

# **Bank Islam Malaysia Berhad: Some Issues, Problems and Its Prospects in the Future**

**Joni Tamkin bin Borhan**

## **Abstrak**

*Penulisan ini meninjau beberapa isu yang dihadapi oleh Bank Islam Malaysia Berhad (BIMB) yang telah beroperasi semenjak tahun 1983 berasaskan kepada prinsip-prinsip mu'amalah Islam. Turut dikemukakan ialah beberapa cadangan dan penyelesaian yang praktikal serta prospek dan cabaran masa depan BIMB.*

## **Introduction**

The Islamic Banking Act (IBA), 1983 (Act No. 276, 1983) was enacted which permitted the establishment of the first Islamic Banking in Malaysia. The Bank Islam was incorporated as a limited company under the Company Act, 1965 (Act No. 125, 1965) on 1 March 1983 taking the name of Bank Islam Malaysia Berhad (BIMB) with its registered office situated in Malaysia. BIMB with a paid up capital of RM100 million and an authorised capital of RM500 million is carrying out its businesses and financial transactions on an interest free basis. Its memorandum of Association prefaces that “*all businesses of the company will be transacted in accordance with Islamic principles, rule and practices*”. BIMB lists among the company’s first objectives as “*to carry on the Islamic banking business in all its branches and departments and to transact and do all matters and things incidental*

thereto, or which may at any time hereafter at any place where the company shall carry on business by usual in connection with the Islamic banking business". The Memorandum then proceeds to enumerate a number of possible objectives for which the company is established, and seals the listing with a proviso that "nothing in this memorandum contained also shall empower the company to carry on any business or do anything involving any elements which is not approved by the religion of Islam".<sup>1</sup>

After more than a decade of its operation, *BIMB* has proved its viability and profitability within the Malaysian capitalistic environment. Furthermore, experiences so far have shown that *BIMB* can co-exist with conventional banks and there are signs that can continue to grow and progress. However, there are some issues and problems faced by *BIMB* as follows:

### 1. Legal Impediments to Islamic Banking

Islamic Law relating to commerce and business (*mu'āmalat*) in Malaysia is only applicable to a very limited scope. Since the law relating to this matter is either the statute law or English law. In this connection, Section 5 of the *Civil Law Act* 1956 provides that "in the absence of any written law, the law generally applicable to commercial matters and any matters incidental thereto is the English Law". In other words, English law principles are inapplicable if there are other provisions in any law covering the question or issues which have been decided. If, however, there is no provision dealing with the issue in question, though there may be a general act covering certain aspects of the law, the issue shall be settled by reference to English law on the matter not covered by the Act.<sup>2</sup> Even though the *IBA* 1983 and others were enacted, they were merely acts to provide for the licensing and regulating Islamic commercial institutions and did not include any provision of the substantive law.<sup>3</sup>

For this reason, Islamic financial institutions have to work in the context of the Islamic contracts such as *bay' al-murābahah*, *bay' bithaman ājil*, *al-ijārah*, etc, which have to be interpreted in line with the equivalent of the relevant legislation and the English principles applicable to interpret or supplement the legislation.<sup>4</sup> In the case of *BIMB v. Tinta Press Sdn. Bhd.* (1986 MLJ 256; 1987 CLJ 474), a dispute relating to lease (*ijārah*) of printing equipment by *BIMB* to the defendants had to be dealt with in the High Court according to English legal principles. The question arises whether such legislation and legal principles are in line with the *Shari'ah*. The relevant legislation already existing includes *Contract Act*, 1950,

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*Bankruptcy Act, 1967, Companies Act, 1965, Partnership Act, 1961 and Sale of Goods (Malay States) Ordinance, 1957.* There is an urgent need to examine these statutes and to bring them into line with the requirement of the *Shari'ah*, or to make them inapplicable to Muslims.<sup>5</sup>

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

### 1.1. National Land Code (NLC), 1965

Section 205(3) of the *National Land Code 1965*<sup>6</sup> which prohibits the transfer of an undivided share of agricultural land of less than 2/5 hectare (1 acre) has created a disadvantage for *BIMB*. The reason is that the nature of the operation of *BIMB* involves buying the property on behalf of customers, and not merely being an intermediate agent between the buyer and the seller as practised by conventional banks. For example, if there is a piece of land belonging to A and B and the customers C and D go to *BIMB* to ask the latter to finance the buying of the said property and *BIMB* buys the property and it will have difficulty if it is going to sell the property to C and D because the provision of the *National Land Code 1965* prohibits the transfer of that land to another party. Therefore, this provision should be abolished or made inapplicable to *BIMB* since unlike other commercial banks, it is involved in trade, not merely in financing transactions.<sup>7</sup>

### 1.2. Hire Purchase Act, 1967

*BIMB* is presently involved in financing its customers in acquiring fixed assets such as land, property, equipment, etc under the principles of *bay' bithaman ājil*. Nevertheless this Islamic contract of *bay' bithaman ājil* is not covered by the *Hire Purchase Act, 1967* since the Act is outside the principle of the *Shari'ah*. According to the *Shari'ah*, there should not be two transactions in one contract (*'aqd*). It must be two separate transactions, i. e. hire followed by purchase.

