

Islamic Banking System: The Application and Challenges from The Malaysian Law Perspective

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Abstract : The Islamic banking system in Malaysia has gone through continuous improvements from time to time. The system has been getting various recognitions besides serving as a reference to other countries. This study intended to highlight the extent to which the provisions of law for the Islamic banking system is implemented in Malaysia. According to the annual statistical reports, there were several cases in the courts relating to Islamic banking. This study aims to investigate the effectiveness of the law in handling this issue. The researcher will recommend suitable approaches that can be of benefit to responsible parties or certain bodies in ensuring that the Islamic banking system is Shariah compliance. This study will also provide an overview of the effectiveness of the current law in solving some of the issues related to the current Islamic banking system. The Islamic banking in Malaysia should be Shariah compliance in terms of the implementation and the practice of law in our nation.

Keywords: laws, Islamic banking, challenges, Shariah compliance

INTRODUCTION

The Islamic Muamalat system covers all the rules which are related to various transactions, including contracts, trading, rentals, and mortgages. Its purpose is to provide a fair system to the Islamic banking clients. The rules of Islamic laws cover the overall principle that focuses on the social fairness such as the aspect of laws, practices, rules, procedures and Muamalat transactions which are parallel with the Shariah laws. All of the elements which are against the Shariah laws should be avoided at all costs.

The establishment of the concept on Islamic banking such as Bank Islam Malaysia Berhad has started since the year 1983 and Bank Muamalat Malaysia Berhad was established in the year 1999. The establishments of these two banks have initiated other banks to implement Islamic banking that provides products and other Shariah compliance services. The emergence of these Islamic banking institutions has provided us with more opportunities to recognise and understand the provisions of law which are being practised, especially in Islamic banking. The Islamic banking in Malaysia is based on the Shariah laws. However, there were doubts when the civil court would handle such cases if any legal issues emerged. This study has investigated specific issues which are related to Islamic banking and handled by the civil court. Besides that, this study also studied the problems that are related to the provisions of law which are being practised in Islamic banking.

The current Islamic banking system in Malaysia has undergone several changes as a result of the implementation and amendment of the Islamic Banking Act 1983 to Islamic Financial Services Act 2013. These changes are due to the rapid development of the Islamic banking in Malaysia. The government has to improve and update the governance structures and overall holistic

administrative processing for them to be dynamically relevant throughout the time. The same treatment was performed on the implementation of the laws which evolved in tandem with the markets which are always changing and need to be analysed to ensure that the laws are Shariah compliance. This study is essential to obtain the trusts from the parties involved and to enhance the integrities of the Islamic banking industries in Malaysia. As a result, it will lower the risk of non-compliance and improve the financial stability that is responsible for Shariah compliance.

Objectives of The Research

This initial research investigated the depth of the implementation of the Muamalat laws for the Islamic banking institutions in Malaysia to ensure that every operation and administration is Shariah compliance. This study also examined the effectiveness of Malaysian law in handling the arising issues and problems.

In general, the following are the objectives of this research:

1. To identify the latest legal provisions which have been applied to the Islamic banking institutions in Malaysia.
2. To identify the issues and problems in the operations of Islamic banking and the challenges faced by the Islamic banking institutions according to the perspectives of law.
3. To study the effectiveness of the laws in handling the issues that may occur.

This study is imperative in enhancing the confidence of respective parties and also the integrity of the Islamic banking industries. As a result, it will lower the non-compliance risks and create ongoing financial stability. This study also aims to suggest to the responsible parties a few suitable alternatives in ensuring that Islamic banking system can be implemented comprehensively and is Shariah compliant.

RESEARCH METHOD

The chosen research method was a library search, which is research that obtains the data in the forms of documents related to the topic of this study. This method is used to collect the data and information by reading related documents such as books, journals, educational studies, dissertations, theses, paper works, written reports, bulletins, newspapers, and other related resources. This study has collected the data using three procedures, which are interviews, observations, and surveys. The main procedure that was used to obtain the data was the interview sessions. The interview method is used to obtain valuable information from the committees of the Shariah of Islamic banking and also scholars who are the experts in legal matters and Islamic finance.

