and Rahman (2017).

The novelty and difference of this study with the previous studies is in the variable used. Firstly, this study investigate the perception of Muslim and non-Muslim customers based b their knowledge and understanding towards the product, service, and operational system of Islamic banking. Also, this study is conducted in a non-Muslim majority area in Indonesia, Papua Province, which has a low level of financial literacy index. Besides, this research is one of the few studies conducted in this province regarding the perception of the consumers on Islamic banking.

2. Research Methodology

This study uses a quantitative approach. The population used in this study is the Muslim and non-Muslim costumers of Islamic banking in Papua province, mainly they are who lived in Jayapura city, Jayapura Regency and Kerom District. Meanwhile, a total of 683 respondents is used in this study as the research sample. According to Tabachink and Fidell (2013), the sample size needed in a study using formula of " $N > 50 + 8m$ " where is " N " is the number of sample and " m " is the number of independent variables (Bujang et al., 2017). Meanwhile, according to Roscoe (1975), the sample size that is feasible in a study is 30-500 samples (Ferdinand, 2005). In addition, the sampling method used in this study was non-probability sampling, which was a randomly selected sampling technique. Elements of the

population selected as samples can be caused by accident or due to other factors that have been previously planned by the researcher.

The primary data used in this study is collected by using a questionnaire which is divided into three parts. The first part of the questionnaire is the demographic profile of the respondents consisting of age, gender, religion, marital status, education level and income level. The second part consists of knowledge, understanding of the Islamic banking operational system, and perceptions of Islamic banks. The answer given is measured using a *Likert* scale with a value of 1 = very disagreeable to 5 = strongly agree. Furthermore, this instrument was tested for validity and reliability statistically using validity and reliability. The questionnaire was designed using question instruments that had been made from previous research (Chaouch, 2017; Hossain, 2017).

Results:

Demographic Profile

In this study, out of 700 questionnaires were distributed to respondents in 3 regions in Papua Province, comprise of Jayapura City, Jayapura Regency, and Kerom Regency. Only 683 were returned to the researcher. The demographic background of the respondents consisted of age, gender, religion, education level and income level. Table 1 shows the demographic profile of the respondents in this study.

Table 1. Respondents Demographic Profile

Category	Jayapura City	Jayapura Regency	Kerom Regency	Frequency
Age				
< 25 years	20	43	37	100
25 – 35 years	144	183	54	381
36 – 50 years	29	76	91	196
>50 years	0	0	6	6
Total	193	302	188	683
Gender				
Male	86	158	103	347
Female	107	144	85	336
Total	193	302	188	683
Religion				
Muslim	79	188	185	452
Non-Muslim	114	114	3	231
Total	193	302	188	683
Marital Status				
Single	87	150	65	381
Married/Have Married	106	152	123	302
Total	193	302	188	683

Education Level				
SD, SMP, SMA (Primary – Secondary)	20	139	166	325
Diploma/College	0	7	6	13
University	173	156	16	345
Lainnya	0	0	0	0
Total	193	302	188	683
Monthly Salary				
< 3.000.000	24	20	149	193
3.000.000 – 5.000.000	163	264	38	465
5.000.000 – 10.000.000	6	18	1	24
>10.000.000	0	0	0	0
Total	193	302	188	683

Based on table 2 it can be seen that out of 683 respondents, around 56% of the respondents were 25–35 years old or 381 respondents, while 196 respondents (around 29%) were aged between 36–50 years and 14% of the total respondents are less than 25 years old, while 1% of the total respondents is over 50 years old. Meanwhile, it also can be concluded that there were more male respondents than the female. Around 51% of the respondents were male and 49% were female. Moreover, based on the characteristics of religion, respondents who are Muslim are as much as 66% or around 452 respondents while the rest are non-Muslims which is about 34% or 231 respondents.

The demographic profile also indicates that around 56% of the respondents or 381 respondents are unmarried, while those who had or had been married were the rest or around 44%. In this study, there are 345 of the total respondents with last education in university level, while 48% of the respondents had the last education in elementary, middle or junior high school or around 325 respondents. Meanwhile, only 2% or 13 respondents attended diploma schools. In addition, there are 68% of the respondents with income between 3-5 million, while those who earn less than 3 million are around 28% and those with income of 5-10 million are around 4%.

3. Analysis

3.1. Knowledge About Islamic Banking

3.1.1. Correlation between Knowledge and Religion

As shown in table 2 there are 452 respondents who are Muslim and out of 231 respondents are non-Muslim. In general, more respondents know about the Islamic bank. Out of 416 Muslim respondents (92%) know about the existence of Islamic banks, while 36 respondents (8%) do not know about Islamic banking. Also, there were 223 (96%) non-Muslim respondents who were aware of the existence of Islamic banks and 8 respondents (4%) who did not know about the Islamic banking. In addition, based on the crosstab test, it is indicated that there is a correlation between religion and respondents' knowledge about

Islamic banks. The Chi-Square value is 5.139 with a significance of 0.023 or < 0.05 reveals that there is a correlation.

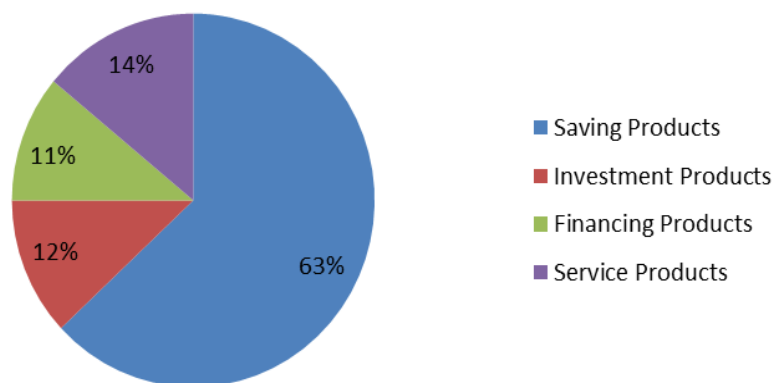
Table 2. Statistic Descriptive of Knowledge

Question	Religion	Answer		Chi-Square Value	Sig.
		Yes	No		
Do you know about Islamic bank?	Muslim	416	36	5.139	0.023
	Non-Muslim	223	8		

3.1.2. Knowledge About Product and Service of Islamic Banking

Generally, as shown in fig(s).1, saving product is the most widely known by customers while financing product provided by the Islamic banking is the least known. Around 63% of the respondents know about savings products, while only 11% of the respondents know about financing products. Other products known by the customers are investment products and other service products.

Figure 1. Knowledge of Islamic Banking Product and Service



This study also reveals the source used by the respondents to gain information about Islamic bank. Based on the survey, most of the respondents get the information about Islamic banking from Islamic bank itself. Around 30% of respondents choose Islamic bank as the source of information. Meanwhile, around 22% of the respondents used social media as the source of information and 18% of the respondents get information about Islamic banking by searching on the internet. There are also 16% of the respondents choose television and 7% of the respondents pick mass media (such as newspaper) as the source of information about Islamic banking. The influence of other people also can be considered as the source of Islamic banking information, since 7% of the respondents get the information from their friends.

Table 3. Source of Information about Islamic Banking

Questions	Answer					
	Islamic Bank	Social Media	Internet	Mass Media	TV	Friends
Where did you find out about Islamic bank?	30%	22%	18%	7%	16%	7%

3.2. Understanding of Islamic Banking

3.2.1. Understanding of Islamic Banking Financial Instruments

The survey result indicated that most of the respondents, both Muslims and non-Muslims do not understand the financial instruments provided by Islamic banking, which consist of *wadiah*, *murabaha*, *mudharabah*, *musyarakah*, *salam*, *ijarah* and *istishna*. Generally, 90% of respondents answer “no” when asked about these terms. In addition, there are three financial instruments of Islamic banks that mostly known by the respondents, namely *wadiah*, *mudharabah* and *murabaha*, while *musyarakah*, *salam*, *istishna* and *ijarah* were the least known by the respondents.

The study also investigated the correlation between religion and the understanding of Islamic bank financial instruments. The crosstab test result indicated a number of differences. The descriptive statistics show that there is a correlation between religion and understanding of *wadiah*, *murabaha*, *mudharabah* and *salam* instruments. It can be seen by the value of Chi-Square test < 0.05, while the test indicated that there is no correlation between religion and understanding of *musyarakah*, *ijarah* and *istishna* instruments, because the value of Chi-Square test is > 0.05. Tabel 4 illustrates the correlation between religion and understanding of Islamic banking financial instruments.

Table 4. Understanding of Islamic Banking Financial Instruments

Questions	Financial Instruments	Answer		Value of Chi Square Test	Sig.	Religion
		Yes	No			
Do you know about these financial instruments provided by Islamic bank?	Wadiah	73	379	5.606	0.018	Muslim
		22	209			Non-Muslim
	Murabahah	24	428	8.245	0.004	Muslim
		2	229			Non-Muslim
	Mudharabah	26	426	3.407	0.065	Muslim
		6	225			Non-Muslim
	Musyarakah	12	440	1.151	0.697	Muslim
		5	226			Non-Muslim
	Salam	13	439	2.876	0.090	Muslim
		2	229			Non-Muslim
	Ijarah	15	437	0.716	0.397	Muslim
		5	226			Non-Muslim
	Istishna	9	443	2.573	0.109	Muslim
		1	230			Non-Muslim

3.2.2. Understanding about Islamic Banking Operational System

3.2.2.1. Islamic Banking Runs Its Operations Based on Sharia Law.

As shown in table 5, there is a correlation between religion and customer understanding of Islamic banking operational legal basis, including Qur'an and Hadith. The value of Chi-Square test is 65,773 with a significance of $0,000 < 0.05$. It indicates that there is correlation between the two variables. The survey conducted also shows that 47% of Muslim respondents agree as well as 35% of Muslim respondents strongly agree that Islamic banking runs its operations based on Sharia law. Meanwhile, 55% and 10% of the non-Muslim respondents agree and strongly agree that Islamic banking runs its operations based on Sharia law respectively, while 34% of the respondents are neutral regarding the statement. In addition, the mean value obtained is 4.01 with a standard deviation of 0.765 indicates that the customers have a **good** understanding of the legal basis of Islamic banks.

3.2.2.2. Islamic Banks Can Be Used by Both Muslims and non-Muslims.

Based on the results of the study, it is indicated that there is a correlation between religion and customers' understanding of Islamic banking customer target (Muslims and non-Muslims). The Chi-Square test value of 33,041 with a significance of $0,000 < 0.05$ reveals that there is a correlation. In addition, the survey also shows that 50% of respondents who were Muslim agree and 20% of the Muslim respondents strongly agreed regarding Islamic banking customer target. Meanwhile, there are 58% of non-Muslim respondents who agree 25% of them strongly agree that Islamic banking can be used by both Muslims and non-Muslims. In general, the respondents have a **good** understanding of the universality of Islamic banking, which is indicated by the mean value obtained is equal to 3.84 with a standard deviation of 0.933.

3.2.2.3. Islamic Banks Prohibit All Forms of Usury in Their Operational Activities and Transactions.

The results of the descriptive statistics show that there is a correlation between religion and understanding of Islamic banking in prohibiting usury, since the Chi-Square test value is 58,180 with a significance of $0,000 < 0.05$. In addition, the survey of 683 respondents indicated that 50% of Muslim respondents agree and 17% of Muslim respondents strongly agree that usury is prohibited in Islamic banking activities. Meanwhile, there are 41% of non-Muslim respondents and 5% of non-Muslim respondents respectively agree and strongly agree. Generally, it can be concluded that the respondents have a **good** understanding about the usury prohibition of Islamic banks, since the mean obtained is equal to 3.66 with a standard deviation of 0.831.

3.2.2.4. Profits in Islamic Banks are Obtained Based on The Profit-Sharing System, Not Interest.

The Chi-Square test value of 31.001 with a significance of $0.000 < 0.05$ indicates that there is a correlation between religion and understanding of Islamic banking profit-sharing system. Furthermore, the survey of 683 respondents also showed that 53% of the Muslim respondents agree and 23% of the Muslim respondents strongly agree that profits gained by Islamic banks are obtained based on the profit-sharing system, not interest. Meanwhile, non-Muslim respondents who chose to agree were around 51% and 10 % of the non-Muslim respondents strongly agree. In conclusion, the respondents have a **good** understanding that Islamic banks gain their profit using the profit-sharing system. It is indicated by the mean value obtained is equal to 3.85 with a standard deviation of 0.7689.

Table 5. Understanding of Islamic Banking

No	Statements	SNA	NA	N	A	SA	Min	Max	Mean	Dev. Std. Value	Value of Chi Square Test	Sig.	Religion
1	Islamic banking runs its operations based on Sharia law.	1%	1%	16%	47%	35%	1	5	4.01	0.765	65.773	0.000	Muslim
		0%	1%	34%	55%	10%							Non-Muslim
2	Islamic banking can be used by both Muslims and non-Muslims.	3%	13%	13%	50%	20%	1	5	3.84	0.933	33.041	0.000	Muslim
		0%	1%	16%	58%	25%							Non-Muslim
3	Islamic banking prohibit all forms of usury in their operational activities and transactions.	4%	2%	27%	50%	17%	1	5	3.66	0.831	58.180	0.000	Muslim
		0%	2%	52%	41%	5%							Non-Muslim
4	Profits in Islamic banking are obtained based on the profit-	2%	1%	22%	53%	23%	1	5	3.85	0.769	31.001	0.000	Muslim

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	sharing system, not interest.	0%	2%	37%	51%	10%							Non-Muslim
5	Islamic banking prohibits all forms of uncertain transactions.	1%	0%	17%	58%	23%	1	5	3.95	0.708	23.120	0.000	Muslim
		0%	0%	32%	53%	15%							Non-Muslim
6	Islamic bank only invests in halal businesses that do not violate sharia law.	1%	4%	13%	64%	18%	1	5	3.89	0.697	51.690	0.000	Muslim
		0%	0%	32%	61%	7%							Non-Muslim
7	Each Islamic banking has a Sharia Supervisory Board that oversees all forms of activities in accordance with sharia compliance	1%	0%	20%	64%	15%	1	5	3.80	0.666	56.614	0.000	Muslim
		0%	0%	46%	48%	6%							Non-Muslim

Note: (SDA=Strongly Disagree, DA=Disagree, N=Neutral, A=Agree, SA=Strongly Agree)

3.2.2.5. Islamic Banking Prohibits All Forms of Uncertain Transactions.

Based on the results of the study, there is a correlation between religion and understanding of Islamic banking transaction that does not carry out an uncertain (*gharar*) transaction. It is shown by the value of the Chi-Square test which is 23,120 with a significance of $0,000 < 0.05$. In addition, the survey also shows that 58% of the Muslim respondents agree and 23% of Muslim respondents strongly agree that all forms of uncertain transactions are banned by Islamic banking activities. There are also 53% of non-Muslim respondents and 15% of non-Muslims respectively agree and strongly agree about it. In sum, the mean value obtained is 3.95 with a standard deviation of 0.708 indicating that the respondents have a good understanding that Islamic banking does not perform uncertain transactions.

3.2.2.6. Islamic Bank Only Invests in Halal Businesses That Do Not Violate Sharia Law.

The results showed that there is a correlation between religion and understanding of Islamic banking investment that is in accordance with sharia law. It can be seen by the value of the Chi-Square test which is 51,690 with a significance of $0,000 < 0.05$. The survey also reveals that 64% of the Muslim respondents and 15% of Muslim respondents respectively agree and strongly agree that Islamic banking only invests in a halal business that do not violate Sharia law. Meanwhile, there are 61% and 7% of non-Muslim respondents successively agree and strongly agree about it. In addition, it can be summarized that the respondents have a good understanding that Islamic banking only invests in a business that is in accordance with Sharia law. The mean value obtained is equal to 3.89 with a standard deviation of 0.697.

3.2.2.7. Each Islamic Banking Has A Sharia Supervisory Board That Oversees All Forms of Activities in Accordance with Sharia Compliance

Based on the results of the study it is known that there is a correlation between religion and understanding of Sharia Supervisory Board in Islamic banking. It is indicated by the Chi-Square test value of 56,614 with a significance of $0,000 < 0.05$. Meanwhile, the survey also reveals that 64% of Muslim respondents agree and 15% of Muslim respondents strongly agree that Islamic banking has a Sharia Supervisory Board that oversees all forms of activities in accordance with sharia compliance, while 48% of non-Muslim respondents agree and 6% of non-Muslim respondents strongly agree regarding this statement. In addition, generally, the mean value obtained is equal to 3.80 with a standard deviation of 0.666 indicating that the respondents have a good understanding that Islamic banks do not make uncertain transactions.

3.3. Perception Towards Islamic Banking

3.3.1. Islamic Banks Have A Great Potential to Develop in Indonesia.

The results findings shown the value of the Chi-Square test which is 65,773 with a significance of $0,000 < 0.05$ suggest that there is a correlation between religion and the perception of the respondents regarding the potential of Islamic banking growth in Indonesia. In addition, the survey of 683 respondents also showed that 55% of Muslim respondents agree and 35% of Muslim respondents strongly agree that Islamic banking has a great potential to develop in Indonesia. Meanwhile, 59% of non-Muslim respondents agree and 22% of non-Muslim respondents strongly agree about this. Moreover, the mean value obtained is 4.16 with a standard deviation of 0.689 suggest that the respondents having a **positive** perception of the growth potential of Islamic banking in Indonesia.

3.3.2. Islamic Banks Have A Potential to Develop in Papua.

One major finding from the study reveals that there is no correlation between religion and customer perception about the potential growth of Islamic banking in Papua. It is indicated by Chi-Square test value which is 33,041 with a significance of $0.068 > 0.05$. The survey also reveals that from 683 respondents, 65% of Muslim respondents, as well as 68% of non-Muslim respondents, agree that Islamic banks have the potential to grow in Papua province. Meanwhile, 18% of Muslim respondents and 13% of non-Muslim respondents strongly agree about that. The mean value obtained is equal to 3.95 with a standard deviation of 0.662 also indicate that the respondents have a **positive** perception that Islamic banks have the potential to develop in Papua.