The *Hire Purchase Act* has given complete protection both to the financier and the debtor in terms of legal documentation and enforcement of such an agreement. Thus, it will not be difficult for a financial institution to conduct its operations especially in cases involving repossession, unlike the agreements entered into under *bay' bithaman ājil* which need approval from a Civil Court before they can be enforced.<sup>8</sup> Therefore, it is hoped that this Act can be modified in order to make it consistent with the *Shari'ah*.

## 2. Islamic Banking in a Capitalistic World

The theoretical concept of Islamic banking on the basis of profit and loss sharing was originally developed under the explicit assumption of a general prohibition of interest.<sup>9</sup> Today, *BIMB* has to carry on its business in a capitalist economy where interest persists and *BIMB* exists side by side with interest-based banks. This phenomenon will create problems for a newly established Islamic bank in competing with the established and widespread influence of the conventional banks.

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

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

An entrepreneur or investor who is concerned with the maximisation of profits in an investment project will only decide in favour of an Islamic bank on the basis of a profit and loss sharing contract, if the expected profit is higher than that of interest from conventional banks. Since both the entrepreneur and the Islamic bank strive for maximum profit, they will bargain for the desired predetermined ratio of their profits. If an Islamic bank claims a higher ratio of profit than the entrepreneur, this will lead the latter turns to a conventional bank. Therefore, the Islamic bank has to adapt its claims for a given investment project to the market rate of interest. Therefore, if the interest rate of commercial banks is high, *BIMB* cannot claim a higher ratio of profit sharing since it will be less attractive to customers who have the option of investing in an interest-based banks.<sup>10</sup>

Furthermore, in the capitalistic environment of Malaysia, where an Islamic and conventional banks co-exist, customers may only deposit or invest their money in *BIMB*'s general investment or special investment accounts if they are confident that they will gain higher profits and their money is secure. This can be seen, for example, in the financial year of 1991 and 1992, *BIMB*'s total deposits from customers rose but the balances in general investment accounts continued to decrease as its rates of profit were less attractive against rates of interest on fixed deposits paid by the conventional banks.<sup>11</sup> In addition, *BIMB* is competing not only with the commercial banks, but also other Government supported investment institutions such as *Tabung Haji*. In this case, *Tabung Haji* has managed to offer an attractive rate of return (dividend) to its depositors.

### 3. Over-Dependence on “Second-Line Techniques”

The Muslim economists and jurists appear to suggest that the *muḍārabah* and *mushārah* contracts which are legal in Islam should be the basic methods (first-line techniques) in the transaction of Islamic banking and finance which permit risk-return sharing between the providers of capital and the entrepreneurs and by which financial resources are mobilised and combined with entrepreneurial and management skills for the purpose of expanding trade and investment. However, it is recognised that these techniques or contracts may not be applicable in all circumstances. Literature on Islamic banking and finance has mentioned other techniques of financing arrangements to meet such situations. These include *ijārah* (leasing), *ijārah wa istiqnā'* (hire-purchase/lease-purchase), *bay' al-murābahah* (mark-up),<sup>12</sup> *bay' bithaman ājil* (a trade-deal in which the seller allows the buyer to pay the price of a commodity at a future date in a lump sum or instalments), *bay' al-salam* (purchase with deferred delivery) and *qard ḥasan* (benevolent loans).

These later modes of financing, however are considered as the weaker in terms of Islamically speaking, because of their minimal risk and pre-determined fixed rate of return,<sup>13</sup> and their preserving of the status quo associated with conventional banking, with its emphasis on creditworthiness of the client and maintenance of the credit-debtor relationship, rather than the risk-return sharing between the providers of capital in the case of *mushārah* and between the provider of capital and the entrepreneur in the case of *muḍārabah*.

The issue raising concerns in this case is the excessive reliance of the *BIMB* on the second-line techniques of operation that is *bay' murābahah* and *bay' bithaman ājil* since the early days of its inception. These secondary techniques are seen by some scholars as counterparts to the institution of interest as practised by conventional banks. This is because the mark-ups charged by the *BIMB* are about the same as the rate of interest, if we were to convert these mark-ups into a ratio of the principal sum of money provided by the bank. Therefore they accuse *BIMB* of charging interest in “a disguised form” and being “mainly similar to other commercial banks albeit without the interest label”<sup>14</sup> Consequently, the cost of finance advanced by *BIMB* under the above methods is still high and is comparable to the cost of funds provided by other banks based on interest.

Although *bay' al-murābahah* and *bay' bithaman ājil* are technically correct and permissible in the *Shari'ah*, in effect they operate very much like interest-based lending.<sup>15</sup> Scholars of Islamic banking are disturbed at this phenomenon, for example, Siddiqi says:

There is a genuine concern among Islamic scholars that if interest is largely substituted by devices like 'mark-up', it would represent a change just in number rather than in substance, and the new system would not be rid of the iniquitous nature of the interest-based system. It is also emphasised that, apart from equity consideration, the prohibition of interest in Islam is meant to stimulate overall productive activity, generate maximum employment and encourage innovation which is the main-spring of growth. These blessings can only be reaped if the interest system is completely uprooted in the real sense of the term and replaced by a fundamentally different system like profit/loss sharing.<sup>16</sup>

Dr. Ziauddin Ahmed makes the following observation about these second-line techniques:

Though far simpler to operate compared to profit/sharing, (they) cannot be recommended for widespread use as they cannot be of any material assistance in achieving the socio-economic objectives of an Islamic economy. The fact that replacement of interest by *bay' mu'ajjal* (mark-up), for example, does not represent any substantive change becomes apparent if one views it in the perspective of the philosophy behind the prohibition of interest. The feature that makes the interest system inequitable is that the provider of funds is assured a fixed return while all the risk is borne by the user of their capital funds. Justice, which is a hallmark of the Islamic System, demands that provider of capital funds should share the risk with entrepreneur if he wishes to earn profit. It is easy to see, therefore, that the mark-up system, and for that matter all devices which involve a fixed predetermined return on capital, are no real substitutes for interest.<sup>17</sup>

The Bank has been accused of being only concerned with making profits and neglecting the welfare element in its operations.<sup>18</sup> According to officials of *BIMB* in a series of lectures, this allegation was due to the tendency of the people to equate *BIMB* with the *bayt al-māl* (welfare institution).<sup>19</sup> However, they say that *BIMB* belongs to the *tijār* (commercial) sector. As a commercial organisation, it is argued that *BIMB* operates on profit basis because it needs to protect the interests of the depositors and shareholders by maintaining a reasonable rate of return on their investment.<sup>20</sup>

The nature and aim of *BIMB* to make profits in its business by using the second line techniques has been criticised by some scholars.<sup>21</sup> They strongly argue that *BIMB* should concentrate on *muḍārabah* and *mushārahah* in its operations which

are claimed to be more just and in line with Islamic principles. In this connection, Zakariya Man says:

The fact that the bank needs to make profits cannot justify its over-dependence on the second line techniques of operation because possibilities for making even more profits through the first line techniques such as *muḍārabah* and *mushāarakah* are not absent. Besides, the Bank's over dependence on the second line techniques may also lead to inequitable distribution of gains between the users and the providers of capital. Otherwise, the Bank cannot contribute significant changes in the distribution of income as encouraged by Islam. In this context, it is relevant to note that many customers of the bank prefer to get *murābaḥah* rather than *mushāarakah* finance, as they make more profits after paying a fixed sum of mark-ups as agreed in the contract. Clearly, the first-line techniques of *muḍārabah* and *mushāarakah* will be more just in terms of profit distribution between the users and the providers of capital.<sup>22</sup>

There are several arguments which support the *BIMB* stands, some of which,<sup>23</sup> are :

- a. There is no Qur'anic prohibition on these types of finance. Therefore, to equate the practice of trade financing under the scheme of *bay' bithaman ājil* and *murābaḥah* with interest amounts to rejecting the permissibility of trade as expounded by Qur'an and the rulings of Muslim jurists.<sup>24</sup> Moreover, *BIMB* has a *Shari'ah* Advisory Council to oversee the Islamic validity of its operations and therefore it should have advised *BIMB* if these methods were prohibited.<sup>25</sup>
- b. The requirement and need of the community in this modern age is highly varied. There are various types of financing required by customers for such purposes as house purchase or business. These various modes of financing would have to be met to the satisfaction of both financier and the party financed.<sup>26</sup> To restrict all the requirements to or give priority to the profit and loss sharing transactions would have the effect of undermining the criteria of meeting the viability of both parties, i. e. the Bank and the customers.<sup>27</sup>
- c. Such methods are considered less risky in view of the capitalist climate of Malaysia. The possibility of getting an unscrupulous partner in such profit and loss sharing contracts might cause loss to *BIMB*. Further, *BIMB* has to monitor the project and more personnel have to be employed.<sup>28</sup>

The resolution over the debate concerning the first and second line techniques of operations is fundamental to the continued success of Islamic banking in Malaysia. There is a real danger that an element of doubt may exist in the minds of depositors that *BIMB* is failing to be a truly Islamic bank.<sup>29</sup>

### **The Future of Islamic Banking in Malaysia**

Islamic banking is widely recognised by Muslim scholars as one of the approaches to be adopted in the process of islamising an economy. This approach is based on the premise that under the existing political, social and technical constraints, islamisation should be phased in, so as to avoid any abrupt changes which might cause unpredictable chaos in the economy. Accordingly, Islamisation of the banking sector is to be implemented by first establishing the model of an Islamic bank side by side with the existing interest-based banks.<sup>30</sup> The nature of co-existence between Islamic and conventional banking is going to be a significant issue for the Malaysian economy. In this regard, Tan Sri Jaafar Hussein, the former Governor of the Central Bank of Malaysia said: *"I have a dream, and my dream is that I will be able to see, in my life time, a fully fledged Islamic financial system in Malaysia side by side with the existing conventional system, both equally sophisticated and modern"*.<sup>31</sup>

He also said :

Our aim during the 1990s is to establish a comprehensive financial system which runs parallel with the conventional system. We should not aim at least for the present to completely replace the conventional system in Malaysia with the Islamic financial system. The Islamic financial system should be implemented gradually, so as not to create disruptions. This is important considering that Malaysia has a multi-religious population.<sup>32</sup>

Dr. Abdul Halim Ismail, the former Managing Director of *BIMB* and the initiator of Islamic banking in Malaysia had been interviewed on the possibility of the Islamisation of banking in Malaysia. He did not believe in universal Islamisation, rather he upheld the system of co-existence which he claimed to be more suitable to multi-racial Malaysia.<sup>33</sup>