The method of the case study is used to gain the recorded data on the reports about Islamic banking cases. The researcher has also referred to the guidelines by the BNM that have to be obeyed by all the Islamic banking institutions in Malaysia. The researcher has used the qualitative method for data analysis. For the qualitative method, the grounded theory was used to derive the theory from the analysis of the patent, themes, or the public categories from the collected information. This method is made up of five stages which are the formulation of research, data collection, compiling the data, data organisation, analysis of the data, and comparison.

The Implementation Of Banking System In The Framework of Laws In Malaysia

In Malaysia, the progress of the Islamic banking system is impressive. The thriving progress is influenced by a favourable economic climate and it has been arousing the interests of many financial institutions from the Islamic and western countries (Fuad al-Omar & Mohamed Abdel Haq, 1996). The law has been supported by the best features of the financial products and innovative Islamic banking with universal appearance and the ability to fulfil the financial needs of customers at various levels (Berita Harian, 2008). The operation of the Islamic banking system has been supervised by the Bank Negara Malaysia (BNM) as the main body that controls and supervises the flow of the financial institutions and banking in Malaysia for both Islamic and conventional system. From the aspect of law, the introduction of the Islamic banking system in Malaysia has led to the evolution of the Islamic banking in Malaysia with the formulation of Islamic bank Act in Malaysia (BNM, 1984). The formulation of the Act has initiated the implementation of the Islamic laws in the system of laws in Malaysia.

Currently, there is a framework for the control and supervision which is in its early stage of development when the Financial Services Act 2013 (FSA) and Islamic Financial Services Act 2013 (IFSA) started operating on June 30, 2013. The FSA and IFSA are the peaks of the efforts to modernise the laws which regulates the conduct and supervising the financial institutions in Malaysia to ensure that these laws remain relevant and effective in maintaining the financial stability, supporting the inclusive growth in the economics and financial systems while preparing adequate protections for the consumers. These laws also provide Bank Negara Malaysia with the authority and the needed supervision to obtain the mandate in a complex and connected surrounding because the financial growth is regional and worldwide. This includes to increase the focus on the intervention steps so arising issues in financial institutions which may affect the benefits of the depositors and policy-holders can be handled and the effectiveness and efficiency of the financial mediators maintained.

The control and supervision system in Malaysia need to be well-equipped to handle new risks to preserve the people's trusts in the financial system and the critical financial intermediation which are crucial for the safety of the economy. The FSA and IFSA have incorporated a few separate laws to supervise the financial sectors under the single framework of laws for the financial sectors of the conventional and Islamic system such as Banking and Financial Institutions Act 1989, Islamic Banking Act 1983, Insurance Act 1996, Takaful Act 1984, Payment Systems Act 2003, and Exchange Control Act 1953 which were abolished on the same date.

These new laws will be implemented in the financial sectors in Malaysia which cover all the banking systems, insurance or Takaful, the financial markets, payment systems, and other financial mediators on the ongoing platforms which are striving to be solid, responsible, and progressing financial systems. This effort is especially vital to ensure that the financial system fulfils the new demands of the supports which are related to the Government Economic Transformational Programme (GTP) in the upcoming decade. It is believed that the next changes involve the demographical changes of the citizens and also the economic integration of Malaysia which are rapid in the region and also the world. As a result of this legal policy, the Islamic banking has successfully emerged as the new market in international financing. During the drafting of the Islamic Banking Act 1983 and the amendments of the new Islamic Financial Service Act 2013 (IFSA), the Islamic banking system began to flourish due to the rapid development of the Islamic banking in Malaysia. There is the need for the development of governance structures and processes of comprehensive and holistic for them to be dynamic and relevant at all times. The same treatment should be given to the implementation of a policy that should evolve in line with the changing market situation and Shariah compliance.

THE GOVERNANCE STRUCTURE OF THE LEGAL SYSTEM IN ISLAMIC BANKING

The governance structure shows the flow of the legal framework, rules, and judiciary in Malaysia. The jurisdictions of any appointed bodies and the provisions of the existing laws could influence the implementation of Muamalat and the services provided by the Islamic banking institutions in Malaysia.