3.3.3. Islamic Banks Have Ability to Compete in a Healthy Manner with Conventional Banks.

The crosstab test finds that there is no correlation between religion and the consumer perception of the competition between Islamic banks and conventional banks. The Chi-Square test value is 58,180 with a significance of $0.064 > 0.05$. In addition, the respondents also believe that Islamic banks can compete in a healthy manner with conventional banks. There are 66% of Muslim respondents and 74% non-Muslim respondents agree about the ability of Islamic banking to compete with conventional banks, while 19% of Muslim respondents, as well as 13% of non-Muslim respondents, strongly agree. Moreover, the mean value obtained is 4.01 with a standard deviation of 0.615 indicates that the respondents have a **positive** perception of the competition between the two types of banks.

3.3.4. Islamic Banking Products are Different from Conventional Bank Products.

Based on the result findings, it can be suggested that there is a correlation between religion and the perception of the customer about the differences between Islamic banking products and conventional banking products. The value of the Chi-Square test is 31,001 with a significance of $0,000 < 0.05$. The survey also reveals that mostly the respondent agree that there are several differences between products in Islamic banking and conventional banking. Around 58% of Muslim respondents and 42% of non-Muslim respondents agree, while 8% of Muslim respondents and 3% of non-Muslim respondents strongly agree regarding this. However, the survey also reveals that 51% of non-Muslim respondents choose neutral. It means that they could not decide whether Islamic banking has a difference between conventional banking or no. Moreover, the findings also suggest the respondents have a **positive** perception about the products differences between the two banks.

3.3.5. Islamic Banks Have Not Optimally Marketed Their Products to The Public.

Based on the findings, it is believed by the respondents that Islamic banks have not optimally marketed their products to the public. The Chi-Square test is 23,180 with a significance of $0.124 > 0.05$ means that there is **no correlation** between religion and the customers' perception of how Islamic banking marketed their products. The survey of 683 respondents also showed that 66% of Muslims respondents and 74% of non-Muslim respondents agree, while 21% of Muslim respondents and 18% of non-Muslim respondents strongly agree regarding the statement. In addition, the mean value is 4.07 with a standard deviation of 0.626 suggests that the respondents have a **positive** perception of the marketing of Islamic banking products.

3.3.6. Islamic Banks Services are More Satisfactory Compared to Conventional Banks.

The results of the study suggest that there is a correlation between religion and the respondents' perception of Islamic banks services. The Chi-Square test value is 51,690 with significance 0.001 which is higher than 0.05 indicates the correlation. One major finding of the survey suggests that 55% of Muslim respondents and 45 % of non-Muslim respondents agree, while 6% both Muslim and non-Muslim respondents strongly agree that services provided by Islamic banking are more satisfied compared to conventional banking. However, there is an interesting fact reveals that 46% of non-Muslim respondents choose neutral regarding this issue. It assumes that they could not make any comparison between service in Islamic banking and conventional banking. In addition, the mean value obtained is 3.58 with a standard deviation of 0.719 indicates that the respondents have a good and **positive** perception of Islamic bank services.

3.3.7. Profit Sharing Provided by Islamic Bank Savings is Higher than The Savings Interest Given by Conventional Banks.

The results of the study shown the Chi-Square test value is 56,614 with a significance of $0,000 < 0.05$. It indicates that there is correlation between religion and perception of profit sharing provided by Islamic banking. The survey of 683 respondents also suggests that 50% of Muslim respondents and 34% of non-Muslim respondents agree, while 5% of Muslim respondents and 2% of non-Muslim respondents strongly agree that profit sharing provided by Islamic bank savings is higher than the savings interest given by conventional banks. The survey also finds that 41% of Muslim respondents and 63% of non-Muslim respondents are neutral. It indicates that they are not able to decide whether profit sharing provided by Islamic banks saving product is higher than the interest given by conventional banks or not. In addition, the mean value obtained is equal to 3.49 with a standard deviation of 0.653 suggest that the respondents have a **positive** perception about profit sharing provided by Islamic bank savings.

Table 6. Perception towards Islamic banking

No	Statements	SDA	DA	N	A	SA	Min	Max	Mean	Std. Dev. Value	Chi Square Test Value	Sig.	Religion
1	Islamic banks have a great potential to develop in Indonesia.	1%	0%	9%	55%	35%	1	5	4.16	0.689	24.137	0.000	Muslim
		0%	0%	19%	59%	22%							Non-Muslim
2	Islamic banks have a potential to develop in Papua.	1%	2%	17%	63%	18%	1	5	3.95	0.662	8.754	0.068	Muslim
		0%	0%	18%	68%	13%							Non-Muslim
3	Islamic banks have ability to compete in a healthy manner with conventional banks	1%	0%	13%	66%	19%	1	5	4.01	0.615	8.878	0.064	Muslim
		0%	0%	13%	74%	13%							Non-Muslim
4	Islamic banking products are different from	1%	7%	25%	58%	8%	1	5	3.57	0.744	47.124	0.000	Muslim

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	Conventional Bank products.	0%	5%	51%	42%	3%							Non-Muslim
5	Islamic banks have not optimally marketed their products to the public.	1%	1%	10%	66%	21%	1	5	4.07	0.626	7.239	0.124	Muslim
		0%	0%	7%	74%	18%							Non-Muslim
6	Islamic Banks services are more satisfactory compared to Conventional Banks.	2%	5%	33%	55%	6%	1	5	3.58	0.719	18.246	0.001	Muslim
		0%	1%	46%	45%	6%							Non-Muslim
7	Profit sharing provided by Islamic Bank savings is higher than the savings interest given by Conventional Banks.	2%	2%	41%	50%	5%	1	5	3.49	0.653	33.492	0.000	Muslim
		0%	1%	63%	34%	2%							Non-Muslim

Note: (SDA=Strongly Disagree, DA=Disagree, N=Neutral, A=Agree, SA=Strongly Agree)

Conclusion

This research is conducted to investigate the knowledge and perception of Muslim and non-Muslim customers about the products and services provided by Islamic banking in Papua Province, one of the regions in Indonesia with the minority Muslim population. In general, the study reveals that both Muslims and non-Muslims know about the existence of Islamic banking and there is a correlation between religion and respondents' knowledge of Islamic banking. Meanwhile, the survey results suggest that the most widely known Islamic banking product is saving products and mainly, they get information about Islamic banking from social media, internet, and Islamic bank itself.

Although most of the respondents had known about the Islamic banking, relatively they do not understand about the Islamic banking financial instruments provided by Islamic banks, such as *Wadiah*, *Mudharabah*, *Murabahah*, *Musyarakah*, *Ijarah*, *Istishna*, and *Salam*. Furthermore, the study also finds that Muslim and non-Muslim customers have a good level of understanding about Islamic banking basic principles, such as the Sharia law as the based of Islamic banking operation, the universal customers, the prohibition of usury and uncertain transaction, as well as the profit-sharing system.

In addition, the results of the study also reveal that both Muslim and non-Muslims have a positive perception of Islamic banks. It also found that religious factors correlate with perception of the respondents of the potential of Islamic banks to develop in Indonesia as general and Papua as specific, as well as their perception of Islamic banking's competition and differences with conventional banks, the optimization of products marketing, satisfaction indicator, and the ratio of profit sharing provided by Islamic banking.

Regarding the results of this paper, there are several recommendations proposed for enlarging the market share of Islamic banking. First, even though the existence of Islamic bank has been known generally by the people, here are still several Islamic banking products and services unknown by the customers. It could be because of the Arabic term used by the Islamic banking, such as *Wadiah*, *Mudharabah*, *Murabahah*, *Musyarakah*, *Ijarah*, *Istishna*, and *Salam*. Thus, products and services socialization could impact the level of understanding of the customers both Muslims and non-Muslims towards Islamic banking. Second, it is also proposed to develop new product and increase the service quality of Islamic banking. So, it could positively increase the perception of Muslim and non-Muslim customers about Islamic banking. In addition, it is also need to conduct further research to compare the level of understanding and perception of Muslims and non-Muslims towards Islamic banking.

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Katılım Bankacılığı: Yapı, Uygulama ve Yasa Bağlamında Temel Sorunlar

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Öz

Faizsiz iktisat ilkelerinin güncel hayata uygulanabilecek bir modele ve esnekliğe dönüştürülmesi gerekmektedir. Her model ve kurum ancak yapıcı eleştiriler, kurucu tavsiyeler ve ufuk açıcı rehberliklerle gelişip kemale erebilir.

Katılım bankacılığı kalkınma hedefine kilitlenen bir felsefeyle hareket ederek bir taraftan ticari faaliyetlerini sürdürürken diğer taraftan da tasarruf ve yatırım açısından faize alternatif bir model ortaya koyarak hayırlı bir çığır açmış olacaktır.

Faizsiz bankacılık hakkında farklı kanaatlerin olduğu malumdur. Bu kanaatler iyi uygulamalar yanı sıra yanlış uygulamalarla da beslenmekte ve çeşitli ön yargı, yanlış bilgi ve algılara yol açabilmektedir. Elbette bu durum sistemin doğru, tutarlı ve samimi bir usülle uygulanabileceği gerçeğini yok edemez. Üstelik bu model sadece Müslümanlara değil kapitalist ekonominin zararlarından korunmak isteyen tüm insanlara bir alternatif sunma potansiyeline sahiptir.

Katılım bankacılığının temel sorunları olarak yapısal sorunlar, algı sorunları, kanuni sorunlar, uygulama sorunları ve beklentilerin karşılanması meselesi tün boyutlarıyla ele alınmalı, tartışılmalıdır. Ayrıca personelin eğitimi, faizsiz modellerin çeşitlendirilmesi, bazı uygulamaların revize edilmesi, iş birliği ve dünya piyasasına açılma imkanları, sektör bazlı genişleme imkanları, kanuni ve özel teşebbüs desteğinin artması gibi hususlar irdelenmelidir. Kamu otoritesinin kanuni desteği olursa bu kurumlar arzu edilen ekonomik kalkınmaya aracı olabilir. Ancak bunun başarılması tasarrufları kısır döngülü işlere değil büyük yatırım ve kalkınma alanlarına yönlendirmeye bağlıdır.

Anahtar Kelimeler: Katılım bankacılığı, Faiz, Kâr, Yatırım, Kalkınma, Danışma kurulu, Kanun.

Jel Kodları: G20, O16, O17

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Participation Banking: Basic Problems in the Context of Structure, Implementation and Law

Abstract

Interest-free economic principles which have an Islamic and humanitarian sensitivity have to be turned into a model and flexibility that can be applied to contemporary life. Every model and institution can only develop and develop with constructive criticism, founding advice and stimulating guidance.

Acting with a philosophy that is locked in the development goal, participation banking will open an auspicious ground by introducing an alternative model to interest in terms of savings and investment while continuing its commercial activities.

It is known that there are different opinions about interest-free banking. These opinions are fed with wrong practices as well as good practices, and may lead to various prejudices, misinformation and perceptions. Of course, this cannot eliminate the fact that the system can be implemented in a correct, consistent and sincere manner. Moreover, this model has the potential to offer an alternative not only to Muslims but to all people who want to be protected from the harms of the capitalist economy. In its current form, of course, it cannot be claimed that a perfect model has been created.

Structural problems, perception problems, legal problems, implementation problems and meeting the expectations should be handled and discussed as the main problems of participation banking. If the public authority has legal support, these institutions can be the tool for the desired economic development.

Keywords: Participation banking, Interest, Profit, Investment, Development, Advisory board, Law.

Jel Codes: G20, O16, O17

Giriş

Katılım bankacılığı, faaliyet, iktisat siyaseti, beslendiği kaynaklar, mal ve hizmet imkânları velhasıl tüm mali ve iktisadi ilişkileri itibarıyla muamelata dair fikhî anlayışa dayalı bir iktisadi kuruluştur. Malın korunması, atıl halden çıkarılıp nemalandırılması, kalkınma stratejilerine uygun olarak yönlendirilmesi iyi niyet yanı sıra sahih usûle uygun olarak sürdürülürse tüm kesimlere yararlı ve hayırlı sonuçlar çıkacaktır. Burada sadece iyi niyetin yeterli olmadığını tutulan yolun da sağlam işaretlerle döşeli olması gerektiğini özellikle belirtmek gerekir. Katılım bankaları zaten diğer bankaların yaptığı faizli muameleler dışındaki tüm işlemleri yapabildiği için fıkha uygun birçok muameleyi de yapabildiğinden büyük bir gelişme potansiyeline sahiptir.

Katılım bankacılığı sırf bir hayır kurumu olarak görülemeyeceği gibi kapitalist, bencil ve sırf kâr uğruna ilkelerini tersyüz eden bir durumda olması da elbette beklenmez. Ondan beklenen ticaretini yaparken toplumun kalkınmasına bilhassa toplumun çoğunluğunu oluşturan imkânları kısıtlı küçük birikim sahibi insanlara yol açıcı olması ama bu birikimleri de kısır döngülü işlere değil büyük yatırım ve kalkınma alanlarına yönlendirmesidir.

Neticede katılım bankacılığı felsefesinden beklenen kârını maksimize etmek hırsı değil her kesimin kazancına, kalkınmasına aracı olan diğer taraftan da sosyal faaliyetlere de katkıda bulunan bir yapıda olmasıdır. Bunun göstergesi de topluma yararlı olmak, onların maslahatını gözetmek ve topluma zarar vermemek ilkesine uymaktır. Bu nedenle yüksek getirisi de olsa topluma, insana ve çevreye zararlı faaliyetlerde bulunmaması esastır (Ebu Zeyd, 1981, s. 21). Zira insanlar, katılım bankacılığını sırf bir ticari müessese olarak görmemekte bunun yanında sosyal hedeflere ve dini değerlere bağlı bir kurum olarak da görmektedirler. Araştırmacılar bu kapsamda toplum temelli ve dar imkânli kesimlerin kalkınmasına yönelik İslami finansın yaygınlaştırılmasına ve yenilikçi ürünlerin geliştirilmesine dikkat çekmektedirler (Kavakçı ve Cevherli, 2019, s. 53-54). Yine yapılan araştırmalar, uzun vadede sosyal projelerle finansal performans arasında pozitif bir ilişki olduğunu diğer bir ifadeyle finansal ilişkiyi artırdığını tespit edilmiştir (Kavakçı ve Cevherli, 2019, s. 55).

1. Temel Sorunlar

Bu bölümde katılım bankalarında tespit edilen bir kısım sorunlar üzerinde durulacaktır. Bu sorunlar yapısal olabileceği gibi yanlış algılar üzerinde de gelişmiş olabilir. Sorunların bir kısmı da uygulamada ortaya çıkmaktadır. En temel sorunların başında da kanuni alt yapı sorunu gelmektedir. Bu sorunlara yönelik çözüm önerileri ardından dile getirilecektir. Bu önerilerden bir kısmı yeni tedbirleri teyit ekseninde olurken bir kısmı da yapıcı eleştiri veya tavsiye niteliğinde olacaktır.

1.1. Yapısal Sorunlar

a. *Uzman Sorunu*: Yeterli uzman eksikliği önemli bir sorundur. Uzmanlar ya dini alanda yetişmiş ya da iktisadi alanda yetişmiş oluyorlar. Her iki alana da hâkim uzman az yetişmiş bulunuyor. Hem dinî alt yapısı güçlü hem de güncel iktisat, ekonomi ve finans bilgilerine

sahip ve gündemi, yenilikleri takip edebilen yeni finans ve yatırım ürünleri keşfedebilen uzmanlara ihtiyaç vardır (Güneş, 2014, s. 38-40; Naaved, 2015). Ancak bu alanda da çift kanatlı uzman yetiştirme programlarının yeterliliği tartışılmalıdır.

Amerika ve Avrupa’da İslami bankacılık alanında kanuni düzenlemeler ve iktisat alanında fakülteler kurulurken İslam ülkelerinde daha yeni bu alana yönelik akademik birimler kurulmaya başlamıştır (Al Harbi, 2016, s. 122 vd.) .

b. *Piyasa Şartları*: İstikrarsız piyasa, dalgalı enflasyon ve kur, üst üste gelen krizler, ekonomide yapısal sorunlar, teşebbüs ruhunun zayıflığı, bütçe açıkları, işsizlik, milli gelirin düşüklüğü ve dağılımdaki dengesizliği, ihracatın istenen seviyede olmaması ve haksız rekabet ortamları vb. gerekçeler bankacılığı zor durumlara sokan sebeplerdir. Sonuçta piyasadaki bu kötü ortam, katılım bankacılığının gelişmesini de etkilemektedir. (Tunç, 2010, s. 246-247). Ancak katılım bankalarının hedefi zaten bu iktisadi buhranları, krizleri ve kısır döngüleri aşmak, toplumu güvenli ve temiz kazanç alanına çekmek olduğundan tüm bu fırtınaları arkasına atarak hızlı gelişme imkânını daha iyi değerlendirmesi gerektiği açıktır.

c. *Bankadan Kaynaklanan Durumlar*: Alt yönetim ve uygulamalara yönelik yeterli bilişim çalışması olup olmadığı, yönetim ve personelin faizsiz finans konularına hâkimiyeti, denetim yeterliliği, suiistimallere karşı yeterli tedbir durumu, öncelikleri tercih bilinci, personel iç eğitim seviyesi, fırsatların analiz ve yönlendirilmesinde başarı, ihmallerde yetki ve sorumluluğun doğru tespiti ve öz eleştiri, birimler arasında koordinasyon ve iş takibi gibi hususların aydınlatılması gerekmektedir.