*BIMB* remains the sole Islamic bank in Malaysia, surrounded by hundreds of conventional banks. As mentioned earlier, in 1982 the former Finance Minister said that the Islamic Bank was " a first in the Government's efforts to instil Islamic values into the country's economic and financial system as a "replacement for the current Western-based economic system". He further added that "in the near future,



there would be as many as 100 such banks throughout the country".<sup>34</sup>

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

Instead of establishing more Islamic banks, the Malaysian Government has recently embarked upon establishing interest-free banking facilities within existing conventional banks. The pilot scheme which was launched by the former Finance Minister, Datuk Seri Anwar Ibrahim on 4 March 1993<sup>35</sup> involving three major commercial banks in Malaysia, i. e. Malayan Banking Berhad (MBB), Bank Bumiputera Malaysia Berhad (BBMB) and United Malayan Banking Corporation (UMBC) was to provide a wider application for Islamic banking activities and to help refining the domestic banking sector into a sophisticated and mature industry. They were given permission to offer interest-free banking facilities to customers side by side with their conventional banking. These facilities, which include customers' deposit accounts, assets financing and trade financing are based on the *Shari'ah* principles such as *wadī'ah*, *muḍārabah*, *bay' murābaḥah*, *bay' bithaman ājil*, *ijārah*, *kafālah* and *wakālah*<sup>36</sup> as presented in Table 1 below.

The three banks which form the first phase of the Interest-Free Banking Services provide these services through their 281 branches throughout the country. These facilities have met with an encouraging response from the public. In less than 2 months, their operations have attracted almost RM 30 million in public deposits and investments involving a total of 4,146 depositors. Of the total amounts, RM 5,598 million was placed in saving accounts by 3,853 account holders, and the rest in investment deposit accounts by 293 depositors.<sup>37</sup>

Interest-Free Banking is another way of mobilising funds for productive purposes and national development from Malaysians in general and Muslims in particular.<sup>38</sup> It also offers the public and the corporate sector an alternative way of investment. Under this system, the bank shares the profit earned from the utilisation of deposits, including a share in the profits gained from the bank's investment in the clients' projects. The return to the depositors, the bank and the users of the funds would depend on the profit and the pre-determined profit and loss-sharing ratios.<sup>39</sup>

Ten more financial institutions are involved in the second phase of the Interest-Free Banking scheme, which was launched by the former Finance Minister on 21

August, 1993. They are Development and Commercial Bank Berhad, Kwong Yik Bank Berhad, Perwira Habib Bank Berhad, Standard Chartered Bank Berhad, Arab-Malaysian Finance Berhad, BBMB Kewangan Berhad, Mayban Finance Berhad, MBF Finance Berhad, Public Finance Berhad and Arab-Malaysian Merchant Bank Berhad. Their participation would increase the number of branches offering Interest-Free Banking services to 440<sup>40</sup> (not including *BIMB*'s 44 branches).<sup>41</sup>

**Table 1**  
**Products of The Interest Free Banking Scheme<sup>42</sup>**

<b>Product</b>	<b>Principles</b>
<b>A) Customers' Deposits</b>	
1. Saving Accounts	<i>Wadi'ah</i>
2. Current Accounts	<i>Wadi'ah</i>
3. General Investment Accounts	<i>Mudārabah</i>
<b>B) Assets Financing</b>	
4. Financing the Acquisition of Assets such as houses and vehicles	<i>Murābahah</i> or <i>Bay' Bithaman Ājil</i> or <i>Ijārah</i>
<b>C) Trade Financing</b>	
5. Interest-Free Accepted Bills	
5.1 Importpurchase	<i>Murābahah</i> or <i>Bay'al-Dayn</i>
5.2 Export/sale	<i>Bay' al-Dayn</i>
6. Interest-Free Export Credit Refinancing	
6.1 Pre-delivery	<i>Murābahah</i> or <i>Bay'al-Dayn</i>
6.2 Post-delivery	<i>Bay'al-Dayn</i>
7. Interest-Free Bank Guarantee	<i>Kafālah</i>
8. Interest-Free Shipping Guarantee	<i>Kafālah</i>
9. Letter of Credit	<i>Wakālah</i> or <i>Murābahah</i> or <i>Mushārahah</i>
10. Letter of Guarantee	<i>Kafālah</i> or <i>Ijārah</i>

In future, more financial institutions are expected to offer the Interest-Free Banking services in addition to their existing services.<sup>43</sup> On the future of Islamic Banking and Finance in Malaysia, Abdul Halim offers a bright prospect:

The market can be big, but it has to be nurtured and developed in an orderly manner. The success of Islamic banking will also depend on the

political stability, economic growth and a visionary leadership which we are enjoying now. And assuming that it's efficient (like conventional banking), it should attract non-Muslim customers too, which means the market should grow. Above all, the Islamic banking and financial system is expected to play an important role - which is to attain the economic objectives of restructuring the *Bumiputera* community and Vision 2020 (when Malaysia is expected to be an industrialised nation").<sup>44</sup>

## Conclusion

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

## Notes

1. Abdul Halim Ismail (1983), "*BIMB: Establishment and Operations*", pp. 2 - 3. A Paper presented at the *International Conference on Islam and Technology*, Kuala Lumpur, 1983; *Idem*, "*BIMB: Principles and Operations*", in S.G. Sheikh Abod, et al (eds.), *An Introduction to Islamic Finance*, Kuala Lumpur, pp. 245 - 246.
2. Section 5, Civil Law Act, 1956.