The supervisees and administer of the framework (Simon Archer, 2007) and the application of Muamalat laws may influence the structure of law enforcement in the Islamic banking institutions. How the guidelines and implementation methods, procedures and rules, provisions of the law, arbitration, orders from the trial judge, court trials and court action.

The Framework of the Law

The governance from the views of laws. The following are the legal provisions that are practised by the Islamic Banking Institutions:

(a) Central Bank of Malaysia Act 2009 (701 Act)

The Central of Malaysia Act 2009 (CBA), which was effective on November 25, 2009, has replaced the Bank Negara Malaysia Act 1958. It prepares the ongoing existence of Bank Negara Malaysia in providing greater clarity to the bank's mandate to promote monetary and financial stability and to conduct oversight over the payment systems. The purpose of this act is to have overall control and to avoid risks so financial stability can be ensured. By doing so, it will place the banks' rights with the appropriate instruments and power to obtain an effective mandate. It will also provide the proper recognition to the Islamic financial system in Malaysia by providing the legal basis for the overall development in Malaysia's financial system (BNM, 2013).

(b) Islamic Financial Services Act 2013 (Act 759)

The Islamic Financial Services Act 2013 (IFSA) has been effective since Jun 30, 2013, with the abolishment of Islamic Banking Act 1983 and Takaful Act 1984. This act has set the regulatory framework for the financial sector with the major objective supervision to promote the financial stability and Shariah compliance. Similar to FSA, IFSA equipped the banks with adequate power control and supervisions. To promote Shariah compliance, IFSA has made it compulsory for the Islamic financial institutions to be Shariah compliance and the banks can provide suggestions for the guidelines so that the institutions comply with the Shariah law. The regulated parties comprised of Islamic banks, takaful operators, the operator's payments system, payment instrument issuer prescribed, and conventional Islamic institutions which can operate using the Shariah laws. Several important topics can be derived from this provision as follows:

a) The Licensing of the Islamic Banking Institutions

This aspect reflects on the processes and procedures related to the registrations and permissions of the Islamic banking institutions. The cancellation of the license also focuses on the factors that contributed to the revocation and its consequences on the Islamic banking institutions.

b). Corporate Governance and Regulatory Framework

The corporate governance and regulatory framework that covers the two aspects of regulation: 1) the monitoring and supervision of the Islamic banking institutions; and 2) the restrictions regarding consumers' protection.

c). The Procedures for the Methods of Payment

The procedures for the methods of payment in the provisions of this law discuss the jurisdiction of the bank institution, the user command, management computation, determination, and cancellation. It also emphasises the banks' civil actions regarding the breach of contract. The researcher intended investigate the civil actions that were pressed against the banks, court orders, civil actions in claiming compensations, the interim orders, the violation of court orders, and the damaged court documentation.

d). The Procedures for the Submission of Documents and Information

The procedures for the submission of documents and information should be revised in terms of how the inspection and assessment can be handled, ensuring that the confidentiality of the information be made compulsory, determining who should be referred to in order to send an order and authority to take control of the situation. Using the facts and decisions of the judge, the extent to which the existing law is brought into practice and the application of the law in place, whether through it should be studied and whether the proposed Shariah Advisory Council would have the doctrine of binding the precedent, appeals, and the sentence which are imposed by the court.

(e). KLRCA i- Arbitration Rules 2012

KLRCA I arbitration rules is a set of rules that covers all the aspects of the Islamic arbitration process and any parties that may partially agree or fully agree to help in solving the domestic or international disputes. The KLRCA-i Arbitration Rules has adopted the second part of UNICITRAL Arbitration rules 2010, which provides, among the other clauses of arbitration for the contract, the procedure for the appointment and challenges of arbitration, the procedures for carrying out the arbitration proceedings, the effects and the interpretation of the arbitration. The KLRCA i- arbitration rules are a part of the Shariah compliance and suitable to be used for the arbitration disputes arising from the trade transactions based on the Islamic principles. The regulations enable the processes of reference to the Shariah Advisory Council or the Shariah experts when the arbitration tribunal has to form an opinion on the points relating to the principals of KLRCAi-Arbitration Rules 2012.