Kredilerdeki büyümeye paralel yapılandırma sorunları da ortaya çıkmıştır. Sorunlu kredilerin takipteki kredilere dönüşmemesi için yapılandırmada teverruk yöntemi uygulanmaktadır. Bu durum ise, hem yerli piyasadan yabancı piyasaya likit akışını artırmakta hem de kalkınma modeline uymayan bir kısır döngüye sevk etmektedir (Kartal, 2018, s. 753). Diğer taraftan şer’i hassasiyet ile ekonomik öncelikler arasında denge sorunu olabilmektedir. Bu durumda uyum göstermediğinde bankalar şer’i yönde uyarlanmış istisnai ürünlere yönelme eğilimi gösterebilmektedirler (Habib Ahmed, 2019, s. 117). Ayrıca zarar ihtimalleri ve kaynak tahsisi konularında da aydınlatıcı bir hesap birim tablosu halka yeterince anlatılamamıştır.

1.2. Algı Sorunları

Katılım bankacılığındaki murabaha esasına dayalı finansın faizli bankaların faizli mevduata dayalı kredisi ile benzerlik arz ettiği düşünülmektedir. Özellikle katılım bankalarının murabahada kâr oranını belirlerken kâr payı/taksit oranlarını piyasa faiz oranlarına paralel nispette belirlemeleri onların da faizci olduğu izlenimi vermektedir. Bu durumun süreklilik arz etmesi ve murabaha etrafında kısır bir döngüde işlerin yürütülmesi uzun vadede faizsiz sistemin gelişerek yatırım, üretim ve finans alanında model olmaktan ve hedefe ulaşmaktan uzak kalması anlamına gelecektir. Durum böyle olunca; “madem fark yok o zaman bu faiz hilesi olur bu durumda yapılandırma imkânı da olduğu için “faizli bankayı tercih edelim” (Aktepe, 2014, s. 90) diyenler çokça bulunmaktadır.

Buna karşılık katılım bankaları, bu algının yanlış olduğunu bu paralelliğin piyasa zorunluluğundan kaynaklandığını, merkez bankasının faiz oranlarını belirlemesinin bunda etkili olduğunu savunmaktadırlar (Alpun, 2017, s. 81).

Mevduat bankaların faiz değişimlerine karşı hızlı uyum sağlamaları bilhassa düşen faiz oranlarında yapılandırma ile müşteri lehine hareket edebilmeleri, faiz hassasiyetine sahip müşterileri suiistimal olarak algılanabilmektedir. Bu nedenle fon toplama esasına bakılmadan ev/araba gibi temel ihtiyaçlarda benzeri fon kullandırma yöntemleri öne çıkartıldığında kafalar karışmaktadır. Bu nedenle sözleşmelerin iki bankayı birbirinden ayırt eden özellikleri vurgulayıcı tarzda düzenlenmesi gerekir.

Katılım bankalarının topluma muamelelerin dine uygunluğu hususunu yeterince anlatamadığı görülmektedir. Bunun bir nedeni mevcut uygulanan ürünlerin net ıstılahlarla izah edilmemiş olması diğeri de personelin bu hususta ki eğitimsizliğidir.

Toplum İslam iktisadı ürünlerini tam olarak anlamış değildir. Murabaha ile faizli borç, sukuk ile tahvil vb. hususların arasındaki fark zihinlerde netleşmemiştir (Salah, 2019, s. 31).

1.3. Uygulama Sorunları

Faizli bankaların cari hesap ve kredili mevduat hesabı ve değişebilen faiz uygulamalarına karşın katılım bankalarının standartlılığı dezavantaj olarak görülmektedir (Alpun, 2017, s. 100).

Katılım bankaları, faturasız faaliyetleri fonlayamamaları sebebiyle kayıt dışı ekonomik faaliyetlerle elde edilen gelirlerin kayıt altına girmesine vesile olma açısından bir çıkmazla karşı karşıya kalmaktadır (Alpun, 2017, s. 101). Bu hususta devletin kayıt dışı faaliyetlerle mücadelede katılım bankalarına imkânlar sunması gerekmektedir.

Katılım bankaları, özellikle kısa vadeli iştiraklerde ve beklentilerde kâr-zarar ortaklığında dengeyi sağlamakta zorlanmaktadırlar.

Teorinin uygulanmasında açığa çıkan anlaşmazlıklar veya farklı görüşler ciddi bir sorun olarak karşımıza çıkmaktadır. Yeni oluşturulan merkezi danışma kurulu bu sorunu çözmeye ileride de ele alınacağı gibi önemli bir adım olmuştur. Denetim merkezlerinin işlev ve rehberliklerine uygun bir standart yakalanırsa daha etkin bir denetim ve makul rekabet ortamı oluşacaktır (Güneş, 2014, s. 32-34).

Katılım bankaları yaptıkları ticari işlemlerde kâr oranlarını hesaplarken enflasyon baskısını dikkate alarak kâr oranı belirlemede, piyasada oluşan enflasyon ve kur dalgalanmaları tehlikesine karşı ihtiyatlı olmaktadır. Büyük oranda murabaha sistemine dayalı çalışan katılım bankaları Türk Lirası endeksli çalıştıkları için dövizle çok borçlanmadıkları, borcun ödenmeme riskine karşı da hem öz sermayelerinde ihtiyat payı tutup hem de ipotek aldıkları için zarar ihtimalini minimum seviyeye çekmeye çalışmaktadırlar. Elbette zarar etmek mümkündür ancak zarar etmiyor diye faizsiz katılım esasına göre iş yapan bir sistemi faizli bankalardan farkı yok mahkûm etmek de doğru değildir.

Bir kişi katılım bankasına 1.000.000 TL yatırarak onun getireceği kâr payı ile hayatı boyunca çalışmadan yaşayabilir bu alın teri olmadan bir kazanç değil mi?- şeklinde sorularla katılım gelirin faizli kazançtan farkı olmadığı ifade edilmeye çalışılmaktadır.

Kâr-zarar ortaklığını göze alarak aynı parayla bir işletme açıp başına da bir eleman koyarak ticaret yapan bir kimse de aynı şekilde geçimini sağlayabilir veya iyi getirisi olan bir iş yerini kiraya veren bir kimse de çalışmadan rahatlıkla geçinebilir. Burada ölçü faizle değil sermayeyi çalıştırarak alışverişle kazanç elde etmektir. Sonuçta insanlar rızıkta farklı derecelerde kılınmıştır.¹ Bu tür riski düşük gelir fırsatları insanların öteden beri rağbet ettiği imkânlardır. Elbette bu tür gelir kapıları da belirli oranda risk taşır. Zarar olabileceği gibi kiranın ödenmemesi veya kira mahallinin değer kaybetmesi de bir risktir. Bu nedenle insanlar durum ve şartlara göre en düşük risklere yönelmeyi tercih etmeye devam edeceklerdir. Nasıl ki kira veya bir malı hazır alıp yorulmadan devrederek satma sonucu elde edilen gelir faiz değilse katılım hesabından elde edilen de şartlarına uygun işlediği sürece faiz olmaz.

Mark-up uygulamalar² katılım bankacılığının asıl felsefiyle çok uyumlu değildir. Zira paradan para kazanma metodunu işleten konvansiyonel bankalara en yakın uygulamalar mark-up finansman modelleri olduğundan uzun dönemli yatırım ve üretim hedefine uygun bir enstrüman olarak görülmemektedir (Güneş, 2014, s. 35-36). Üstelik modern murabaha uygulaması gibi tartışılmaya devam eden uygulamalar (Kapıcı, 2018, s. 56-57), sözleşmelerde bankanın ithalatçı, satıcı, üretici vb. olduğu değil kredi temin eden bir kuruluş olduğu teması vardır. Dolayısıyla malın bulunmasından seçimine, devir, teslim ve zaptına kadar ilgili tüm sorumluluklar müşteriye yüklenmektedir. Neticede banka, ayıp/kusur, hasar, teslim ve tesellüm sorumluluğuna girmemektedir. Bunu aşmak için vekâlet formülü yeterli midir? Veya üçüncü bir kişinin vekil olması daha doğru olabilir mi? (Kapıcı, 2018, s. 69). Nitekim AAOIFI bu hususa açıklık getirmiştir (FBS, 2012, s. 168).

Katılım bankalarının en çok tartışıldığı bir alan da tüketici kredisi benzeri uygulamalara yer vermeye başlamasıdır. Bedelli askerlik, hac-umre finansmanı gibi hususlarda ya teverruk yaparak ya da mülkiyeti netleşmemiş alanlarda işlem yapmaktadırlar. Murabaha gibi genel kabul edilen bir uygulamada kafalardaki şüpheler tam izale edilmemişken bu tür uygulamaların nasıl algılanacağı hesap edilmelidir (Aktepe, 2014, s. 93).

Likit/nakit Yönetim Sorunu: Bu hususta katılım bankaları zorluklar yaşamaktadır. Herhangi bir mali/finansal idarede nakit akışının sevki ve kolaylaştırılması önemli bir konudur. Katılım bankaları bu hususta ya refikleriyle yahut merkez bankasıyla ya da diğer mevduat bankalarıyla şüpheli ve garar içerebilen muamelelerle işi yürütebilmektedirler (Salah, 2019, s. 33). Mudarebe ve müşarekede paylaşma oranı dışında maktu kârın olmaması, taksir, ihmal veya şarta muhalefet olmadıkça sermayenin tazmin sorumluluğunun olmaması da katılım

¹ (Zuhruf Suresi /32).

² Mark-up: Ortalama değişken maliyetlere belirli bir yüzde kar marjı eklenerek oluşturulan fiyat sistemidir. Genelde sabit fiyatlı piyasalarda kullanılan bir yöntemdir.

bankacılığı açısından rekabet ortamında büyük bir risk olarak görülmektedir. Yani katılım faaliyetlerinin gelişmesi adına herkes bu riski göze alamamaktadır.

1.4. Yasal/Hukuki Sorunlar

Kanuni olarak katılım bankalarının faizsiz işlemlere dair beyanları sözleşmelerinde daha açık ve yeterli bir şekilde ifade edemedikleri görülmektedir. Sorun BDDK gibi kurumların katılım bankalarına özel bir kanun olmadığı için diğer bankalardaki uygulamaları şart koşmasından kaynaklanmaktadır. Son dönemde yayınlanan bir tebliğle kanuni altyapı çalışmasının başlaması umut vericidir.³

Katılım bankaları, mevduat bankalarına göre uzun vadeli yatırım araçlarına sahip olmadıklarından %40 daha fazla likidite tutmak zorundadırlar. Ayrıca sermaye ihtiyacı beklenmedik durumlara karşı daha fazladır. Yine eksik yasal düzenlemeler ve konvansiyonel bakış açısının piyasada hâkim olması sebebiyle katılım bankacılığı tam anlaşılammıştır. Bu nedenle ticaret ve bankacılıkla ilgili kanunlarda katılım bankacılığı anlayışını idrak eden ve bu maksadı gözeten bir yöntemle düzenlenmeler yapılması gerekmektedir. Faizsiz ürünlere uygun mevzuat hazırlanmalıdır. Hâlihazırda SPK ve BDDK aracılığıyla yeni kanuni düzenleme girişiminin gündemde yerini alması sevindirici bir gelişmedir.

Önemli bir kanuni sorun da, milletlerarası para-banka politikalarındaki sıkı tedbirler ve uygulamalar sebebiyle başka ülkelerde finans kuruluşlarını veya şubelerini açmanın zor olmasıdır. Özellikle döviz kodlarının takibi, swap işlemleri, konvansiyonel mali mevzuat alanında tekel uygulamaları aşmadıkça katılım bankacılığı kendine has metotlarla faaliyetlerini genişletme imkânı bulamayacaktır (Güneş, 2014, s. 37). Bu sorun küresel bir sorun olsa da sonuçta dünyadaki faizsiz bankacılığın entegrasyonu sistemin yaygınlaşması için gerekli olup en azından bölgesel de olsa adımlar atılmalıdır.

2. Çözüm Önerileri

Geçmişten beri İslami ve insani hassasiyete sahip İslam iktisadı ilkeleri, güncel hayata uygulanabilecek bir modele ve esnekliğe dönüştürülerek iktisadi hayatta adalet, hakkaniyet ve insaf ölçülerinde bir sistem inşa etme potansiyeli taşımaktadır. (Tunç, 2010, s. 108-113). Katılım bankaları bu açıdan bir model olma, öncülük etme potansiyeli taşımaktadır. Burada önemle zikredilmesi gereken husus, katılım bankalarının kuruluş sözleşmeleriyle uyumlu bir faaliyet siyasetinin güdülmesinin zaruretidir (Heyet, c. 1, s. 59). Şu da unutulmamalı ki hizmet kalitesi ve müşteri memnuniyeti pazarda yer tutmak, rekabette dayanıklı olmak için önemlidir. Hizmet kalitesi artıkça tatmin de artacaktır (Özdemir, 2019, s. 108). İslami kalkınma modeli, ahlakî, psikolojik, fikrî ve şahsiyet eğitimiyle birlikte gelişen bütüncül bir kalkınma modeli olmak durumundadır. Elbette bu kendi başına değil kanun, nizam ve şer'i denetimler çerçevesinde şekillenebilecektir (Şebhane, 2016, 28-30).

³ 14 Eylül 2019 tarih ve 3088 sayılı tebliğle ve 18.10.2018 tarihli ve 30569 sayılı Resmi Gazete'de yayımlanan yönetmelikle katılım bankalarını ilgilendiren önemli değişiklikler yapılmıştır.

Şimdi tespit edilen sorunlar çerçevesinde ne gibi çözümler önerilebileceği üzerinde durulacaktır.

2.1. Yapıyla İlgili Öneriler

2.1.1. Personelin Faizsiz Sistemi İyi Tanıması

Daha çok proje eksenli gelişmesi gereken katılım bankacılığının işi fon toplamakla ve dağıtmakla bitmeyeceği için projenin takibi, verimliliğinin ölçülmesi, risklerin azaltılması için birçok meşguliyet alanı olacağından iyi yetişmiş, donanımlı ve tecrübeli elemanlara ihtiyacı vardır (Tunç, 2010, s. 115). Nitekim personel arasında faizsiz bankacılık uygulamalarından mudarebe, müşareke, sukuk gibi kavramları anlamada ve doğru tanımlamada bariz farklılık göze çarpmaktadır. Katılım bankası elemanlarının finans işlerini bilmeleri kâfi olmayıp mal ve ürün ticaretiyle ilgili çeşitli akitleri de iyi kavramaları gerekir. Tabi ki personelin müşterilerin sorularına banka bilançoları veya muhasebesi üzerinden tatmin edici cevaplar verebilecek açıklıkta bilgilere sahip olması da gerekmektedir (Şebhane, 2016, s. 34-35).

Bir kısım katılım bankalarında verilen fetvaların tatbikinde hata yapılmaması için hem banka yönetiminin hem de danışma kurullarının açık ve net yönergeler hazırlaması gerekmektedir. Zira faizli banka metoduna göre eğitilmiş personelin katılım bankasının farkını anlaması öncelikli bir ihtiyaçtır.

Ayrıca toplum algısında şüphe ve tereddütleri giderme açısından televizyon, dergi, sosyal medya, seminer, konferans, ilmi çalıştay vb. her vesileyle algı tazelemesi ve düzeltilmesi gerekmektedir.

2.1.2. Bankalar Arası İşbirliğinin ve Teknik Bankacılığın Daha Aktif ve Kullanışlı Hale Getirilmesi

Günümüzde bankalar ne kadar yüksek sermayeye sahip olurlarsa o kadar yüksek getirili yatırımlara yönelebilmektedirler. Bu alanda büyük çoğunlukla konvansiyonel bankalar söz sahibi olmaktadır. Bu nedenle proje temelli yüksek getirili faaliyetler için katılım sermayelerinin birleştirilerek rekabete dâhil olması isabetli olacaktır. Aksi halde kurum etkinliği, mark-up ve leasing işlemler çerçevesinde dönüp dolaşacak, hedef marjinalleşecek ve uzun vadede yıpranacaktır (Güneş, 2014, s. 38-40).

Artık teknik imkânlar sayesinde doğru ve hızlı bilgiye ulaşma kolaylaştığı için zamanında kritik ve etkili kararlar alabilme imkânı vardır.

Özellikle bankacılığın keşfinden bu zamana konvansiyonel bankaların çıkardığı ürünlere alışmış bir toplumda İslami bankaların ölçek ve ürün yelpazesi yeterli çeşitliliğe ulaşmış değildir. Bu anlamda fintek ürün yelpazesi, yılların getirdiği bu açığı kapatmak için İslam'a uygun iyi fırsatlar, inovatif iş modelleri, teknik imkânlar, rekabetçi ürünler sunmaktadır (Demirdöğen, 2019).

Kredi ve devir sorunları için fıkha uygun orta yollu araştırma ve çözümlerin üretilmesi gerekmektedir (Kartal, 2018, s. 106-107). Performans, verimlilik, etkinlik ölçümleri ilmi

çalışmalara konu olmakta, maliyetlerin düşürülmesi, alternatif dağıtım ve hizmet kanalları, kolay ulaşım hususunda şubesiz bankacılık uygulamaları hızla yaygınlaşmaktadır (Gündebahar, 2016, s. 55).

Ayrıca likit fazlası sorunu da ancak koordineli bir işbirliği ile çözülebilir. Zira mevcut piyasa şartlarında yeterli yatırım ve mali piyasa imkânı bulunmadığında atıl kalan fonların kalkınmaya, üretime ve ticarete kazandırılması önem arz etmektedir. Bunun için hem ilmî hem amelî planda çok mesai harcanması gerekmektedir. (Özdemir, 2019, s. 122). Katılım bankaları, felsefelerine uygun yeni açılımlar, yeni buluşlar yapmak durumundadır. Aksi halde uzun vadede yenilik, gelişme ve süreklilik piyasasında rekabet gücünü kaybeder (Salah, 2019, s. 19).

Diğer önemli bir hususta katılım esaslı bankacılık için araştırma ve eğitim merkezleri yaygınlaştırılmalı ve koordineli enformasyon ağı oluşturulmalıdır (Salah, 2019, s. 32-33). Bu hususta Katılım Bankaları Birliği daha aktif rol alabilir.