3. Norhashimah Mohd. Yasin, *Islamisation/Malaynisation: A Study on the Role of Islamic Law in the Economic Development of Malaysia, 1969 - 1993*, Kuala Lumpur, 1996, p. 283.
4. Ahmad Ibrahim, "Legal Aspects of the Establishment of the Islamic Law", pp. 3 - 13. A Paper presented at the *International Conference on Islam and Technology*, Kuala Lumpur, Dec. 1985; *Idem*, "The Shari'ah and Codification : Malaysia Experience", in *Syariah Law Journal*, Vol. IV, (Petaling Jaya, January, 1987), pp. 59 - 60; Mustapha Hamat, "Pembiayaan dan Penyediaan Modal Menurut Islam", in *Dunia Islam*, (Kuala Lumpur, Januari 1992), p. 51 - 53; Nik Mustapha Nik Hassan (1989), "Pendekatan Sistem Ekonomi Islam Dalam Meningkatkan dan Memajukan Kedudukan Ekonomi Masyarakat Melayu", in International Islamic University, *Occasional Paper Kulliyah of Economics*, Vol. I (I), (P.J., 1989), pp. 13 - 14; Fokus, "Kerajaan Bertanggungjawab Melaksanakan Sistem Ekonomi Islam", in *Dunia Islam*, (Kuala Lumpur, November 1991), pp. 20 - 26.
5. Ahmad Ibrahim, "Legal Impediments in the Islamisation of the Malaysian Economy with Special Reference to Banking and Insurance", A paper presented at the *Seminar on Issues in Islamic Economics*, 29 December, 1985, Petaling Jaya, Malaysia; Syed Othman Alhabshi, "Dasar Kerajaan", in S. G. S. Abod, et al (eds.), *Pengurusan Perniagaan Islam*, Shah Alam, 1991, pp. 391 - 400.
6. Section 205(3) of the *National Land Code* 1965 provides that, "subject to subsection (4), no dealing in respect of any alienated land or any interest therein subject to the category 'agriculture' or to any condition requiring its use for any agricultural purpose shall be effected if such dealing would have the effect of creating any undivided share of such size that, if the land is to be partitioned in proportion to the several shares, the area of any resulting individual portion would be less than two-fifths of a hectare".
7. Norhashimah, *op. cit.*, p. 285.
8. *Ibid.*, p. 286.
9. For a discussion see M. A. Mannan, "Islam and Trends in Modern Banking" in *The Islamic Review*, Vol. LVI (11-12), (London, 1968, pp. 5 - 10; Vol. LVII (1), 1969, pp. 28 - 33. These articles also published in *Al-Islam*, Vol. III (3), (Singapore, 1972, pp. 1 - 16; Sh. Mahmud Ahmad, "Banking in Islam" in *Al-Islam*, Vol. III (2), (Singapore, 1972, pp. 37 - 46; M. N. Siddiqi, "Banking in an Islamic Framework" in *Islam and Modern Age*, Vol. VIII (4), 1977, pp. 4 -20; Muhammad Sami'ullah, "Elimination of Interest from the Economy" in *Islamic Order*, Vol. VI (1), 1984, pp. 103 - 114; Waqar Masood Khan (1985), *Towards*

- an Interest-Free Islamic Economic System*, pp. 23 - 52; Mohsin S. Khan and Abbas Mirakhor (1986), pp. 33; *Idem*, "The Financial System and Monetary Policy in an Islamic Economy" in Mohsin S. Khan, et al (eds.), *Theoretical Studies in Islamic Banking and Finance*, pp. 163 - 184; T. W. Taylor and J. W. Evans, "Islamic Banking and the Prohibition of Usury in Western Economic Thought" in *National Westminster Bank Quarterly Review*, November 1987, pp. 21 - 27; Muhammad Anwar (1987), *Modelling Interest-Free Economy : A Study in Macro-Economics and Development*, 84pp.; Zubayr Iqbal and Abbas Mirakhor, "Islamic Banking", in *Al-Tawhid*, Vol. IV (3), (Tehran, 1986), pp. 91 - 94; . A. Saud, "Toward Islamic Economics" in *Toward Islamization of Disciplines*, Herndon, Virginia, U. S. A., 1989, pp. 265 - 270; R. Wilson, "Economic Change and Re-Interpretation of Islamic Social Values", in *British Society for Middle Eastern Studies Bulletin*, Vol. IX (1), 1982, pp. 108 - 111; W. M. Ballantyne, *Commercial Law in The Arab Middle East : The Gulf States*, London, 1986, 122 - 125; John Thomas Cummings, et al, "Islam and Modern Change", in John L. Esposito (ed.), *Islam and Development : Religion and Sociopolitical Change*, New York, 1980, pp. 32 - 34; A. L. Udovitch, "Bankers Without Banks : Commerce, Banking, and Society in the Islamic World of the Middle Ages", in The Center for Medieval and Renaissance Studies, University of California (ed.), *The Dawn of Modern Banking*, New Haven and London, 1979, pp. 256 - 273.
10. Barjoyai Bardai, "Jurang Harapan Pelabur Bank Islam" *Berita Minggu*, 2 January 1994, p. 8; Interview with Tajuddin Abdul Rahman, Managing Director of *BIMB*, Kuala Lumpur, 24/11/94; Norhashimah, *op. cit.*, pp. 286 - 288.
  11. *BIMB, Annual Report 1991*, p. 6; 1992, p. 5; Z. Phoon, "Jaafar's Dream : The Islamic Banking is available to all *Bumiputeras*, *Non-Bumiputeras*, Muslims and Non-Muslims" in Kuala Lumpur Stock Exchange, *Investors Digest*, April, 1993, p. 13.
  12. A Contract in which a client wishing to purchase equipment or goods requests the Bank Islam to purchase the items and sell them to him at cost plus a declared profit. See for example *Encyclopaedia of Islamic Banking and Insurance*, London, 1995, p. 391.
  13. The Report of the Council of Islamic Ideology of Pakistan on the elimination of interest, for example, sounded a note of caution in this regard in these words: "However, although this mode of financing is understood to be permissible under the *Shari'ah*, it would not be advisable to use it widely or indiscriminately in view of the danger attached to it of opening a back door for dealing on the basis

of interest". See Council of Islamic Ideology of Pakistan's Reports in Ziauddin Ahmed, et al (eds.), *Money and Banking in Islam*, Islamabad, 1983, p. 110.