THE FRAMEWORK OF THE SUPERVISION

The body of supervision and monitoring system of Islamic Banking is important in building a strong Islamic banking institution, it does not only require an effective legislative framework, but also an effective legislative framework so that the monitoring body can control the stability of the system. The following are the respective involved bodies:

1. Bank Negara Malaysia (BNM)
2. The Shariah Advisory Council (MPS)
3. The Shariah Committee (IFI)
4. Shariah Audit
5. The Securities Commission (SC)
6. Bursa Malaysia Berhad
7. Labuan Offshore Financial Services Authority (LOFSA)

Judicial System

The competencies of the judicial system and the arbitration centre manage the cases which are related to Islamic banking. The legislature and judiciary were given the authority to resolve any disputes which are related to the Islamic banking institutions (Dispute Resolution Mechanism). It involves the following roles and jurisdictions (Razli Ramli, 2014):

1. The Court of Appeal
2. The High Court
3. The Magistrate's Court
4. The Sessions court

THE KUALA LUMPUR REGIONAL CENTRE FOR ARBITRATION (KLRCA)

The civil court system is administered under the Courts of Judicature Act 1964 (Act 91), subordinate Courts Act 1948 (revised 1972), and subordinate Courts Act 1948 (Act 92) (revised 1972). The Federal Court, the Court of Appeal, and the High Court were established under the Article 121 of the Federal Constitution 1957, while the Sessions Court and the Magistrate's Court were established under Act 92. Regarding the court's jurisdiction, the superior court has unlimited jurisdictions, and it is different from the lower court. Both the superior court and the subordinate courts have jurisdictions that deal with the civil and criminal matters besides hearing any disputes.

The Muamalat Court officially started operating in February 2009. In terms of structure, the Muamalat Court is a part of the Commercial Division of the High Court of Kuala Lumpur, and it was established to hear all cases related to Islamic banking and Islamic finance. The organisation of Muamalat Court consists of a judge and two (2) registrars; and it is supported by the Muamalat Registry Office with three (3) clerks (Rusni Hassan, Mohammad Azam Hussain, & Adnan Yusoff, 2013). The Muamalat Court has the initial jurisdiction and appellate jurisdiction similar to any High Court in Malaysia based on the provisions of Act 91. In addition to the jurisdiction, the court also specialises in hearing cases related to Islamic banking and finance. The Shariah related issues will be referred to the Shariah Advisory Council (SAC) of BNM. The MPS refers to Section 56 of the Act 701 in deciding the Shariah issues relating to Islamic banking and finance. As a result, the establishment of the Muamalat Court has led to the promotion of Malaysia as the first country to have a structured court system that defines the Syariah principles and legal issues in the field of Islamic finance (Rusni Hassan, Mohammad Azam Hussain, & Adnan Yusoff, 2013).

The civil courts have the authority to handle cases related to Islamic banking and trade. Among the positive steps taken by the Department of Justice and the law is establishing a special division under the civil courts to deal with Islamic banking and financial matters that are related to the practice direction no. 1 of 2003 which was issued by the Chief Justice. Since the year 2003, the case was registered under the Court of Muamalat trading 4 and awarded with a special reference code.

THE STATISTICS OF MUAMALAT CASES IN MALAYSIA

The operating of the Muamalat system in Malaysia is based on the Islamic laws. However, the Civil Courts will decide on such cases when disputes occur. According to the data obtained from the Unit Statistical Report, Policy Division, Training and Strategic Planning, Registrar General's Office, the Federal Court of Malaysia, the logged statistical information have only recorded cases from July 2013 to August 2015. It involved the cases from all the states of Malaysia, which are Johor, Kedah, Kelantan, Melaka, Negeri Sembilan, Pahang, Penang, Perak, Perlis, Selangor, Terengganu, Sabah, Sarawak, and the Federal Territory of Kuala Lumpur.

According to the statistics, the Muamalat (Islamic banking) cases at the High Court for the year 2013 have registered 4,776 cases and completed 4,848 cases, which include previous cases, and there were 436 remaining cases for the year 2013. In the year 2014, there were 2,239 registered cases and 2,264 resolved cases with the remaining 411 unsolved cases. From January to August 2015, there were 1,862 registered cases and the court managed to complete 1,781 cases

with the remaining 492 unsolved cases. The number of cases related to Muamalat (Islamic banking) at the High Court which were completed within a year which showed that the year 2013 had obtained a high percentage rate that was more than 100% because previous cases were also resolved in the same year. The statistics for the year 2014 had also exceeded 100%. However, only 95.6% of the cases were resolved for the year 2015. The statistics also showed the increase in the remaining cases which were not resolved in the year 2015 when compared to the year 2013 and 2014 with the percentage of 26.4% for 492 cases.