2.1.3. Katılım Bankaları Birliğinin Toplum Bilinçlendirmede Öne Çıkması

Katılım bankalarının diğer bankalarla aynı ekonomi piyasasında iş yaptıkları ve aynı risk dağıtılması ilkesini uyguladıkları için faiz oranlarına yakın oranlarda kâr payı belirledikleri gerçeği topluma iyi anlatılmalıdır. Zira faizcilikle, ortaklık veya mudarebe arasındaki farkın toplum algısında netleşmesi gerekir. Bunun için bir taraftan faizsiz çalışma usûlleri hukuki destek almalı diğer taraftan da faiz oranları etrafında dolaşıp durmamak için ürün çeşitliliği yanı sıra net ve anlaşılır bir muhasebe bildirimini gerekmektedir. Yani kamuoyu, muhasebedeki faizsiz uygulamaları genel hatlarıyla istediğinde öğrenebilmelidir. Kamu kurumu niteliğindeki meslek birimi olan TKBB'nin mesleki kurallar ve uygulamaya yönelik yetkilerini etkin hale getirmesi gerekmektedir (Atılğan, 2009, s. 76). Toplumun beklentisi bu yöndedir.

Araştırmacılar, katılım bankacılığının ülkemizde tanıtım ve reklamının yetersiz olduğunu, bankalarla tatminkâr ilişkilerin istenilen seviyeye henüz ulaşmadığını belirtmektedirler (Özdemir, 2019, s. 123). Zarar etmeme ve faizle oran benzerliği sebebinin işlem sayısının çokluğu, kredilendirme sürecindeki hassasiyet, teminat, murabahanın ağırlığı, zararın havuzda belirginleşmemesi gibi nedenler olduğu somut olarak anlatılmalıdır (Tunç, 2010, s. 205-206).

Mevduat bankalarının ev, araba alım satımlarında uygulama olarak katılım bankalarının benzeri uygulama yapmaları da kafaları karıştırmaktadır (Aktepe, 2014, s. 91). Bu durum katılım bankalarının mevduat bankalarına benzemesi değil tersine mevduat bankalarının katılım bankalarına benzemesi olarak da iddia edilebilir. Ancak bu durum kredi sistemlerinin genel işleyiş mantığına uygun olduğundan bu uygulama onların faiz karşılığı borç verme temel mantığından çıktıkları anlamına gelmemektedir. Aslında finans temelli çalışan sistemlerin faaliyet alanlarının benzeşmesi kaçınılmazdır. Burada temel gereksinim ticaretle faiz çizgisini ayıracak kesinlikte yasal düzenleme ve uygulama netliğinin ortaya çıkmasıdır.

2.2. Uygulamayla İlgili Öneriler

2.2.1. Murabaha Uygulamasının Daha Tutarlı Hale Getirilmesi

Murabaha katılım bankacılığının mahiyet ve amacına uygun bir alternatif olmaktan ziyade bir kısım temel ihtiyaçlara cevap veren finans uygulamasıdır. Bu uygulama, faizli sistemden farkı ortaya koymaya yetecek bir araç değildir. Ayrıca faizli yerli ve yabancı bankalar açtıkları faizsiz pencerelerle bu alanda basit imkânlarla pay kapmak için ciddi rekabet oluşturabilir (Tunç, 2010, s. 116).

Murabaha metodunda katılım bankaları, sorumluluktan muaf tutulma eğiliminde olduğu algısına maruz kalmakta bu da onu faizli bankalara yaklaştıran bir tanımlamaya itmektedir. Özellikle gayrimenkullerde kabz olmadan satış yapmak fıkhen mümkündür. Kabzın şekli konusu şer'e değil toplum örfüne bırakıldığından sonradan fasidlik unsuru izale edilebilir (MFI, 2019, karar:39). Ancak mebinin tazmin sorumluluğunun kısa süreliğine de olsa satıcıda olması gerektiği ilkesi (el-harâcü bi'd-daman), satıştan kâr elde etmenin meşruiyet gerekçesini oluşturmaktadır. Bu durum ise modern murabahada çok net değildir. Gerçi murabahada da bankanın müşteriye satarken mebinin tazmin sorumluluğunu teslim sonuna kadar üstlenmiş olduğu ifade edilse de sigortanın banka adına değil müşteri adına yapıp primlerin ona ödettilmesi ve yasal boşluk çözümü zorlaştırmaktadır.

Tazmin sorumluluğunun üstlenilmesi hususunda yapılabilecek bir çözüm de, devletin faizsiz murabaha modelinde uygulayıcı bankaları aldıkları mallar üzerinden değil satışları üzerinden vergilendirmesi böylece teslim ve tesellüm işinin düzene girmesidir.

Murabaha için önemli bir şart da, sözleşme metinlerinin faizsiz finans şartlarına göre resmiyete kavuşması gereğidir (Kapıcı, 2018, s. 78). Nitekim kredi verenden satıcıya kadar müteselsil sorumluluk esası getiren bağlı kredi sözleşmesi, bankanın üstlenmesi gereken sorumluluk için alternatif bir uygulama olabilir. (Kapıcı, 2018, s. 87).

AAOIFI de, murabahada malın tazmin sorumluluğu ile tasarruf yetkisinin bankaya sonra da müşteriye geçmesi hususunda mülkiyetin intikal aşamalarının net tespit edilmesi gerektiğini belirtmiştir. Netice sigortalama işlemlerindeki sorumluluklar da bankaya ait olacaktır.⁴

Katılım bankalarından bir ihtiyacı murabaha yoluyla almak isteyen bir kimse, arka planda akdi gerçekleştirip sonuçlandırdıktan sonra katılım bankasının devreye girmesini istemiş olabilir. Bu nedenle katılım bankası, sonuçlanmış bir akdin üzerine müdahil olmakta bu da yeni akde fesad unsuru karıştırdığı için faiz şüphesini taşımaktadır (Tunç, 2010, s. 213). Bu nedenle katılım bankası akdi inşa ederken müşterilere uyarıda bulunmalı eğer böyle bir durum varsa önceki akdin feshini temin etmeli sonra satıcı ile yeni bir akit yapmalıdır. Zifaktan sonra nikâh kıyma gibi bir tuhafliğe düşülmemek için hassas olunmalıdır. Elbette malın önceden tespiti gereklidir. Ancak bu tespit akde dönüşmeden bankayla buluşturulmalıdır.

⁴ AAOIFI, *Faizsiz Finans Standardı* 8, 3/2/6.

Katılım bankaları akdin gereği olmayan ve kanunen zorunlu olmayan sigortaları şart olarak öne sürmemeli, ikna metodunu kullanmalıdır.

Geciken ödemelerle ilgili katılım bankaları “mahrum kalınan kâr” gibi tartışmalı ve ucu açık tedbirler yerine enflasyon kaybı gibi suiistimalleri önleyecek çerçevesi belirli uygulamalar geliştirmelidir. Bu bapta borcunu geciktireni ziyade borçlandırmak nesie faizi olacağından caiz olmaz. Ancak ihmal ve suiistimal olduğu tespit edilen durumlarda da zulüm vasfı öne çıktığı için kanunen bir takım cezai müeyyideler getirmek mümkündür. Banka sırf bu sebeple yaptığı ekstra masraflar varsa tahsil edebilir. Enflasyon farkı istenebilir. Geciken taksite karşılık ilerideki taksitler öne çekilebilir. Borçluyla borcu karşılığında ayna/mala dayalı ortaklık ya da alışveriş yapılabilir veya caiz olan borç satım uygulamaları yapılabilir. Borca karşı borçlunun akarı alındığında ona temlikle sonuçlanacak vade tanınabilir. İslami sigorta uygulamalarından yararlanılabilir. Katılım bankaları bu husus için özel yardımlaşma sandığı kurabilir. Diğer bir çözüm, müşteriden geciken borç karşılığı cari hesapta o miktarı o sürede nakit tutması istenebilir veya geciktirme tehlikesi olana başta daha fazla oran yüklenir ödediği takdirde “erken öde indirim al” mantığıyla indirim yapılır veyahut geciktirme durumunda hayır işlere sarf edilmek şartıyla mevcut orandan daha fazla taahhüt alınabilir (Karadağı, 2020).

Elbette ticarete her zaman için zarar riski, ödemelerde gecikme durumu vardır. Bu nedenle bu alanı dengeli idare edecek, makul seviyelerde tutacak her türlü kanuni, yapısal ve uygulama imkânları araştırılmalıdır. Piyasadaki yanlış uygulamalar doğru tarzın ortaya konulmasına mani değildir.

Mecmau’l-fikhi’l-İslami ed-Düveli (Uluslararası Fıkıh Akademisi) 133(7/14) no’lu kararında borç geciktirmeye sebep olan murabaha, vadeli satışlar, gerekli ve yeterli finans ürünleri ve kefalet yükümlülüklerindeki eksiklikler üzerinde durulması ve tedbir alınması tavsiye edilmektedir. Bu durumda teknik ve idari tedbirler alınarak asıl kalkınma hedefine uygun yatırımlara, mudarebe, müşareke, istisna gibi alanlara yönelmek gerektiği vurgulanmış, murabaha rekabetinin kısır döngüsünden çıkılması istenmiştir.

Bir örnek üzerinden gidersek hac ve umreye borçla gidilir, alınıp satılan hac değil onun için yapılması gereken ibate, iaşe vb. ihtiyaçlardır diyerek (Aktepe, 2014, s. 48) mevcut hac-umre finansmanını tahkik etmeden, sahih akdin gerekleri için şartları düşünülmeden kolayca cevaz vermek ya da bir taraftan teverruk uygulamasını ciddi nakit sıkıntılar yaşayan samimi müşterilere uygulanmasını tasvip ederken diğer taraftan da her başvurana önünün açacak şekilde genişletme (Aktepe, 2014, s. 93) tezadını izah etmek ne kadar mümkün olur! Elbette hac-umre finansmanı da hizmet paketi satın alınıp müşteriye satılarak yapılabilir ama bunun şartlarına riayet edilmelidir.

Diğer bir uygulamada ise, mevduat bankalarına benzeyen türde ortaklık ve mudarebe yöntemlerinin görülmesidir. Buna göre katılım bankası faiz oranlarına yakın bir oranı aşan ortaklık gelirinden feragat etmekte ve taksir, ihmal ve şarta muhalefet olmasa da tazmin sorumluluğunu üstlenmektedir. Bu durumda İslami ilkelerin gerektirdiği ortaklık, tazmin

külfeti ve kâr paylaşımı dengesi bozulmaktadır. Bu hususta çözüm yolu olarak Karadaği, kârın oransal olmayan tarzda belirlenmesinin faiz olacağını bunun yerine çok hassas tetkiklerle beklenen kâr ilanının mümkün olacağını önerir. Diğer bir metot riski düşük verimli alanlarda yatırım yapmak başka bir yöntem de uygun firmalara murabaha vekâleti vererek kâr miktarını belirlemektir. Diğer bir yöntemde temlik vaadiyle kira sözleşmesi uygulamasıdır ki bu durumda da büyük oranda kâr miktarı belirlenebilir.”

Aynı yerde Karadaği, mudarebe ortaklığında tazmin sorumluluğu olmaması keyfiyetine de çözüm olarak yeterli veri ve bilgi altyapısı oluşturularak rehin ve kefalet yöntemiyle teaddi, ihmal ve şarta muhalefet durumlarında tazmin imkânlarının sağlama alınması ayrıca üçüncü tarafın tazmini üstelenebilmesi yöntemlerini önerir. Murabaha vekâleti uygulaması da tazmin sorumluluğunu daraltacaktır. Yine zarar iddiası da delil talebiyle soruşturmaya açık hale getirilebilir veya bilhassa vadeli işlerde piyasadaki aşırı dalgalanmalara karşı İslam ilkelerine uygun hedge (riskten korunma) yöntemleri tatbik edilebilir (Karadaği, 2020). Ancak hedge denilen riskten korunma yöntemlerinin dinen uygunluğu yeterli tartışılmış değildir. Zira faiz gibi hiç risk üstlenilmeyen kazançlar meşru görülmediği gibi kumar gibi bir tarafın kazanç diğer tarafın zarar gördüğü işler de mahzurlu görülmüştür. Cumhuriyet temsil eden heyet ve âlimler, vadeli emtia işlemlerini de temel İslam iktisadî ölçüleri açısından ele alıp vadeli döviz gibi bunun da caiz olmayacağını belirtmişlerdir. (Durmuş, KTO, 2015).

Son zamanlarda Katılım Bankaları Birliği'nin düzenlediği “Murabaha Standardı Çalıştayı”, hem fikhî hem de piyasa/ sektör ihtiyaçlarını karşılayacak bir tasarıyla uygulamanın geliştirilip iyileştirilmesi hedeflenmiştir. Ancak Danışma Kurulu, standardın nihai hale gelmesi için halen çalışmasını sürdürdüğünden bu makale kaleme alındığında son şekli gündeme gelmemiştir. (TKBB, 2020)

Katılım bankaları risk korunma yöntemlerinden forward ve swap uygulamalarını bazı kriterlere ve niteliklere uymak şartıyla kullanmaya başlamışlardır. Future ve opsiyon türev ürünleri ise cevaz verilmediği için uygulanmamaktadır. Bu temel ölçülere baktığımızda; borcun borç karşılığı satımı içermemesi, kabz temelli olması, nakdi uzlaşma ile değil fiziki teslimle veya hükmi kabzla sonuçlanması, garar içermemesi, sözleşme içeriğinin detaylı ve net bilinmesi, manipülasyona ve açgözlü faaliyetlere değil reel ekonomiye bağlı yapılması olduğunu görürüz. Piyasada yapılan türev işlemler ise genelde sahip olunmayan ve fiziki kabz imkânı verilmeyen varlıklara konu olmakta, borcun borç karşılığı satışı temelinde sürdürülmektedir. Türev ürünler reel bir ekonomik faaliyet olmayıp kumar mahiyetindedir. İleri tarihli sözleşmelerde aşırı belirsizlik olduğundan bir tarafın kesin kaybına diğer tarafın kesin kazancına dönüşmesi, garar mahiyetindedir (Şahin, 2019, s. 52-56).

Bu durumda piyasadaki aşırı dalgalanmalar ve yıkıcı belirsizliklere karşı meşru riskten korunma yöntemlerinin geliştirilmesi, şart ve uygulama şeklinin belirlenmesi ivedilikle gerekmektedir. Bunun olması için şart, kefil olunana ödettirilmemesidir. Aksi halde mudaribe tazmin sorumluluğu yüklenmiş olur ki bu akdın rüknüne aykırıdır. Bu durumda devletin sırf

piyasada güven oluşturması için üçüncü taraf olarak karşılıksız garantörlüğü mümkündür. (Durmuş, 2010, s. 152).

2.2.2. Likit/Fon/Sukuk Yönetiminde Hassasiyetler

Bir taraftan likiditeyi yüksek tutmak diğer taraftan da kâr ve yatırım amacını sürdürmek dengelenmesi gerçekten zor bir ikilemdir. Eğer bu denge sağlanmazsa likidite tarafı çöktüğünde iflas ve tasfiye, kâr ve yatırım tarafı çöktüğünde de yatırımcıların sermayelerinin zarar görmesi söz konusu olacaktır. Zira kâr, iktisadi hayatın istikrarı ve büyümesi için olmazsa olmaz şarttır. İşte iyi bir yönetim likidite ve kârlılık arasında dengeyi sağlayan yönetimdir.

Katılım bankaları hem kendisinden beklenen kârlılığı ve büyümeyi hem de fon fazlasını değerlendirmek durumundadır. Bu anlamda likit/nakit karşılıkların gerektirdiği durumlarla ilgili tehlikeler hususunda tedbir ve dengenin önemi kriz dönemlerinde çok iyi anlaşılmıştır. Bu nedenle likit akışı sorununu gidermek için istisna, selem, icâre sukuku yanı sıra mudarebe ve müşareke sukukları iyi imkanlar barındırmaktadır. Zira likit akışının aciliyet kesp ettiği durumlarda faizli bankalar gibi faiz alıp veremeyecek olan katılım bankalarının bu sorunu çözmeye yönelik bir alan açmaları kaçınılmazdır. Faizci iktisadi uygulamalara göre düzenlenmiş küresel piyasada İslami ilkelere uygun sukuk alanını genişletmek kolay değildir. Zira tahvil, bono, fon gibi likiditesi yüksek uygulamalara alternatif olacak likiditesi yüksek sukuk ihracı sorunu vardır. Bu alanın geliştirilmesi ciddi bir ihtiyaçtır. İslam Kalkınma Bankası gibi kuruluşlar bu amaca yönelik kurulmuş olsa da bunların yerine göre maliyetli olması kısa vadeli ürünlere daha çok ihtiyaç hâsıl etmektedir. İslami finansın menkul kıymetlere yönelik endeks faaliyetlerinin ve ikincil piyasaların da küresel alanda kolay ulaşılabilir hale gelmesi gerekir (Tunç, 2010, s. 280; Shaikh, 2014, s. 293). Nitekim günümüzde bu alanın genişletilmesi için gayret edildiği görülmektedir.

Neticede yeterli İslami para/likit piyasasının oluşturulması şarttır. Tasarruf sahiplerinin tercihlerinin sürekli değiştiği bir piyasada talep odaklı olmayan ve yapısal kaymalara karşı esnekliği sağlamayan faaliyetlerle para piyasasında tutunmak zordur. Olağanüstü veya beklenmedik durumlarda kaynak arayışı kaçınılmaz olmaktadır (Naaved, 2015).

Salman Ahmed, geleceğe yönelik fırsatlar çerçevesinde bağımsız finansman yanı sıra sendikasyon finansmanını da önermektedir. Yani grup finansmanı şeklinde büyük projeler için ortak hareket edebilmek kabiliyeti geliştirilmelidir. Böylece yatırım çeşitliliği artar, riskler dağıtılıp kaynaklar daha verimli havuzlarda toplanır. Ayrıca küçük tasarruflar, daha az maliyetle özelleştirilerek yüksek maliyetli işlerden ve belirsiz yüklenimlerden kurtarılmış olur. Bunun için halka açık sukuk ihracı büyük projelerde küçük tasarrufları kullandıracak önemli bir kaynak oluşturur. Kârlılık oranlarında ve tasarruflarda yukarı doğru basınç, yatırım ve tasarruf dengesini ve uyumunu sağlayacak böylece murabaha kısır döngüsünden çıkma ihtimali güçlenecektir (Shaikh, 2014, s. 295-296). Bunu sadece BES gibi tasarruf alanlarında değil büyük yatırım projelerinde de görmek gerekir. Yani hem büyük projeler hem

de mikro finans fırsatları bu amaçlara yönelik ihtisaslaşan katılım bankacılığı çeşitliliği ile zenginleştirilebilir.