14. For example, see Zakariya Man (1988), "Islamic Banking : The Malaysian Experience" , in Mohamed Ariff (ed.), *Islamic Banking in Southeast Asia*, Singapore, 1988, p. 91; Naziruddin Abdullah, "Bank Islam : Fungsi, Operasi dan Masa Depan", *Mimeo*, International Islamic University, Malaysia, pp. 18 - 24; Nik Mustapha N. Hassan, "Institusi Ekonomi Islam di Malaysia : Suatu Persoalan Tentang Keberkesanannya", Paper presented at the *Simposium Keilmuan Islam*, 25 January 1987, Kuala Lumpur.
15. Muhammad Umar Chapra (1986), *Towards A Just Monetary System*, Leicester, pp. 163 - 174; *Idem*, "Towards An Islamic Financial System" in Abul Hasan M. Sadeq, et al (eds.), *Development and Finance in Islam*, Petaling Jaya, Malaysia, 1991, pp. p. 138 - 139; Ziauddin Ahmed, "Islamic Banking at the Crossroads" in Abul Hasan M. Sadeq, et al ( eds.), *Ibid.*, pp. 157 - 170; Muhammad Nejatullah Siddiqi, *Issues in Islamic Banking*, Leicester, U. K., 1983. 134 - 143; *Idem*, "Islamic Banking : Theory and Practice" in Mohamed Ariff (ed.), *Islamic Banking in Southeast Asia*, Singapore, 1988, pp. 51 - 57.
16. M. N. Siddiqi, "Islamic Banking : Theory and Practice" in Mohamed Ariff (ed.) (1988), *op cit.*, p. 56.
17. Ziauddin Ahmed, *Concept and Models of Islamic Banking: An Assessment*, Islamabad, 1984, p. 11. For some other views on the subject, see Abbas Mirakhor, "The Progress of Islamic Banking: The Case of Iran and Pakistan", in Chibli Mallat (ed.), *Islamic Law and Finance*, London, 1988, pp. 91 - 113. Dr. Mirakhor refers to these techniques as 'weak' and argues that even in the transition to full Islamic banking, the policy of heavy reliance on weekly Islamic measures as means of minimising risk may not be optimal. *Ibid.*, pp. 95 - 96 and *Idem*, "Short-term Asset Concentration and Islamic Banking" in Mohsin S. Khan and Abbas Mirakhor (eds.), *Theoretical Studies in Islamic Banking and Finance*, Houston, USA, 1987, pp. 186 - 188; Zubayr Iqbal and Abbas Mirakhor, "Islamic Banking", in *al-Tawhid*, Vol. IV (3), 1986, pp. 94 - 103; M. N. Siddiqi, *Issues in Islamic Banking*, Leicester, 1983, pp. 133 - 145; Mohsin S. Khan and Abbas Mirakhor, "The Framework and Practice of Islamic Banking", in *Finance and Development*, Sept., 1986, pp. 33 - 34; Shahrukh Rafi Khan, "An Economic Analysis of a PLS Model for the financial sector" in Mohsin S. Khan, et al (eds.) (1987), *op. cit.*, pp. 107 - 124; Nadeem Ul Haque and Abbas Mirakhor, "Saving Behaviour in an Economy Without Fixed Interest", in *Ibid.*, pp. 125 - 139; *Idem*, "Optimal Profit-sharing Contracts and Investment in an Interest-free Economy", *Ibid.*, pp. 141 - 161.