The statistics for the Muamalat cases (Islamic banking) at the Sessions Court in the year 2013 was reported as 5,633 cases with 5428 solved cases and the balance of 1,629 unresolved cases. In the year 2014, there were 11,152 registered cases which 11,216 cases were solved while 1,565 remained unresolved. From January to August 2015, there were 6,794 registered cases and the court managed to solve 7,078 cases with the remaining 1,281 unsolved cases. It can be observed that the year 2013 had seen a high percentage of completed cases for Muamalat (Islamic banking) in the Sessions Court which was 96.4%. For the year 2014, more than 100% cases were resolved because the cases from the previous year were also resolved in the same year. However, the statistics showed that there were unresolved cases in the year 2015 which amounted to 18.9% or 1,281 cases.

The statistics for the Muamalat cases (Islamic banking) at the Magistrate's Court for the year 2013 were 23,853 cases with 23,362 cases being resolved and a balance of 7,200 unresolved cases remained. In the year 2014, the registered cases were 49,749 with 50,020 cases solved. The unsolved cases for the year 2015 were 6929 cases. From January to August there were 38,071 registered cases, and 38,513 cases were completed with the balance of 6,487 unsolved cases. It can be observed that the percentage of completed Muamalat cases (Islamic banking) at the Magistrate's Court in the year 2013 was 98%. In the year 2014, more than 100% of the cases were completed because the previous cases were also resolved in the same year. A similar situation occurred in the year 2015 with more than 100% of solved cases. However, the statistics showed that there were some unresolved cases which were 17% or 6,487 cases.

The source from the website of the High Court Criminal Division stated that there were 783 registered cases in the year 2010. A decline occurred in the year 2011 with 635 cases, the year 2012 with 168 cases, the year 2013 with 198 cases, the year 2014 with 134 cases, and year 2015 with 122 cases. This situation did not only happen to Islamic banking but also in other cases related to trading. Nevertheless, it was also only partially shown in the cases mentioned in the website for public viewing. The respective parties and experts in these areas should consider these matters seriously and screened them thoroughly to identify any occurring issues, the ambiguity in the facility and agreements, the smooth flow of the Islamic banking activities, and the solutions.

ISSUES AND CHALLENGES IN IMPLEMENTING THE LAWS OF ISLAMIC BANKING IN MALAYSIA

Among the issues and challenges faced by the Islamic banking institutions in Malaysia is the users' understanding of the instruments offered by Islamic banking. According to a study conducted by Mokhtar Mahamad and Izah Mohd Tahir (2010), their non-Muslim respondents have a low understanding on Islamic banking. Their pilot study found that the non-Muslims have not fully accepted Islamic banking as an alternative to conventional banking. The study also found that the non-Muslims' understanding on *riba* is still shallow even if they know the meaning.

For those who have used Islamic banking, the most popular product is the savings account and the factors that influenced their choice is the high-interest rates of return offered by the

Islamic savings account besides the overall quality of the service. The non-Muslims might be interested in Islamic banking if the Islamic banks can fulfil their standards (Mokhtar Mahamad & Izah Mohd Tahir, 2010). Therefore, more studies should be done to investigate the level of understanding and awareness of Muslims or non-Muslims about the benefits of Islamic banking. There is still a large number of users who did not have a clear understanding of the differences between the products and services offered by Islamic banking and conventional banking. Many people still think that Islamic products and services are conventional products which have changed their brandings. There are also claims that Islamic banking is only changing the conditions such as the interest in the profit rate, '*ujr*' or the cost of wages, and the product names to Arabic terms which are criticised as a ploy. Islamic banks and financial institutions are usually not supported by the Government, the law, the central banks, and the tax system (ZaharuddinAbd.Rahman, 2012).