Bu durumda likit akışının düzenli ve meşru çerçevede idaresi için dinen meşru olan ikinci el menkul piyasasının canlandırılması (Bayındır, 2017, s. 270), katılım bankaları arasında nakit organizasyonunun sağlanması, fikhî standartlara riayet edilen meşru fon değerlendirme ürünlerinin çeşitlendirilmesi, katılımcı sayısının artırılması önerilebilir. Ancak sukuk ihracında en önemli konu, alacak satımına dayalı sukuk şeklinde murabahadan, kredi kart borçlarından, faktöring uygulamalarından kaynaklanan alacakların satımı olmamalıdır. Bu tür alacakların menkul kıymetleştirilerek satılması işlemleri doğrudan faizdir hatta mevcut uygulanan faizden daha kötüdür. Meşru sukuk teorisiyle yapılan uygulamaların iyi tahlil edilmesi ve düzeltilmesi şarttır. Mudarebe, müşareke, selem, istisna sukukları hilafsız caiz olduğu halde bunlar zayıf kalmakta hazır ve kolay finansman için alacak ve menfaat sukukları başköşeyi tutmaktadır. Başta Taqi Osmani olmak üzere önde gelen İslam iktisatçıları Malezya örneğinde uygulanan murabahaya dayalı borç satımlarının caiz olmadığını beyan etmişlerdir. Hatta Taqi Osmani, Körfezdeki sukukların %85'nin şer'i uyumlu olmadığını belirtmiştir (Güney, 2015, s. 48) Mevzuatta buna yönelik açıklığın olması uygulamada mazeret olarak kabul edilemez.

Ancak mudarebe ve müşareke şeklinde ortaklık temelli sukuklarda eğer sermaye henüz işe veya mala bağlanmamışsa nakit; bağlanmışsa mal; vadeli alım yapılmışsa deyn hükmünde olacağından nakitte sarf kurallarına deyinde ise borç satım kurallarına uyulması gerekir. Malın peşin alımında ise ikincil piyasada satımı mümkündür. Uygulamada genelde muhtemel olan elde nakit, deyn (alacak) ve mal karması olması durumunda çokluk esasına göre hareket edilir (Durmuş, 2010, s. 153).

Kira sertifikası denilen menfaate dayalı sukuk da teoride makul ve meşru bir uygulamadır. Zira kiraya bağlı menfaatin satımı veya alt kiraya verilmesi söz konusudur ki bu şer'an caizdir. Ancak uygulamada bu sıcak para toplama amacına matuf garantili bir sözleşmeye dönüşebilmektedir. Bu hususta şirket ve icâre akitlerinin gerektirdiği şartlara riayet edilmezse faiz ve garara düşülmesi kaçınılmazdır (Keleş, 2018, s. 93-94).

Bahreyn örneğinde 2006 yılında çıkarılan ve bu şartları taşımayan sukuk üzerinde dönemin 3 fakihinden fetva alınmış ancak daha sonra işi tetkik eden iki fakih kendilerine yanlış bilgi verildiğini, uygulamanın fikhî şartlarla bağdaşmadığını, meşruiyet kılıfı altında ana sermaye ve getiri garantili bir sözleşme olduğunu beyan ederek imzalarını çekmişlerdir (Meni', 2010, s. 324). Şu halde bey' bi'l-istiğlal gibi zaten ihtilafli olan akitler bağlamında ele alınan sukukların bir de şartlarına uygun yapılmaması işi çıkmaza ve faiz hilesine götürmektedir.

Sukukla ilgili şer'i yönden tutarlı ve piyasa açısından da avantajlı ürünler geliştirebilmek için kira sertifikası tanımı yeterli olmadığından sukuk tanımı genişletilmeli, yasal alt yapı hazırlanmalı, ikincil piyasalar oluşturulmalı, sukuka konu varlıklar artırılarak teşvike alınmalı, kamu projeleri için devlet sukuk imkânını kullanılmalıdır. Yine mudarebe, müşareke, selem, istisna, müzaraa, müsâkat, müğarese gibi tarımsal ortaklıkların devreye sokulması

topyekûn yatırım ve kalkınma amacına uygundur (Aslan, 2012, s.117-122). Kanaatimizce farklı türdeki sukuklar için farklı isimler de kullanılabilir. Kira içerikli olana “Kira Sertifikası” adı verilirken ortaklık için olana “Ortaklık Sertifikası” veya “Katılım Ortaklığı Sertifikası”, karma olanlara da “Gelir Paylaşım Sertifikası” denilebilir.

Bu hususta belirtilmesi gereken bir mesele de günümüzde çok kolay ve yaygın hale gelen bankacılık ve katılım ortaklıkları ağı sebebiyle havuza giren paraların tamamının helal menşeli olduğunu söyleme imkânı yoktur. Bu kadar yoğun ve hızlı muamelelerin olduğu küresel piyasada haramın karışması kaçınılmazdır. Bu durumda kurumların haram kazançtan elde edildiği kesin bilinen kaynakları kabul etmemeleri gerekir. Ancak bilmeden ve fark edilmeden bir şekilde haram kaynaklı fonlar da havuz girmişse bu durumda çoğunun hükmüne bakarak muamelenin caiz olacağını söyleyebiliriz. Zira bilmeden ikinci bir zimmete geçen haramdan elde edilen kaynak bu ikinci zimmet açısından haramlık hükmünü intikal ettirmez (Keleş, 2019).

2.2.3. Sektöre Özel Katılım Bankacılığı Anlayışının Desteklenmesi

Tek tip bankacılık modeli katılım bankacılığının yeterince gelişmesine engeldir. İslam toplumunun kalkınmasını hedeflemesi gereken katılım bankalarının çok ihtiyatlı ve tedbirli davranışları sebebiyle istenilen esneklik ve genişliğe kavuşamadığı bir gerçektir. Elbette bunda ticari ahlakın zayıflığı, menfaatçi ve düzenbazların çokluğu, iş bilmez veya ehil olmayan insanların elinde işletmelerin çarçur edilip dökülüşünün görülmesi ve art arda gelen krizler etkili olmaktadır. Yoğurdu üfleyerek yemek durumunda kalan katılım bankacılığı bu kısır çemberi aşmakta zorlanmaktadır. Bu sebeple sektör bazında ortaklık ve finansman esasına dayalı bankacılık modelinin geliştirilmesi önerilmektedir. Böylece sanayi, ziraat, teknoloji, endüstri, ticaret, yardımlaşma esaslı sigorta vb. gibi her bir alanda uzmanlaşan kurumlar kendi alanlarındaki riskleri ve fırsatları çok iyi tahlil edecekleri, bu alanlara yoğunlaşacakları için daha verimli ve amaca uygun faaliyetleri gerçekleştirme imkânına sahip olacaklardır. Bu fikri destekleyen Tosun, sektörel bankacılıkla küçük ölçekli bankacılığın süreç ve performans açısından iyi örnekler oluşturacağını, katılım şirketleri tarzındaki yapılanma ile de proje eksenli veya vadeye bağlı fon toplama yetkisi oluşturulabileceğini söyler (Tosun, 2015, s. 89-90). Böylece vekâlet ve emânet ilkelerine bağlı da olsa tüccar bankacılık modelinin uygulanabileceği öne sürülmektedir. (Karakuş, 2016, s. 60). Ancak katılım bankacılığının temel işlevinin faizsiz modele uygun fon toplama, fon kullandırma ve bankacılık hizmetleri şeklinde finansal hizmet sunmak üzere kurulduğunu, bu kurumları reel bir şirket gibi düşünmenin doğru olmadığını belirten Hazıroğlu, bu tür uzun vadeli yatırım işlemlerini katılım bankalarından değil katılım şirketi tarzı yapılanmalardan beklemek gerektiğini söyler (Hazıroğlu, 2016, s. 129).

2.2.4. Büyük Yatırım Projelerinin Öne Çıkması

Katılım bankalarının asıl işlevi murabaha değil ortaklık, proje geliştirme gibi yatırım, istihdam ve üretim imkânlarıyla kalkınma ve gelişmeye yönelik olmalıdır. Artık günümüzde teknik imkânlarla, kolay takip edilebilen muhasebe ve denetim imkânlarıyla verimli yatırım

ortaklıkları yapmak, yenilikçi projeler üretip kazanmak daha kolay hale gelmiştir. Murabahaya mahkûm olma zorunluluğu yoktur. Enerjiden, askeri sanayiine, ilaçtan makinaya kadar birçok alanda ortakların ihanet etmeleri, birbirinden bağımsız hareket etmeleri gibi olumsuzluklara meydan vermeyen ortaklık sistemlerinin avantajından yararlanmak mümkündür. Giren-çıkan, alınan satılan, ortaya konan vb. her şey net ve şeffaf olduktan sonra sistemin sürdürülmemesi gibi bir durum ancak olağanüstü hallerde yaşanabilir.

Diğer taraftan küçük birikim sahibi çoğunluğun yastık altı tuttıkları birikimlerin en verimli alanlara yönlendirilmesi hedeflenmelidir. Bu nedenle Allah Resulü, yetimin malına velayet edenin o malı zekâtın yiyip tüketmemesi için ticari faaliyetlerde değerlendirilmesini istemiştir (Tirmizi, no: 580). İşte katılım bankaları da toplumdaki dar imkânlarla sahip Anadolu insanının birikimlerini bu hassasiyetle işletmelidir. İnsanların beklentileri ve güvenilir liman arayışları karşılandığı takdirde bu sistem ayakta duracaktır. Bunun için kâr döngüsünün sürekliliği ve çeşitliliği katılım bankacılığının gelişmesinde büyük önem arz eder. İç kaynakların ve dış kaynakların tüm çeşitleriyle birlikte genişletilmesi ve dengeli risk sağlanmalıdır. Rekabet ortamında sigorta hususunda da özgün katılım esasına uygun alternatiflerin geliştirilmesi gerekir (Şebhane, 2016, s. 32-33). Bu hususta katılım bankaları, ihtisas sahibi uzman kadrolarla işin koordinasyon ve uygulamasını takip edebilecek durumda organize olmayı düşünmelidir (Tunç, 2010, s. 279).

2.2.5. Üniversite, Sanayi, Ticaret Ehli Arasında İşbirliği ve Seçici Olmak Kaydıyla Üretime Yönelik Projelerin Artırılması

İslami kalkınma modelinde sermayeleri zaten güçlü ve zengin olanların kalkınmasından ziyade asıl fon ihtiyacı olan üretken, yenilikçi, müteşebbis firma ve kurumların desteklenmesi önem arz eder. Burada müşterinin önerdiği projeye göre fon toplama ile onun ödeme gücü ve mal varlığına bakarak fon toplama mantığı arasında bariz fark olduğunu vurgulamak gerekir. Zira birincisi çok riskli ve karmaşık bir durumken ikincisi garantici ve kolaycı bir yöntemdir (Tunç, 2010, s. 121).

Son yarım yüzyılda batıda teknoloji ve endüstrinin bu kadar hızlı gelişmesinin temel saiki “venture capital” (Kumaş, 2007, s. 213-296) denilen sermayeyle yeni fikir ve buluşları buluşturan uygulamalardır ki son zamanlarda Türkiye’de de bu alanda devletin teşviki başlamıştır. Ancak gerekli şart, fikir ve buluşların orijinal olması, taklidinin kolay olmaması ve pazarlanmaya müsait olmasıdır.

Yakın zamanda Sakarya’da düzenlenen “Kitle Fonlama Çalıştayı” bu alana yönelik girişimlerin ufuk açıcılığı üzerinde durmaktadır.⁵ İnternet üzerinden fikir ve buluş sahibini fonlamak isteyenlerin bulunduğu bir resmi platform, düşük tasarruf sahipleriyle büyük yatırımları buluşturan büyük bir potansiyeli barındırmaktadır. SPK tarafından yayımlanan “Paya Dayalı Kitle Fonlama Tebliği” ile (3 Ekim 2019) Türkiye’de bu uygulamanın yasal

⁵ “Kitle Fonlaması ve Sunduğu İmkânlar Çalıştayı”, Sakarya Üniversitesi, İSEFAM, 12.02.2020.

altyapısı oluşturulmuştur. Bu modelin çiftlik bank gibi suiistimallere alet edilmemesi için “emanet yetkilisi” uygulaması devreye sokulmuştur. Ancak daha aktif ve girişimin önünü açacak mevzuat düzenlemesi gerekmekte bu açıdan işveren, yatırımcı, üniversite ve katılımcılardan geri dönüşümü olan bir istişare platformu kurulması önem arz etmektedir. Osmanlı’daki mukataa ve esham benzeri uygulama modellerinin güncel ve yenilikçi bir örneğinden bahsetmek mümkündür. Her modelin hemen kemale ermesi elbette beklenemez. Bunun için iyi örneklerin ve yasal çerçevenin uzun bir zaman diliminde oturması beklenir.

Teknolojik, endüstriyel ar-ge çalışmalarını destekler veya bizzat yürütecek kurumlar açarak alınan patentler üzerinden fırsatlar yakalayabilir veya sıkıntılı ama geçmişin avantajına sahip şirketler alınıp ihya edilebilir. Yine eğitim-öğretim alanında saygın örnek modeller ortaya konabilir. (Tunç, 2010, s. 283).

2.2.6. Teverruk Uygulamasında Sınır

Katılım bankaları, müşterilerinin finansman ihtiyaçlarını karşılamak için çeşitli ara formüller üretmişlerdir. Bunlardan biri de teverruk uygulamasıdır.

Katılım bankaları teverruku, yeniden yapılandırma, bankalar arası likit yönetimi, yurt dışı fonlar, birey ve firmalara uygulanana murabaha kaynaklı teverruk şeklinde yoğun olarak uygulamaktadırlar (Sancar, 2019, s. 171).

Teverruk uygulamasını daha çok kredilerin yapılanmasında kullanan katılım bankaları, yurt dışında organize olan bu sisteme yüklü komisyon ödemektedir. Hem alısta hem de tekrar satısta komisyon dışarı ödenmektedir. Bu nedenle BİST bünyesinde alternatif bir piyasa oluşturulması teklif edilmiştir. Bununla hem komisyonlar ve ödemelerin yurt içinde kalması hem de işlemlerin daha kolay hale gelmesi hedeflenmektedir. Zira mevcut uygulamada teverrukla uygulanan yapılandırmalardaki kâr oranları normalden daha fazla olmaktadır. Zaten normal kredisinde güçlük çeken firmalar için bu hiç cazip olmamakta, yükünü daha da artırmakta ve yapılandırma mantığına ters düşmektedir (Kartal, 2018, s. 754-756).

Nitekim bu baptaki uygulamaları şer’i uyumlu ve şer’i esaslı iki mahiyette ele alan Habib Ahmed, şer’i/hukuki yönden şekil şartını taşıyan şer’i uyumlu ürünlerin sosyal hedeflere ulaşmada yetersiz kalacağını ama şer’i esaslı ürünlerin hem şer’i ilkelere uygunluk hem de sosyal kalkınma meyanında küçük işletmelerin ve dar gelirli kesimlerin ekonomik hayatını ikame ve güvene alma ihtiyaçlarını giderebileceğini belirtir (Habib, 2019, s. 116).

Dolayısıyla katılım bankaları da teverruka dayalı finans veya yapılandırma hususunu istisna olarak sınırda tutmalı asıl kâr oranlarında ve vadelerde yeni ayarlamalarla ödeme imkânlarını öne çıkararak yapılandırmaya yönelmelidir. Zira mevduat bankaları bunu rahatlıkla yapabilirken ve müşterilerine fırsatlar sunarken faiz olmayacağına kuşku olmayan kâr oranından fedakârlık ve tenzilatta bulunmak daha uygulanabilir bir alternatiftir. Faizler düştüğünde yapılandırma olacağını bilen müşteriler, katılım bankalarının statik durumu sebebiyle tercihte zorlanmaktadırlar. 04.10.2019 tarih ve 18 no’lu kararıyla BDDK, murabahada yapılandırma kapısını açmış olmakla birlikte bu makale tamamlandığında

uygulamaya henüz yansımamış olduğunu tespit ettik. Ancak son zamanlarda bir katılım bankası bunu uygulama kararı almıştır. Diğerlerinden de beklenmektedir.

Katılım bankaları, teverruk istisnasını kaide haline getirmemelidir. Nitekim organize teverruka cevaz vermeyen kurulların⁶ bu minvalde endişe taşıdıkları görülmektedir. Neticede bir meşakkat ve umumî ihtiyaç sebebiyle cevaz verme onu kendi miktarlarıyla sınırlamayı da ihtiva edeceğinden bu meşakkat ve ihtiyacı giderecek alternatifler veya çözümler bulunduğu artık o istisnai uygulamaya başvurmamak gerektiği unutulmamalıdır (Habib, 2019, s. 112-113). Nitekim Mecelle 'de 'Bir özür nedeniyle izin verilen şey, o özürün kalkmasıyla hükümsüz olur.'(Madde 23) kuralı vardır. Bu durumda uygulamada şer'i danışma kurullarından ziyade banka üst düzey yönetim ve karar merkezlerinin daha kapsamlı bir kontrol yetkisi vardır (Habib, 2019, s. 118).