18. For example, see Mohd. Azmi Omar, "Bank Islam dan Matlamatnya", pp. 31 - 35. A Paper presented at the *Seminar Kursus Ekonomi Islam*, Sintok, Kedah, 1987; Nik Mustafa Nik Hassan, "Institusi Ekonomi Islam di Malaysia : Suatu Persoalan Tentang Keberkesanannya", pp. 29 - 30. A Paper presented at the *Simposium Keilmuan Islam*, University Malaya, 1987; Mohammad Ariff, "Islamic Banking in Malaysia : Framework, Performance and Lessons", *Journal of Islamic Economics*, (Petaling Jaya, 1991), p. 76; Barjoyai Bardai (1994), *op cit.*, p. 8; Cf. Malami, "Prospects of Islamic Banking in the Muslim Minority Communities", *JIMMA*, Vol. XIII (2), 1992, pp. 309 - 310.
19. Muslim Scholars have categorised the Islamic economic system into three sectors: a. *siyasī* or government sector which should encompass all public sector commercial activities; b. *tijarī* or commercial sector which should encompass all private sector commercial activities; and c. *ijtimā'i* or welfare sector which should encompass the administration of *bayt al-mal*, *zakat* and *sadaqah*.
20. See Abdul Halim Ismail, "Bank Islam : Prospek dan Perkembangannya pada masa hadapan", pp. ; *idem*, "Islamic Banking in Malaysia : Some Issues, Problems and prospects", pp. 1 - 13. A Paper Presented at the *Seminar on Issues in Islamic Economics*, 27 - 29 December 1985, Petaling Jaya, Malaysia; *idem*, "Sistem Kewangan Islam Dengan Tumpuan Kepada Urusan Bank dan Insuran", pp. 7 - 11. A Paper presented at the *Seminar Shar'iah Islam*, 6 - 9 September 1986, Brunei Darulsalam, also presented at the *Bengkel Tertutup Pemikiran Sistem Ekonomi Islam Berasaskan Shar'iah Peringkat Kebangsaan*, 21 March 1989, Kuala Lumpur; *idem*, "Aspects of the Islamic Economics System and Its Treatment in the Issue of Poverty", pp. 13 pp. 13 - 16. A Paper Presented at the *International Seminar on Islamic Philosophy and Science*, 30 May - 2 June, 1989, Pulau Pinang, Malaysia; *Arabia*, Vol. V (56), 1986/1406 A.H., p. 68; Barjoyai Bardai (1994), *op cit.*, p. 8.
21. See Chapter 3, footnote 137, p.
22. Zakariya Man (1988), p. 92.
23. Interview with Tajuddin Abdul Rahman, Managing Director of *BIMB*, Kuala Lumpur, 24/11/94.
24. Abdul Halim Ismail, "The Deferred Contracts of Exchange : Al-Qur'an in contrast with the Islamic Economists' Theory on Banking and Finance", pp. 6 - 51. A Paper Presented at the *Bengkel Tertutup Pemikiran Sistem Ekonomi Islam Berasaskan Shar'iah Peringkat Kebangsaan*, 21 March 1989, Kuala Lumpur; *idem*, "Shari'ah and the Islamic Economics : Permissibility of Uses of Funds

- Contracts”, pp. 1 - 11, *Ibid; idem*, “The Deferred Contracts of Exchange in al-Qur’an” in Sheikh Ghazali Sheikh Abod, et al(eds.), *An Introduction to Islamic Finance*, Kuala Lumpur, 1992, pp. 284 - 313; Article, “Bank Islam (M) Berhad : Operasi, Masalah dan Masa depan” in *Risalah*, Vol. XIV, Petaling Jaya, Malaysia, 1990, p. 19; Jaffar Hussein, “Islamic Financial System in the 1990s”, in *Al-Nahdah*, Vol. X(1 - 2), (Kuala Lumpur, 1990), pp. 13 - 14.
25. Abdul Halim Ismail, “Sistem Kewangan Islam Dengan Tumpuan Kepada urusan Bank dan Insuran”, pp. 15 - 19; *idem*, “ The Deferred Contracts of Exchange : Al-Qur’an in Contrast with the Islamic economists’ Theory on Banking and Finance”, pp. 51 - 52.
  26. Abdul Halim Ismail (1992a), pp. 261 - 262.
  27. Ahmad Tajuddin Abdul Rahman (1987), pp. 19 - 20; A. Halim Ismail (1985), “Bank Islam : Prospek dan Perkembangannya Pada Masa Hadapan”, pp. 19 - 20; Article, “Bank Islam (M) Berhad : Operasi, Masalah dan Masa Depan”, in *Risalah* (1990), p. 20.
  28. A. Halim Ismail (1985), “Bank Islam : Prospek dan Perkembangannya Pada Masa Hadapan”, p. 8; A. Tajuddin Abdul Rahman (1987), p. 17; Interview :
  29. C. Muzaffar in his works, *Islamic Resurgence in Malaysia*, Petaling Jaya, Malaysia, 1987, p.82 writes that the Islamic Bank is but another bank. It may abolish interest, but given the capitalist structure of the economy, the bank like other commercial banks, will continue to mobilise the savings of the ordinary people for investments that will earn profits, which will almost always benefit those in the middle and upper echelons of society. The abolition of interest in a capitalist economy without other fundamental changes can only lead to greater injustice and inequities.
  30. See for example, M. Umer Chapra 1986), pp.228 - 231; *idem* (1991), “Towards an Islamic Financial System”, p. 139; Khurshid Ahmad, “Islamic Approach to Banking : Some Conceptual and Operational Aspects”. Paper Presented at the *International Conference on Islam and Technology*, Kuala Lumpur, December 1985, 9pp; Omar Asghar Khan, “Political and Economic Aspects of Islamisation”, in O. A. Khan (ed.), *Islam, Politics and the State*, Kuala Lumpur, 1987, pp. 77 - 98; Z. Ahmed, “Islamisation of Financial System”, *JIBF*, Vol. XI (2), 1994, pp. 22 -30; For the Malaysian perspective, see Hamzah Ismail and Ahmad Shahbari Salamon, “Ke Arah Pelaksanaan Sistem Ekonomi Islam di Malaysia” in Mahayudin Hj. Yahaya (ed.), *Islam dan Pembangunan Negara*, Bangi, Selangor, Malaysia, 1986, pp. 124 - 142; A. H. Pramanik, *Development*