Suzuki ve Dulal, murabaha ve teverruk şişkini piyasaların ne gibi ekonomik etkilere yol açacağına ilmi olarak incelenmesi ve eleştirilmesi gerektiğinin altını çizerler. Zira bunlar yüksek oranda yasal fonlar, haksız rekabet ortamları çerçevesinde ele alınmak durumundadır. Maruz kalınan zararın doğru aktarıldığına dair kuşklar giderilebilmiş değildir. Aşırı risk, fırsatçılık ve garar da İslam iktisat anlayışının mahzurlu gördüğü hususlardır. Zira işlem masraflarını düşürmek adına ideal olan İslam iktisadı ilkelerinin İslami öz kaynak finansmanını değerlendirmede beklenen etkisi görülememektedir. Sözelimi venture capital ve mikro finans uygulamalarının kifayetsizliği, kısıtlılığı bunun göstergesidir. Bu kısıtlılık ve sınırlılığı aşmak için kanuni destek gerekmektedir (Suzuki, Dulal, 2018, s. 216-217).

Taqi Osmani'nin de belirttiği gibi modifiye edilmiş ikincil finans uygulamaları İslam iktisadının hedeflediği ekonomik modeller değildir. Bunlar geçici ve geçilmesi gereken uygulamalar olduğu unutulmaya yüz tutarsa hedefe ulaşmak ve asıl hedef olan müşareke, mudarebe vasıtalarını geliştirme imkânı kalmaz (Shaikh, 2010, s. 293).

Teverruk yoluyla finansman sağlama işlemlerinde üçüncü bir tarafın olması, malın fiziki tesliminde bir engelin bulunmaması, satıcının mülkiyetinde olan bir malın alınması gibi fikhî ölçülerin gözetilmesi konusundaki sorumluluk ilgili şahıs ve kuruluşlara aittir. Sonuç olarak en son başvurulabilecek bir çare olarak düşünülmelidir (MMFİR, 1999, s. 161-162; AAOIFI, md. 30-4/7).

Sancar'ın da dediği gibi faizin yerine tasarlanmış zorlama bir yöntemdir. Tüm finans gereksinimlerinde çözüm olacak bir ürün bulma imkânı olmadığından her alan için ayrı ürün düşünülmelidir. Bu hususta bankalar arası bir yardımlaşma fonu şeklinde "yeniden yapılandırma tekafül fonu" kurulabilir (Sancar, 2019, s. 186).

Son zamanlarda TKBB'nin, 29.07.2019 tarih ve 15 no'lu "Enflasyona Endeksli Hesaplar" başlıklı kararıyla ödeme gününde enflasyon farkının ilavesiyle tahsil edilen karz imkânını getirmesi teverruka olan ihtiyacı daha azaltacak olumlu ve önemli bir adım olarak

⁶ İslam Fıkıh Akademisi (Mecamu'l-Fıkhi'l-İslami) bunların başında gelir.

değerlendirilebilir. Ancak uygulamada masraflarla bu geri dönüşün şişirilmemesi önem arz etmektedir.

2.3. Yasal Hususlarla İlgili Öneriler

2.3.1. Kanun Yapıcı ve Denetleyici Birimlerin Faizsiz Sistemin Önünü Açacak Hukuki Düzenlemelere İkna Edilmesi

Katılım bankaları, BDDK denetimine tabi bankalar kanununa göre kurulmuş müesseselerdir. İlke olarak faizsiz esasa göre çalışmakta olmakla birlikte sözleşmelerinin içeriği itibarıyla diğer finans kurumlarının tabi olduğu hükümlere tabidirler. BDDK'nın kanun ve yönetmeliklerinde diğer bankaların tabi olduğu bir kısım şartlara tabi olan katılım bankalarının faizsiz usûl ve uygulamaya yönelik kanuni düzenlemeye acilen ihtiyacı vardır. Hem faizsiz çalışma ilkesi tanınıp hem de faizli sözleşme yapma tuhaflığı yaşanmaktadır. Katılım bankaları ise bu konuda "kanun böyle" diye gevşek durmaktaydılar. Ancak yeni süreçte kanuni düzenleme adımları atılmaya başlandı. Bazı tebliğler yayınlandı. Bütüncül bir kanun çıkana kadar en azından katılım bankalarının geçici bir tedbir olarak sözleşmedeki fasid maddeleri izale edecek bir "adi sözleşme" metnini devreye sokmaları düşünülmelidir.

Faizsizlik ilkesinin gerektirdiği husus, kendine özgü kavramların kullanılması, farklılığı ve özgünlüğü öne çıkaracak yasal ve tatbiki adımlar atılmasıdır (Tunç, 2010, s. 281). Malezya ve Birleşik Arap Emirliklerinde şer'i kurul kararları mahkeme ve hakemlik işlerinde bağlayıcı sayılmaktadır. AAOIFI 1'de, 2. Bölüm'de bunu önermektedir. Güven ve tutarlılık için bu gereklidir (Güney, 2015, s. 66).

Kanun çıktığı takdirde faizsiz banka mantığı ve esası üzere çalışan ve denetlenen yeni bir mevzuata kavuşulmuş olacaktır. AAOIFI no. 1, 2. Bölüm'de İslam Fıkıh Akademisinin de, 2009 tarih ve 177 no'lu kararında belirttiği gibi şer'i danışma kurulunun hem danışma hem gözetleme hem de denetleme görevi üstlenmesi gerekmektedir. Bunun için de şer'i danışma kurullarının ayrıntılı, gerekçeli fetva, denetim ve inceleme raporları vermesi gerekir. Kamuoyunun bilgilendirilmesi ve güvenin sağlanması bu raporlara bağlıdır (Güney, 2015, s. 66).

Nitekim BDDK'nın 22.02.2018 tarih ve 7736 sayılı kararıyla yakın zamanda Katılım Bankaları Birliği bünyesinde bir danışma kurulu oluşturulmuştur. Din İşleri Yüksek Kurulu'ndan iki temsilci de bu çalışmalara katılmaktadır. 02.04.2018 tarih ve 253 sayılı TKBB'nin yayınladığı tebliğle Danışma Kurulu'nun düzenlenmesi için önemli bir adım atılmış olmakla birlikte danışma kurulu kararlarının tavsiye mi bağlayıcı mı olup olmadığı, BDDK'nın komite tarafından alınan kararlara katılım bankalarının uyması kararı çerçevesinde yaptırım sorunu da netleştirilmelidir. Her ne kadar TKBB Yönetim Kurulu'nun 27.06.2018 tarih ve 260/2 sayılı kararı ile iç yönerge hazırlanmış olsa da kadro olarak mevcut merkezi danışma kurulunun bu işler için yeterli sayıda yeterli zaman tahsis edecek bir kadroya sahip olması hususu yönergede ayrıntılı ele alınmalıdır.

AAOIFI-5, 3. kısımda şer'i gözetimin üçüncü kişilere tevdisini yasaklamaktadır ki bu da bağımsızlık hassasiyetindedir. Ayrıca şer'i danışma kurulları için alanda yetişen yeni

uzmanlara ve uzmanlar karmasına yol açılmalı saygıdeğer ve tecrübeli sabık uzmanlar her kurula ve her konuya bağlanarak yıpratılmamalıdır. Mesela Malezya’da aynı sektörde bir katılım bankasında şer’i üyeliği olan kimsenin başka bir bankaya atanması yasaklanmıştır (Güney, 2015, s. 63-64; Ebu Zaid, 2016, s. 231) Sadece iç bünyede danışma ve denetimle iktifa etmek hedefler için kâfi değildir. Su-i zan, ve töhmetten uzak durmak için bağımsız danışma ve denetim şarttır. Ebu Zaid, bunun için şer’i danışma birimi üyelerinin akreditasyon edilmesini önermektedir. Her dini ilimlerde uzmanlaşan değil ilgili alanlarda ve iktisadi ilimlerde yeterli alt yapısı olanlar akredite edilecektir. Bu iş özel alan bilgisi gerektiren mahiyette olduğundan her dini ihtisasa uygun değildir. Şer’i danışma kurulu üyeleri bankacılıkla ilgili başka üst kurullar tarafından da seçilip atanabilir (Ebu Zaid, 2016, s. 230). Ebu Zaid, bunun dışında küresel ölçekte uluslararası şer’i danışma komitesi de kurulabileceğini belirtir. Bu iş, OIC (Organization of Islamic Cooperation) tarafından organize edilebilir. Bu komite, İslami bankalar için bağlayıcı olacak, uygunsuz işlemleri ilan edip mani olabilecektir. Bu durumda çok etkili bir tutarlılık sağlanabilir (Ebu Zaid, 2016, s. 232).

BDDK, 2019, madde 5’te de bir kişinin en fazla iki bankanın danışma komitesinde olabileceğini karara bağlamıştır. Yine BDDK, 2019, madde 7’de bankaların iç bünyesindeki danışma komitelerinin aldıkları kararları merkezi danışma kuruluna periyodik olarak raporlaması istenmiştir. Ayrıca bankaların müşterilerini faizsiz bankacılık hususunda bilgilendirmesi, müşterilerin danışma komitesine itiraz başvuru hakkı da düzenleme cetveline alınmıştır. Bu bağlamda katılım bankalarının faizsiz çalışma ilkelerinin yasal alt yapısı için önemli adımlar atılmaya başlanması sevindirici olmakla beraber uygulamada eksiklik ve aksaklıkları telafi için BDDK ve TKKB meseleleri yakından takip edip gerekli adımları atmalıdır (Kartal, 2019, s. 101-105).

SPK da, kurumsal yönetim ilkeleri 4 başlık altında düzenlenmiştir. Pay sahipleri, kamuyu aydınlatma- şeffaflık, menfaat sahipleri ve yönetim kurulu. Özellikle yönetim kuruluna dâhil edilecek bağımsız üye ile ilgili ölçüler, 11/2/2012 tarihli ve 28201 sayılı Resmi Gazete’de yayınlanan tebliğle netleştirilmiştir. (Dinç, 2016, s. 94)

Esasen katılım bankaları da diğer bankalar gibi BASEL kararlarına göre bankacılık işlemleri, muhasebe, piyasa işlemleri, borç yükleri, sermaye ve ihtiyat dengesi, likit ve piyasa riskleri vb. açısından kanuni olarak denetim altında olduğuna göre (Türkiye’de BDDK bünyesindedir) bu denetimin faizsiz çalışma ilkelerine göre şekillenmiş katılım mantığı çerçevesinde bu alana özel geliştirilmesi de mümkündür. Nitekim bu işin büyük krizler yaşanıp bedeller ödendikten sonra daha düzenli ve etkili denetleme mekanizmasına dönüştüğü malumdur.

Yine bu hususta katılım bankalarıyla merkez bankaları arasındaki önemli bir sorun olan likit tutma ve ihtiyat oranlarının diğer bankalarla aynı yönetmeliğe tabi kılınmasıdır. Uygulama ve ürün farklılığı olduğundan bu hususun gözetilmesi isabetli olacaktır. Yine ihtiyaç anında merkez bankasındaki finansa ulaşmanın zorluğu ve burada tutulan likitin işletilme mahiyeti de önemli bir sorundur. Bu durumda merkez bankasıyla katılım bankaları arasında mudarebe, müşareke gibi meşru akitlerin inşası mümkün olmalıdır. Nitekim Bangladeş ve Moritanya

Merkez bankaları bunu uygulamış ve taraflar, bu fondan kâr elde etmişlerdir. Diğer taraftan merkez bankaları cezai işlem durumunda katılım bankalarına faiz cezası yerine ihtiyat payından kesme cezası verirse faizsizlik ilkesiyle uyumlu bir durum olacaktır (Ani, 2020). Ayrıca merkez bankaları, reeskont uygulaması karşılığında katılım esasına uygun sukuk ve murabaha senetleri çıkarabilir. Faizsiz çalışma ilkesinin gereği ihtiyat payları karz/emanet hesabında değil câri hesapta tutulmalıdır. Finans hayatının bir parçası olan katılım bankaları hususunda merkez bankalarının faizsizlik ilkesine uygun ve kolay uygulama kanalı açması tabii olandır (Sad, Beni Halid, 2014, s. 11-17).

Elbette diğer bankalar gibi katılım bankalarının da merkez bankasıyla koordineli çalışması kaçınılmaz bir durumdur. Ancak gerek kanunlaştırmada gerek muhasebe uygulamalarında faizli bankacılık kalıbının katılım bankacılığı bedenine uymadığı birçok alan olduğu muhakkaktır. Bu nedenle İslam iktisadına uygunluk için yeni düzenlemeler gerekmektedir. Elbette bu hususlar bir tuşla olacak işlerden değildir. Ancak adımların buna göre atılması önemlidir (Salah, 2019, s. 31). Ayrıca merkez bankalarının ticari riskler barındırması sebebiyle katılım bankalarına ne kadar destek vereceği açıkça tartışılmış değildir. Bu nedenle faizsiz finans piyasasının dengeli hale gelmesi ve bağımsız etkin denetimli bir yapıya kavuşması zorunludur.

Ayrıca Uluslararası İslami Puanlama Kuruluşu/IIRA (el-Vekaletü'l-İslamiyyetü'd-devliyye li'ttasnif), bankaların faizsizlik ilkelerine uygunluğunu ölçen puanlama sistemi getirmiş ve hizmet kalitesi ve standardı için ölçü ortaya koymuştur. Bu tür puanlama sisteminin faizsiz çalışma ilkelerindeki hassasiyete destek vereceği açıktır. (Kızılkaya, 2012, s. 142)

2.3.2. Fetva Organlarının/Heyetlerinin Durumu

a. Önemi: Şer'i danışma ve yönetim sistemi, İslami bankacılığın kendine özgü ana unsurudur. Şer'i uyumsuzluk riskini önlemenin yolu budur. IFSB 3 ve 4, şer'i ve kurumsal yönetim ilkelerini belirlemiştir. Yasal, operasyonel ve yönetim riskleri ele alınmış fetvada gereksiz ve yersiz teşeddüt riski, fetva çatışmaları riski, standart dışı uygulamalar ve şer'i ahkama muhalif uygulama riskleri tanımlanmıştır. Bunlar ciddi itibar ve güven kaybı getirebilecek en öncelikli tedbir alınması gereken risklerdir (Güney, 2015, s. 49-56). Tabi ki bu heyette sadece dini alan uzmanı değil iktisat ve hukuk uzmanları da istihdam edilmelidir. Zira küresel ve karmaşık iktisadi hayatta sürekli bilgi ve tecrübe alışverişi gerekmektedir. Hatalı fetva ve beyanların çoğu yanlış anlama veya yetersiz tahkikler sonucu oluşmaktadır (Ebu Zaid, 2016, s. 231-232). Ayrıca sektör temsilcileri de buraya dâhil edilebilir (Aslan, 2012, s.122).

Ayrıca bu standartların yanı sıra ulusal danışma kurulu örgütleri de bulunabilmekte bunlar, Malezya, Pakistan, Sudan, Endonezya örneğinde olduğu gibi meşruiyet uygulamasında yetki, gözetim ve denetim açısından otorite kabul edilmektedirler. Bunun yanı sıra kurum içinde oluşturulan fetva komiteleri de hem şer'i çözüm hem denetim hem de kâr dağıtımıyla ilgili istişare ve uygunluk, zekât, sosyal hizmetler, kirli gelirin tasfiyesi, personel eğitimi gibi işlerde görev üstlenmektedirler. (Dinç, 2016, s. 88,89) Ancak Türkiye'de de görüldüğü gibi kurum danışma komiteleri, görev ve yetki bakımından bir standarda bağlanmış değildir. Bu nedenle

oluşturulan merkezi danışma kurulunun bu yeknesaklığı sağlamada önemli bir görev üsteleneceği aşikârdır (Dinç, 2016, s. 97).

Faizsiz bankacılık piyasasında Londra ve Malezya, şer'î danışmanlık için kalifiye eleman yetiştirmeye yönelik programlar düzenlemektedir. Londra faizsiz finans merkezi olmak için önemli adımlar atmaktadır. Bu konuyu hem politik hem de iktisadi olarak takip etmekte ve programlar düzenlemektedir. Malezya da bu iş için ciddi fonlar ayırmaktadır. Malezya, International Center for Education in Islamic Finance (INCEIF) adlı kurumla bu alanda çalışmalar yürütmektedir. (Kızılkaya, 2012, s. 143) Bunun gibi birçok ülkede bu işler mevzuatla düzenlenirken Türkiye'de mer'î hukukla danışma kurulları arasında bir bağ oluşmadığından danışma kurullarının kararları, paralel çözüm şeklinde devreye girmekte ve uluslararası alanda referans oluşturamamaktaydı. Bunun sonucu bu kurullar, hukuki anlaşmazlıklarda bir referans olmadıkları gibi sonuçlarla ilgili sorumlu da değillerdi. (Dinç, 2016, s. 84) Dünya finans piyasasında üst lige çıkmak isteyen ülke stratejisi açısından bu hususların mevzuatla düzenlenmesi çok önemli bir konudur. Bu nedenle BDDK'nın düzenleyici girişimi çok isabetli bir adım olmuştur.

b. Usûlü: Faizsiz Finans Standartlarında belirtildiği üzere bankalar kendi bünyelerindeki danışma organının kararından ziyade muteber fetva kurullarının kararlarını öncelermelidir. Zira bu kararlar birçok fakih ve iktisatçının çalışmaları ve değerlendirmeleri sonucu oluştuğu için efdaliyet kesp etmiştir. Ancak hususi danışma organının muteber delillere dayalı bir uygulaması varsa ya da fetva kurulunun kararı ittifakla değil çoğunlukla alınmışsa veya bu hususta fikhî kurul meclislerinde olmayan muteber âlimlerin muhalefeti biliniyorsa hususi bir konuda bu kararın dışındaki görüş gerektiğinde alabilir. Neticede icma olmadığından bazı kararların tadili yaşanabilmektedir. Ayrıca cevaz verilen her hususu tatbik etmek de zorunlu olmayıp banka idaresi, maslahata binaen cevazı terk edebilir. Yine muayyen bir mezhep üzerinde fetvaya fetva heyetini zorlamak da olmaz. Ancak kanunlaşan bir mezhep görüşü varsa bu iltizam edilir. Delilsiz mücerret görüşle fetva verilmemelidir.⁷

Fetva heyetleri, suiistimal edilebilecek fetvalar hususunda ya tevakkuf etmeli ya da şartlarını çok net belirleyerek "bu şartlara uyulursa caiz" demekten ziyade "bu şartlara uyulmazsa caiz değil" ifadesini kullanmalıdır. Zira caiz ifadesi görüldüğünde şartlar üzerinde yersiz tevil algısı oluşabilmektedir.

Bu hususta sadece yurt içi değil yurt dışındaki belirli başlı katılım bankaları fetva heyetleriyle de irtibata geçilerek bir platform oluşturmak gereklidir. Bu hususta devletlerin ilgili mercileri kanunla bu birliğin aldığı kararları tatbik ettirebilir. Zayıf unsurlara, hile ve ruhsatlar paketine dayanan fetvalar, iyi/ kaliteli fetvaları işlevsiz hale getirir. Karadağ'ın ifadesiyle Mer'î kanunların bile kabul etmeyeceği hileleri, şer'î fetvaları aracı ederek yerleştirmek Hakkın rızasına ne kadar uyar! Sonra bu tür hileler mahkeme işi olsa mahkeme için dinin kuralı hakkında kabul edeceği bir esas bırakmaz. Sonuçta diğer mevduat bankalarından bir fark

⁷ Ayrıntı için bkz. Faizsiz Finans Standardı (AAOIF.) 29, Faizsiz Finans Kurumlarında Fetva İlkeleri ve Fetva Ahlakı.

kalmaz (Karadağı, 2020). Sonuçta muameleler ne kadar paradan para kazanmaya yaklaşırsa faize o kadar yaklaşılmış olur. Bu durum ise faizin yasaklanışındaki gayeye darbe vurur.

c. Fetvalar Çatışması: Farklı hal ve şartlarda verilen fetvalar yeterince tahkik edilmediğinde fetva karmaşasına sebep olabilir. Fetvaları müteşeddit, mütesahil ve dengeli orta tarz olarak kategorize etmek mümkündür. Müteşeddit fetvalar teşebbüs ruhuna sekte vururken dinin doğru anlaşılması hususunda da sorun olabilmektedir. İctihadî hükümler kendi bağlamları içerisinde değerlendirilmezse, dinî ahkâmın taşıdığı makasîd göz ardı edilirse, dinin basiret üzere anlaşılmasının önüne geçilme tehlikesi baş gösterir (Bağdadi, 1996, c. 2, s. 140-142). Tabii ki müteşedditten kastımız gerektiğinde tercih edilebilen ihtiyatlı fetva değil; zaman, hal, durum ve şartlar itibarıyla vakıayı yansıtmayan veya yersiz kullanılan yahut ta yanlış yorumlanan fetvalardır. Kızılkaya, şer'î danışma kurullarının genel olarak benimsediği ihtilafli meselelerde şaz olmadığı sürece insanların yararına olan görüşle amel edilmesi ilkesinin iki yönden açık kapı bıraktığına dikkat çeker. Buna göre, bu ilke çerçevesinde alınan bazı kararlar kısa süre sonra bazı zararlara yol açabilmekte bu sebeple bu görüşten rücu edilmektedir. Diğer sorun ise, bu görüşlerden birini klasik metinlerden alıp tercihle ilgili sabit bir yöntemin olmaması, sistematik bir teorinin gelişmemesine sebep olmaktadır. Bu sebeple sistematik standartlar üzerine yoğunlaşılması önem arz etmektedir. Kızılkaya, danışma kurullarının fetvalarda bilhassa hadislere literal yaklaşıklarını makasîd, meselenin ruhu, bağlamı ve örfi durumları gözden kaçırabildiklerini vurgular. Bu tür yaklaşımda yeni ortaya çıkan muamele ile klasik metinlerdeki işlemin tamamen örtüştüğü varsayılarak hukuki bir perspektifle genel makasîdın göz ardı edilebildiği ve tutarsız sonuçların çıkabildiği görülmektedir. Ayrıca şartların zorlamasıyla hileli çözümlerle ilgili eleştirilere zemin oluşturan durumlar ortaya çıkabilmektedir. (Kızılkaya, 2012, s. 145,146) Gerek bankanın genel hedeflerine bağlı olmak durumunda kalmaları gerekse zaruret, ruhsat, maslahat, kolaylaştırma gibi kavramlara çokça başvurulması danışma kurullarının bu tür hatalara düşmesinin temel sebepleri olduğunu belirten Kızılkaya, bu tür kavramların bağlamından koparılarak kavramlarla varılmak istenen amaçlardan uzaklaştıran uygulamalara zemin hazırlandığına dikkat çeker. Bu nedenle zaruret-ruhsat hükümlerinde sınırların çok net çizilmesi, zarurete gerek bırakmayan durum açığa çıkınca hemen yeni duruma uygun fetvanın şekillenmesi gerekmektedir. Aksi halde ruhsat, azimet konumuna getirilmekte zaruret de devamlı olarak algılanmaktadır. (Kızılkaya, 2012, s. 146,147)

Bu tür fetva çatışmaları operasyonel riski getirebildiğinden bu risk, İslami meşruluk riski olarak adlandırılmıştır. Bu nedenle uluslararası uyumun sağlanması için standartlar geliştirilmiştir. (Dinç, 2016, s. 85)

Karafî, sadece nakillere bakarak selefin ve Müslüman âlimlerin maksatlarını anlamadan sırf bir gruba mensubiyet hamasetiyle, “filan âlimin kitabında kaydedilmiştir” diye, o âlimin zamanın şartlarını dikkate alarak bu görüşe varmasını dikkate almada taassupla o görüşte diretilmesini eleştirmiştir (Karafi, c. 1, s. 321). Bir müçtehidin görüşüne tâbi olarak bir akdin sahih olduğuna itikat ettiği için uygulayan kimsenin kazandığı mal helal olur. Bilahare bu içtihadın hatalı olduğunun zahir olmasıyla o maldan elde ettiği kazançları elden çıkarması

gerekmez. Gerekli olan artık o muameleyi terk etmesidir. Zira tevil günahı düşüren bir özürdür. Ancak tek şart, bu tevilin bir delile dayanmış olmasıdır (İbn Teymiyye, 2005, c. 29, s. 413; Baz, 1998, s. 113-114). Çok zayıf bir görüşe dayanarak usûle aykırı bir şekilde haramlığında ittifak edilmiş olan hususlara muhalefet etmemek kaydıyla müçtehitlerin haram ve helallüğünde farklı görüşlerinin olması o meselenin haramlığının katî olmadığını gösterir. Zira haramlık tevil ihtimali taşımayan katî bir nassla veya icma ile yahut ta açık, evla ve denk bir kıyasla sabit olur. Tevil ihtimali olursa haramlık derecesinden kerahet derecesine düşer (Büceyrimi, 1995, c.1, s. 406; İbn Teymiyye, 2005, c. 29, s. 315).

Mütesahil fetvalar ise, muamele ile ilgili şartları dikkate almayan uygulamalara kapı aralamakta, dinen mahzurlu alanlara düşürecek şekilde şartlar, tedahül ya da ihmal edilmektedir. Şartlara, dayanılan temellere ve uygulanan mahalle uygun keyfiyet doğru tespit edilmezse faiz, kumar, garar gibi dinen sakıncalı hususlara düşülmesi kaçınılmazdır. Organize teverruk, yatırımın aslını ve getirisini garanti eden (üçüncü taraf hariç) yatırım sukuku, menkul kıymet üzerinde murabaha, temlikle sonuçlanan kiralamada kira konusu mal helak olsa da taksit ödeme şartını ileri sürmek gibi hususlar bu tür tesahüle örnektir.

Bu nedenle Karadağî'nin de belirttiği gibi orta yol ve itidal çizgisi takip edilmeli, adalet, ölçü ve denge, hakkaniyet, külli makasid, cüzî konularla ilgili meâlat fıkhu denilen asıl maksat ve gaye gözetilmelidir. Ayrıca fikhî hükmün vakiâyaya uygun tatbiki ve tenzili çerçevesinde insanlara kolaylaştırma yolu takip edilmeli ama bunu yaparken de usûl ve ilkelere aykırı bir ruhsatlar ve hileler paketi oluşturmamalıdır (Karadağî, 2020). Ancak dinin maksadına aykırı düşmeyen ruhsat ve çözümlere elbette başvurulabilir, başvurmak gerekir. Ancak bu tür başvuruların bağlamı, geçici olup olmadığı, uygulama şekli, sınırları çok net ve ayrıntılı tespit edilmeli, hatalı sonuçların önü alınmalıdır.

Esasen bazı âlimlerin belirttiği gibi tek tip bir görüşü dayatmak yerine (Salah, 2019, s. 31) zaman, şart, durum ve hallere göre farklı bölgelerde ama belirli standartlar çerçevesinde farklı içtihatlardan yararlanmak daha esnek bir iktisadi uygulama alanı sunacaktır. Ancak bunun bir standarda oturtulmaması halinde uygulama anarşisi toplumdaki yanlış algıları güçlendirmeye sebep olacaktır. Sonuçta insanların kafasındaki karmaşa ve kuşkuvarın giderilmesi için fetva çatışması ve ölçüsüz fetva beyanlarından kaçınmak gerekmektedir. Nitekim son zamanlarda birçok yazar İslami bankacılığın etik ve ahlaki durumu konusunda yazılar kaleme almaktadırlar. Burada yazarlar, sadece fetva gereksinimlerine uyma ötesinde sosyal adalet sorumluluğu üzerinde durmaktadırlar. Bu durumda İslami Fıkıh Akademisi, AAOIFI, IFSB gibi standartlar temelinde hareket etmek gerekir. Ancak hazırlanan sözleşmelerde şekil şartı yanında öz, mana şartı gözetilmeli maksadı yansıtacak ruh ihmal edilmemelidir (Ebu Zaid, 2016, s. 231-232).

Sonuç

İslami açıdan mahzurlu alanlara bakıldığında faiz, haksızlık yapma, garar, gabn-ı fahiş, malik olunmayan veya teslimi mümkün olmayan şeyin satımı ve borçların satımı ile sınırlı olduğu görülür. Yani bunların dışındaki alanlar mubah alanları oluşturur. İslami kurallara uygun

hareket eden katılım bankaları, makasıdu'ş-şeria denilen dinin gözettiği makasıdıla ilişkili olup bu maksatları gerçekleştirmeyi hedeflemek durumundadır. Bu hedeflerden biri de fakru zarureti yenmek, yeryüzünü mürüvvet üzere yaşanacak hale getirecek iktisadi kalkınmayı sağlamak ve yeryüzünü imar etmektir. Zira bu yeryüzü insanlığa imtihan için bahşedilmiş ve çeşitli nimetlerle donatılmıştır. Bu durumda onu Allah'ın muradı doğrultusunda iyilik ve güzellikle değerlendirmek gerekir.

Küresel liberal ve kapitalist dünya piyasasının karşısına İslam'ın hassasiyetlerini taşıyan bir piyasa oluşturulması en öncelikli farz-ı kifayedir. Katî bir maslahatı içerir. Devletler, kurumlar ve tüm fertler bundan sorumludur. Bu gerçekleştirilmediği takdirde faizci piyasa ekonomisine mahkûmiyetten kurtulmak mümkün değildir. Bunun yolu batı piyasasını olduğu gibi taklidi bırakıp inovasyonla bizim ürünümüz olan bize uygun finans modelleri geliştirmektir. İnovasyondan kastımız piyasada zaten bunalımın kaynağı ekonomik bir sistemin dayatmaları değil hal, durum ve şartları dikkate alan özgün faizsiz modelin ortaya konulmasıdır.

Önemli olan mevcut şartların getirdiği aksaklıklara rağmen iyileşme, hedefe odaklanma ve yasal zemini uygun hale getirme gayretinin olmasıdır. Zira uygulama alanında eğer dinin temel iktisadi ilkeleri göz ardı edilir, ihmal edilir veya yanlış tevillerle tersyüz edilirse bu durumda faizli kurumlarla fark kalmaz. Fark kalmayınca da zaten teknik alt yapısı ve müşteri potansiyeli yüksek olan bu kurumlara alternatif olma iddiası boşa çıkar. Dünyanın serveti faiz sebebiyle heba olurken eğer bu tedbirler alınmazsa ne kadar büyüye de faizsiz finans modelinin istikbali parlak olmaz. Bu hususta tüm yetkili merciler, bankaların idareleri, ilmî heyetler, ticaret birlikleri ve odaları vb. sorumluluk sahibidir. Ancak Müslüman halk da sorumluluktan muaf değildir. Zira İslami bankacılık Müslüman halkın omuzunda yükselecek ya da düşecektir. Araştırma, geliştirme, üretme, dürüstlük, vefa, sadakat vb. hususlarda yığın ya da bitkin olan bir toplumla İslami hassasiyete sahip müesseseleri yükseltmek mümkün değildir. Yapılması gereken toplumdaki faizsizlik bilincini artırmak, İslam iktisadının farklılığını uygulamada kafa karıştırmayacak tarzda yansıtmak, kalkınma modellerinin önünü açmaktır. Müteşebbis, tüccar, birey, banka, topyekûn birbirini teşvik eden ve denetleyen bir sosyal sorumluluk üstlenmelidir.

Faizli sistemler sürekli kriz üretirler. Zira kapitalist sistem sürekli tüketime yönlendirmek ve kazanmak esasına bağlı olduğundan krizleri de sürekli ve yıkıcı olur. Tüketimin çeşitli saiklerle azalması durumunda tüm toplum ve devletler etkilenir ve sarsılır. Özellikle türev ürünlerin alabildiğine arttığı günümüzde evrak üzerinden gerçek değer kat be kat fazlasıyla aslı olmayan ekonomik göstergeler patladığında iktisadi hayatın nasıl felç olduğu tecrübe edilmektedir. Bunun alternatifini, tedavisi İslam iktisadındadır. Bu manada katılım bankacılığı ve İslami finans modelleri ancak insanların ahlaki sorumluluk sahibi olmaları, ekonomik faaliyetlerde hem bankaların hem de müşterilerin adalet, hakkaniyet, dayanışma ve doğruluk ilkesine bağlılıkları ölçüsünde istikrar, huzur ve başarı yakalayabilir. Elde sihirlili bir değnek olmadığından işin özüne, felsefesine ve değerlere uygun davranılırsa netice alınabilecektir. Bu husus duygusal hislerle tek başına başarılamaz. Ekonomik hayat hayatın bir parçasıdır ruhî, aklî, ahlakî hayattan asla bağımsız düşünülmemelidir.

Sistemin gelişmesi bunu çok iyi anlamaya, planlamaya, sağlam esaslara oturtmaya ve insanlara iyi tanıtmaya bağlıdır. Ferdi veya mahallî kurumsal hatalar sistemin bütününe engel olarak ileri sürülmemeli, sistemi geliştirebilecek çaplı donanımlı insanlar buraya kazandırılmalıdır.

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Extended Abstract

Looking at the historical process of participation banking, it should be considered as a newly developing system in today's economy. Although we encounter unique and various applications for financial activities in history, participation banking in today's banking format can be thought of as in its infancy. However, in this age where we have a very fast adventure, it does not take many years to start walking and running while crawling. As firm steps are taken with its infrastructure, principles and targets, the construction of a financial world in line with Islamic principles will accelerate.

The sensitivity and importance of the subject is better understood when considering the ways in which the dimensions of the subject are expanding. For this reason, we have taken care to take advantage of special studies dealing with current issues such as stock market, stock and interest. It is clear that in a world that is open to global influences such as banks, stock markets, export-import networks and e-commerce, it is no longer possible to tackle the usual reactions. What needs to be done is the realization of the original projects and institutions that carry the paint of Islam in the fields of education, politics, social services and economic areas, and the attempts to open the way for the society and to leave its mark on the era with quitting waiting at a stop of necessity.

Participation banking as an institution that acts in accordance with the basic principles of Islamic economics, as a structure that observes the limits of halal-haram, does not allow waste and luxury, adopts the principle of loyal and faithful partnership, It has to stand out as a structure that meticulously fulfills its duties other than zakat and zakat belonging to the property, which is the right of the needy due to its social duties. For example, for social activities, instead of traditional zakat and charity work, the researchers suggest that zakat should be made more organized and beneficial by drawing attention to the ancient connection of state organization.

Today, it is difficult to get to know the business, avoid being deceived or establish reliable and secure partnerships, especially in commercial activities.

Dividend partnerships should be considered as a good opportunity for those who keep their small capitals they have accumulated over the years in an unproductive state under the pillow, and who are also obliged to worship such as zakat and sacrifice, and who are deprived of benefiting from them.

The fact that this area is very low in terms of balance sheet should be evaluated by knowing that it has a growth potential when evaluated according to the share of participation banking in total banking.

If Islamic finance begins to appeal to the field of microfinance, it will gain a high reversible earning and penetration opportunity. Because the lacking labor market in developing countries creates opportunities in favor of micro finance due to high loan rates and instabilities.

Like this, macro-scale investments are of course important. Participation banking has a great expansion area with both macro and micro investments. In this respect, the expansion of participation banking and participation companies in the nature of specialization specific to each field provides opportunities for interest-free economics to come to the fore.

It will be beneficial to expand the instruments with good short-term returns. If the staff and administration are willing and produce quality concrete service, the customer will be satisfied. If the customer is satisfied, the loyalty and loyalty increase.

Our suggestion is that the real investment and production sector develop dynamic relationships with participation banks, and if necessary, participation banks can actually engage in innovation and production through companies by establishing companies or partners in certain areas. Thus, while participation banks maintain their main function of finance, they can also operate in certain real areas.

Of course, participation banks can make and do business organizations directly. Our intention here is more related to R&D studies. Because without innovation and originality, it has become difficult to take a place and develop in the world, which has become a global market. Therefore, participation banks investing in ideas and inventions in this field or expanding their investment areas will pave the way. Failure to do so will cause many Muslims to either disagree or less self-interested in participation banking.