- and Distribution in Islam*, Petaling Jaya, 1993, pp. 108 - 109; Mustafa Hamat, "Pelaksanaan Sistem Kewangan Islam Ke Atas Institusi Kewangan Islam Kini", in *Dunia Islam*, (Kuala Lumpur, February 1991), pp. 53 - 54. See also CII Report pp. 128 - 129. Cf. The Report of the Council of Islamic Ideology of Pakistan on the Elimination of Interest, which is a product of the combined efforts of the experts in economics and banking and those of *Shar'iah* has been internationally acclaimed as a historic document on the subject. *CII Report*, pp. 103 - 257; M. A. Khan, "Islamic Banking in Pakistan" in *International Journal of Islamic and Arabic Studies*, Vol. II (2), 1985, p. 21.
31. Quoted in *The Star*, 4 November 1991, p. 1; Datuk Mustapa Mohammad, who was the Deputy Finance Minister also stressed the policy that the conventional banking system was not going to be abolished or replaced totally with the Islamic financial system. Quoted in *Berita Harian*, 12 April 1994, p. 11.
  32. Quoted in *Berita Harian*, 30 March 1990.
  33. Abdul Halim Ismail, "Should the Whole Banking be Islamised?" in *The Muslim Reader*, Singapore, 1989, p. 13. See also Aidit Ghazali, *Development : An Islamic Perspective*, 1990, pp. 129 - 135.
  34. Quoted in H. Mutalib (1990), *op. cit.*, p. 138.
  35. "Editor" in *Berita Minggu*, 7 March, 1993, p. 10; See also Article, "Perkhidmatan Bank Tanpa Faedah", in *Al-Islam*, (Kuala Lumpur, April, 1993), p. 7.
  36. Azhar Abu Samah, "Bank Tanpa Riba Dapat Sambutan" in *Berita Harian*, 12 March 1993, pp. 1-2; Abdul Monir Yaacob, "Mempraktikkan Institusi Kewangan Islam" in *Berita Harian*, 24 September 1993, p. 10; *Berita Minggu*, 24 April, 1994, p. 11; Dinsman, "Menerokai Sistem Kewangan Yang Adil" in *Dewan Masyarakat*, January 1994, pp. 6 - 8; Article, "Perkhidmatan Bank Tanpa Faedah", in *Al-Islam*, (Kuala Lumpur, April 1993), p. 7; Dinsman, "SPTF Bukan Saingan Sistem Riba", in *Dewan Masyarakat*, (Kuala Lumpur, Mac 1994), pp. 11 - 12; Cf. Mahsin Mansor, *Undang-undang Perdagangan Dalam Islam*, Kuala Lumpur, 1984.
  37. Azhar Abu Samah, "Bank Tanpa Riba Dapat Sambutan" in *Berita Harian*, 12 March, 1993, p. 1; Noor Hayati, "Interest-Free Banking Gets Good Response" in *New Straits Times*, 28 April, 1993, p. 2;
  38. "SPTF Terbuka Kepada Semua Kaum", in *Dewan Ekonomi*, (Kuala Lumpur, January 1994), p. 43; Cf. Shaifuddin Aliman, "Sistem Perbankan Islam", in *Ibid*, pp. 41 - 42.

39. A. Rachel, "Islamic banking Gains Popularity" in *New Sunday Times*, 10 October, 1993, p. 26; Dzuljastri Abdul Razak and S. I. Abdul Karim, "Skim Perbankan Tanpa Faedah", in *Dewan Ekonomi*, (Kuala Lumpur, May 1994), pp. 8 - 9.
40. Othman Abu Bakar, "Interest-Free Banking Nationwide in A Year" in *New Sunday Times*, 22 August, 1993, p. 1; A. Rachel (1993), *op cit.*, p. 26; Abdul Monir Yaacob, "SPTF Perlu Diperluaskan Lagi" in *Dewan Ekonomi*, May, 1994, pp. 12 - 13; Dinsman, "AMFB Menerokai Pembiayaan Cara al-Musyarakah", in *Dewan Masyarakat*, (Kuala Lumpur, May 1994), pp. 45 - 46.
41. This figure includes 12 mini branches of *BIMB* opened during the financial year of 1993 at Baling, Tanah Merah, Dungun, Masjid Tanah, Kluang, Subang Jaya, Banting, Bandar Pusat Jengka, Kota Tinggi, Jasin, Sri Manjung and Kulim. These are deposit taking-taking branches providing current account, savings account and investment account facilities. See *BIMB, Annual Report 1993*, pp. 10, 67 -70.
42. See, for example, "SPTF Alternatif Kepada Sistem Konvensional" in *Dewan Ekonomi*, Mei, 1994, pp. 10 - 12; Azhar Abu Samah, "Bank Tanpa Riba Dapat Sambutan" in *Berita Harian*, 2 Mac 1993, p. 1; Idem, "SPTF Beri Pilihan Luas Kepada Pelanggan" in *Berita Harian*, 7 Oktober 1994, p. 4; A. Rachel, *op. cit.*, p. 26; Mohamed Sidek Ahmad, "Banking On Interest Free Principles" in Kuala Lumpur Stock Exchange, *Investors Digest*, October 1993, pp. 31 - 33.
43. According to Nor Mohamed Yakcob, Bank Negara adviser, that in the future all 37 commercial banks, 12 merchant banks and 41 finance companies will have all or part of their nation-wide branches offering the interest-free banking services. Quoted in *New Sunday Times*, 22 August 1993, p. 1.
44. Kuala Lumpur Stock Exchange, *Investors Digest*, April, 1993, p. 11.