Freedom is essential in any treatment that does not contradict the absolute principles and basic principles. The most crucial issue to be considered in this matter is not to overturn the conditions that religion has imposed for each contract and not drown the real market in absurd things. Instead, real and real investment and development moves in the fields of industry, agriculture, trade, arts, interests, services and rights should be developed at full speed for the benefit and gain of all segments.

Hayırseverlik ve İnsan Güvenliği *

Tanıtım: Ahmet Melik Aksoy**

Type: Book Review

Samiul Hasan'ın editörlüğünü yapmış olduğu *İnsan Güvenliği ve Hayırseverlik* kitabı, İslam dininin merkezi kavramlarından biri olan hayırseverliğin çoğunluğu Müslüman olan ülkelerdeki çeşitli uygulamalarını, insan güvenliği kavramı çerçevesinde değerlendirmektedir. Yüzyıllar boyunca, İslam dinine mensup kişiler hayırseverlik adına ihtiyaç sahibi kişilere yardımda bulunmuşlar ve bu tecrübe çoğunluğu Müslüman olan coğrafyalarda çeşitli kurumların var olmasına sebep olmuştur. Bu tecrübeye rağmen bu ülkelerde yaşayan pek çok insan, çeşitli insani krizler ve insan güvenliği problemleriyle yüz yüzedir. Silahlı çatışmalar ve çeşitli güç mücadelelerinin pençesinde hayatta kalma mücadelesi veren birçok insanın dışında, doğrudan silahlı çatışma tehdidi altında olmasa da onurlu bir hayat sürme hakkını elde edemeyen birçok insanın bulunduğu gerçeğiyle dünya bugün de karşı karşıyadır. İktisadi özgürlükleri bulunmayan, gıdaya ulaşımı kısıtlı, yeterli sağlık hizmetlerinden faydalanamayan, çevresel bozulmalardan ötürü yaşadığı yerleri terk etmek zorunda kalan veya yeterli seviyede eğitim alamayan birçok insan hayatlarını nasıl devam ettirecekleri konusunda büyük problemlerle yüzleşmektedir. Hâlen içerisinde bulunduğumuz COVID-19 salgın hastalığı da yaşanan problemlerin boyutunu tekrar gözler önüne sermiştir. Salgının tüm dünyaya yayılmaya başladığı ilk dönemlerde iddia edilen her kesimden insanı eşit derecede etkiliyor yorumlarının gerçeklikten uzak olduğu salgının ilerleyen aşamalarında ortaya çıkmıştır. Hastalığa yakalanmasına rağmen gerekli sağlık hizmetlerine ulaşamayan ya da hastalığa yakalanmasını engelleyecek önlemleri iktisadi zorunluluklar çerçevesinde sağlayamayan birçok kişinin insani güvenliği tehdit altındadır. Halen etkisini devam ettiren COVID-19 salgınının insan güvenliğinin nasıl sağlanacağı sorusunu tekrar gündeme getirdiği şu günlerde Samiul Hasan'ın editörlüğünü üstlendiği *İnsan ve Hayırseverlik* kitabı daha da bir önem kazanıyor.

İslam'ın temel öğretilerinden biri olan hayırseverlik ve başkalarına yardım etme yükümlülüğü, çeşitli Müslüman toplumların bu görevi yerine getirmeye çalışmasıyla değişik coğrafyalarda farklı kurumların oluşmasını sağlamıştır. Samiul Hasan'ın ifadesiyle "hayırseverlik, bir seferlik yapılan ve meselenin sebeplerine odaklanmayan maddi bağışlardan" (s. 27) farklı olması cihetiyle amaçsız bir bağışı kabul etmeyen İslam için önem arz eden bir kavramdır. Hayırseverliğin insani krizleri tek seferlik yardımlarla çözmek yerine meselenin sebeplerine odaklanan yaklaşımı, modern insan güvenliği kavramıyla bir paralellik arz etmektedir. Şiddet içeren veya şiddet içermeyen çeşitli krizlerle karşı karşıya olan Müslüman dünya için de bu bağlamda bu gibi krizlerin sebeplerini ortadan kaldırmayı

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hedefleyen insan güvenliği kavramı şüphesiz özel bir önem taşımaktadır. Modern insan güvenliği kavramı, bu kavramın İslam'daki hayırseverlik ile ilişkisi, hayırseverliğin geçmişte ve günümüzde çoğunluğu Müslüman olan ülkeler bağlamında uygulamaları gibi konular Hasan'ın kitabının temel meselelerini teşkil etmektedir. Ayrıca, hakkında çok az araştırma bulunan üçüncü sektör kuruluşları hakkındaki detaylı araştırmalar, çoğunluğu Müslüman olan ülkelerde kamu ve özel sektörün dışarısında kalan ve üçüncü sektör olarak ifade edilen sektörün mevcut durumuna yönelik aydınlatıcı bilgiler içermektedir.

Bahsi geçen ülkelerin birçoğunda yıllar süren saha araştırmaları gerçekleştiren kitabın editörü Samiul Hasan ve konusunda uzman diğer yazarların katkılarıyla içeriği zengin bir eser ortaya çıkmıştır. Altı ana kısımdan oluşan kitap, on iki bölüme ayrılmıştır. Kısaca anlatmak gerekirse üç bölümden oluşan ilk kısımda bahsi geçen 47 çoğunluğu Müslüman olan ülke hakkında bazı istatistiki bilgiler sunulmasının yanı sıra kitabın iskeletini oluşturan temel kavramlar ve teorik çerçeve tartışmaya açılmıştır. İkinci kısım, özel olarak üçüncü sektör kuruluşlarının yükselişi ve hayırseverlik kavramıyla ilişkisine odaklanmaktadır. Üçüncü kısımda Müslüman hayırseverliğin boyutları ele alınmış, dördüncü kısımda ise üçüncü sektör etrafında yükselen kurumlar ve kuruluşların kapsamı ve çoğunluğu Müslüman olan ülkelerdeki mevcut durumları ele alınmıştır. İnsan güvenliğinin bu ülkelerdeki mevcut durumunu konu edinen beşinci kısımda, modern uygulamalarda karşılaşılan sorunlar ve elde edilen başarılar değerlendirilmektedir. *Sonuç ve Tavsiyeler* başlıklı altıncı kısımda mevcut durumun genel bir değerlendirilmesi ve bu kurumların potansiyelinin muhasebesi yapılmaktadır.

İlk kısım üç bölümden oluşmaktadır. Çoğunluğu Müslüman olan ülkelerle ilgili çeşitli istatistiki bilgiler paylaşıldıktan sonra, modern insan güvenliği kavramının gelişimi hakkında bilgi verilmektedir. Birleşmiş Milletlerin sunmuş olduğu "her şeyi kapsayan insan güvenliği kavramı" (s. 32) tüm bireylerin yedi ana başlık altında topladıkları alanlarda güvenliklerinin sağlanmasını teklif etmektedir: ekonomik, gıda, sağlık, çevre, kişisel, toplumsal ve siyasi. Bu bölümde özellikle insanların "yoksulluktan kurtulma özgürlüğü" perspektifinden insan güvenliği ele alınmaktadır. İnsan güvenliği kavramına atfedilen değer, onun çatışmaları ortadan kaldırarak insani gelişme, sürdürülebilir çevre, gıda güvenliği ve sağlıklı toplumlar hedeflerini gerçekleştirme potansiyelinden kaynaklanmaktadır. İkinci bölümde ise insan güvenliği kavramı hem evrensel bir kavram olarak hem de İslami bir bakış açısıyla değerlendirilmektedir. Bu kavramın ana hatları, tarihsel gelişimi ve kavramsal çerçevesi ayrıntılı olarak irdelenir ve İslam'ın insan güvenliğine hoşgörüsüz bir din olduğu iddiaları reddedilerek İslam ile insan güvenliği kavramı arasında bir çelişki olmadığı sonucuna varılır (s. 86, 87). Bir sonraki bölüm ise bu tartışmayı bir adım daha öteye taşıma hedefindedir. Üçüncü bölümde İslamiyet'in insan ilişkilerine yaklaşımının ahlaki ve felsefi temelleri konu edinmekte ve İslam'ın bütünselliğine vurgu yapılarak bu ilişkileri nasıl şekillendirdiği ele alınmaktadır. Temel İslami ilkelerin ve İslam'ın hayırseverlik yaklaşımının modern dünyada da insan güvenliğini temin edebilecek, "elverişli ve amaca yönelik bir hayırseverliği teşvik ettiği" (s. 44) sonucu vurgulanmaktadır. İslam'ın bu yaklaşımıyla ortaya çıkan zekât, oşr ve fitr sadakası gibi verilmesi zorunlu olan hayırseverlik faaliyetleri ile verilmesi teşvik edilen

sadaka ve infak gibi kavramların yanı sıra karz-ı hasen ve vakıf kurumları üzerinden İslam'ın dağıtıcı adaleti temin eden stratejik bir hayırseverliği teşvik ettiği vurgulanmaktadır (s. 110-123). Bu temel prensibin yanında farklı coğrafyalara ve kültürlerle yayılmış olan İslam'ın teşvik ettiği bu tarz hayırseverlik, bu farklı ülkelerde çeşitli şekillerde tezahür etmiştir.

Tek bir bölümden oluşan ikinci kısmın ana odağı; üçüncü sektör, hayırseverlik ve kâr amacı gütmeyen kuruluşların birbirinden farklı yasal sistemlere sahip, çoğunluğu Müslüman olan ülkelerde tarihsel olarak nasıl gelişim gösterdiği. Aynı zamanda, pratik amaçlar doğrultusunda karşılaşılan zorluklar da dördüncü bölümün ana odak noktasını oluşturur, ancak mevcut durumun nasıllığı sorusu bir sonraki kısma bırakılmış, daha çok üçüncü sektör kuruluşlarının gelişim aşamalarına etki eden unsurlara odaklanılmıştır. Bu noktada, sivil toplumun önemi ve sivil toplum kuruluşların halk tabanından destek alması ya da haklı mobilize edebilmesi önemle vurgulanmıştır. Kapalı sosyal sistemlere sahip toplumlarda üçüncü sektör kuruluşlarının yasal çevrelerinin geliştirememesi, bu kuruluşların hükümetler tarafından yasal araçlarla baskılanmasına ve etkinliklerini kaybetmesine yol açmıştır (s. 171-175). Bu noktadan hareketle insan güvenliğinin temin edilebilmesi noktasında sivil toplumun oynayacağı aktif rol ayrıca vurgulanmaktadır. Bu noktada, bahsi geçen “çoğunluğu Müslüman olan ülkelerde üçüncü sektör kuruluşları insan güvenliğinin sağlanması noktasında nasıl bir performans sergiliyor?” (s. 178) sorusuna bir sonraki kısımda cevap aranacaktır. Mevcut uygulamaların ayrıntılı biçimde ele alındığı yine tek bir bölümden oluşan üçüncü kısmın ana iskeletini zekât ve zekât toplama biçimleri oluşturmaktadır. Değişik ülkelerin zekât toplama pratiğine yaklaşımının karşılaştırıldığı bu bölümde, “merkezi bir fıkıhçı birliğinin bulunmaması, örf ve adetlerin İslam hukukunun kaynakları olarak meşruiyeti, devletin karakteri, devletin ulema veya yereldeki geleneksel güç yapılarıyla ilişkisi” (s. 220) gibi unsurların çoğunluğu Müslüman olan ülkelerde farklılık göstermesi, mevcut durumun da farklı şekillerde tezahür etmesi sonucunu doğurmuştur.

Üç ayrı bölümden oluşan kitabın dördüncü kısmında, özel olarak üçüncü sektör kuruluşlarının bilhassa insan güvenliği meselesine ilişkin sorunlarla başa çıkmak anlamında tarihsel olarak ne şekilde geliştiği ayrıntılı biçimde ele alınmaktadır. Altıncı, yedinci ve sekizinci bölümler sırasıyla üçüncü sektör kuruluşları, vakıflar ve mikrofinans kuruluşlarını konu edinmektedir. Üçüncü sektörlerin gelişimlerini engelleyen en önemli faktör olarak demokratik sistemlerin tam anlamıyla tesis edilmemiş olması ön plana çıkmaktadır. Sözde demokrasilerin yönetimi altında üçüncü sektör kuruluşları tam anlamıyla kendi statülerini inşa edemeyecek ve üyelik sistemlerini geliştiremeyecektir. İnsan güvenliği bakış açısıyla bakıldığında birçok noktada sunduğu hizmetler dolayısıyla kapsamlı bir role sahip olan vakıflar yedinci bölümde incelenmektedir. Bu bağlamda, vakıfların çok değerli bir geçmişe sahip olduğu ancak kötü yönetim ve vakıf mülklerinin kötüye kullanımı sebepleriyle bu önemlerini yitirdikleri sonucuna ulaşılmaktadır. Vakıfların geçmişte oynadıkları rolün her dönemin kendi politik ekonomisi çerçevesinde değerlendirilerek biraz yumuşatılmaya ve bölüm yazarlarının benimsediği ideal vakıf imajının, yapılan araştırmalar çerçevesinde inceltilmeye muhtaç olduğunu söylemek çok da abes olmayacaktır. Her ne kadar vakıfların

insan güvenliği açısından büyük bir potansiyele sahip olduğu bir gerçekse de vakıfların geçmişte üstlendikleri sosyal ihtiyaçları karşılama rolündense insanların hayatlarını idame ettirebilmesi için gerekli olan şartların sağlanması noktasında daha etkin bir rol üstleneceği bir çerçevede değerlendirilmesi, bu kurumların insan güvenliğini temin etme amacına daha uygun gibi gözükmektedir. Bu anlamda vakıfların insanları özgürleştirme ve güçlendirmeye yönelik bir felsefe benimsemesi daha amaca uygun olacaktır. Son dönemlerde sayısı artan mikrofinans kuruluşlarının konu edindiği dokuzuncu bölümde bu tarz bir yaklaşım benimsenmiştir. Kalıcı yoksullukla mücadele ve insanların onurlu bir hayata sahip olmasının mümkün kılınması konularında mikrofinans kuruluşlarının oynayabileceği rol tanımlanmıştır. Mikrofinans kuruluşlarına atfedilen bu etkin rol, insan güvenliği paradigması içerisinde değerlendirildiğinde önemli bir potansiyeli haizdir.

Beşinci kısmın ana konusu insan güvenliğinin mevcut durumuna yöneliktir. Beş temel ölçüt üzerinden (gıda, barınma, sağlık, eğitim ve iş) çoğunluğu Müslüman olan ülkelerdeki pratikler değerlendirilmektedir. Bu çerçevede dokuzuncu bölüm, bu ülkelerde temiz suya ulaşım ve sanitasyon konularına eğilmekte ve iklim değişiklikleri ve artan hava kirliliği gibi çevresel krizlerin sebep olduğu insan güvenliği problemlerine odaklanmaktadır. Bu noktada, çoğunluğu Müslüman olan ülkelerde su taşıyıcı bireyler olan kadınların ve kız çocuklarının gönüllük esaslı müdahalelerle aktif ve sağlıklı vatandaşlara dönüştürülmesi, insan güvenliğinin temel kavramlarından olan insanları özgürleştirme ve güçlendirme açısından bakıldığında elde edilmiş önemli başarılarıdır (s. 379-380). Onuncu bölümün ana odak noktasını oluşturan eğitim ve sağlık konusunda da üçüncü sektör kuruluşlarının yoğun şekilde faaliyet gösterdikleri Bangladeş ve Endonezya'nın diğer ülkelere göre daha başarılı olduğu vurgulanmaktadır. İş konusunu ele alan on birinci bölümde ise sosyal güvenliğin sağlanmasının aslında bir farz-ı kifaye olduğu ve sosyal güvenliğin hukuksal bir zemine dayandırılarak kurumsallaştırılması gerektiği vurgulanmıştır (s. 442-445). Kitabın sonuç bölümünü oluşturan altıncı kısımda üçüncü sektör kuruluşlarının insan güvenliği bağlamında farklı sonuçlar doğurmasına yol açan unsurlara odaklanılmış ve bu doğrultuda belli politika önerilerinde bulunulmuştur. Kitabın da genel çerçevesini yansıtan bu kısımda üçüncü sektörün gelişebilmesi için "hesap verilebilirlik, liyakate dayalı rekabet, karşılıklı saygı, hoşgörü ve şeffaflık" (s. 57-58) gibi unsurların önemine vurgu yapılmış ve bu kuruluşların farklı ülkelerdeki farklı sosyal yapılara uyum sağlayabilmesi için yeniliklere açık hâle getirilmesi gerektiği belirtilmiştir.

Genel itibarıyla farklı yazarların katkı sağlamasına rağmen akıcı ve bütüncül bir üslup yakalamayı başaran kitabın bu özelliğine bölüm sonlarında verilen sonuç kısımları büyük bir katkı sağlamıştır. Özellikle hukuksal çerçeveye biraz fazla ağırlık verilerek siyasi, toplumsal ve iktisadi unsurlar zaman zaman göz ardı edilmiştir. Buna rağmen, toplamda 47 ülkeden oluşan geniş bir coğrafya hakkında ayrıntılı analizleri içerisinde barındıran bu kitap, Müslüman dünyanın mevcut durumu ile ilgili olan herkesin içerisinde kendi araştırmalarında kullanacakları bilgiler bulabileceği zengin bir kaynak olabilmıştır. Sadece Müslüman ülkelerle ilgili olanların değil, kâr amacı gütmeyen kuruluşlarla ilgili araştırmalar yürüten uzmanların

da istifade edebileceđi kapsamlı bir kitap hazırlanmıřtır. Mevcut durumun tespitinin ötesinde yařanan insani krizlere çözümlenecek politikalar önermeye çalıřması, kitabın deđerini arttıran önemli bir unsurdur. Ayrıca, modern insan güvenliđi bakıř açısıyla, çođunluđu Müslüman olan ülkelerde yařayan insanların maruz kaldıđı řiddet içeren veya řiddet içermeyen krizlerin sebeplerini ortadan kaldırmaya yönelik insanı koruma ve insanı güçlendirme ilkelerini öneriyor olması, Müslüman dünya için oldukça önemlidir.