The next issue is about the implementation of various *mazhab* among the Shariah advisors. The process of identifying the obligations or compliance of the financial instruments by the Islamic law requires the scholars to understand these instruments' concepts and implementations. A robust understanding between the practitioners or the market practitioners and religious scholars should be the primary basis to assess whether the instruments comply with the Shariah principles. To implement the correct and effective method of Shariah decisions, the role of certain parties in coordinating and administering Shariah-related issues is crucial. This is to ensure that the development of Islamic financial instruments can be carried out effectively and in an orderly manner. From a legal perspective, regulators need to ensure that the Islamic financial systems need to be protected and secured. Regarding the product development, authorities need to provide clear guidance on the products that will be developed (Suhaimi Mohd Yusof & Ahmad Hazim Alias, 2008).

In addition to the regulatory body, the role played by the Shariah advisors is also very important. This is because the relationship between the Islamic scholars and experts in modern finance is inseparable. It is necessary to combine both parties, especially the experts in economics and Shariah scholars. Therefore, Financial institutions should appoint Shariah advisors who chose Islamic finance as their activity. The Shariah advisors should ensure that every instrument complies with the Shariah principles. Likewise, the development of Islamic finance, especially policy planning and product development, must be smooth besides complying with the Shariah principles. The institution must provide a task force or secretariat to assist in administration and research to allow the Shariah advisors fulfil their duties and roles. The secretariat needs to conduct early investigations regarding the arising issues so that the Shariah advisors could look at the overall view before deciding on any decisions. The studies done by the secretariat will assist the Shariah advisors in handling previous arising issues by referring to the fatwa of shariah. All of the financial institutions that offer Islamic financial facilities are required to set up a Shariah committee.

The committee should advise the board regarding the legal matters and ensure that the banks' business operations comply with the Shariah principles at all times by approving the Syariah Compliance Manual and certifying related documents. The committee is also required to provide reviews or Shariah results in written forms for referencing and recording.

To ensure that the scope of work for the Shariah committee is efficiently executed, every Islamic financial institution should be responsible for aiding the committees. The Islamic financial institutions are required to refer all of the Shariah issues to the Shariah committees to obtain advice and apply the related advice to resolve the issues. The Islamic financial institutions also are required to ensure that their products' documentation which contains Shariah-related issues are

approved and certified by the Shariah committees by allowing the committees to go through all the records, transactions, manual of instructions, and other information.

In handling the current issues related to Muamalat, the Fiqh scholars are studying the matters related to the tradition of *istinbat al-ahkam* (the methods of legislation) such as the issue of *halal* and *haram*, *riba*, *gharar*, *maslahah*, and *maqasid Shariah*. In carrying out their responsibilities, the Fiqh scholars would choose a balanced approach by considering the theories, practicality, and the compliance of the Shariah principles with 'urf al-iqtisadiyyah (the practice of customs economic activities). The Fiqh scholars usually apply the needed changes to the principles which are in line with the al-Quran and al-Sunnah. The combination of revelation and common sense makes Shariah law more dynamic and flexible in handling any situations. However, the humans' understanding and judgment need to be parallel with the religion's revelations and should be in line with the guidelines.

The next issue focuses on the view of the Shariah Advisors Council in influencing the judges' decisions on court hearing related to Islamic banking cases. It involves the intervention of the principle of separation of powers. According to Section 55 in Central Bank of Malaysia Act 2009, the banks and financial institutions are required to refer to the Council of Shariah Advisors. Besides that, Section 56 states that the court or arbitrator needs to refer to the Council of Shariah Advisors regarding Shariah issues. Section 57 states that the resolutions made by the Shariah Advisory Council are binding in the Court of Justice and arbitration. Section 58 states that the Shariah Advisory Committee is of higher authority than other Shariah Committees and Section 59 (3) states that the failure in following the resolutions made by the Shariah Advisory Council is a crime that can be penalised. The economics' rapid development and Islamic banking will lead to new legal issues. The situations are deemed to be complicated when a judge can choose to follow the resolutions of Shariah Advisory Council or the other way around because it is the judge who has the final say on the verdicts of the cases. It is the main concern whether the Muamalat cases need to be initially referred to the Shariah Advisory Council. The questions that need to be asked is whether to place the duty on the Court to refer any matters relating to Shariah banking to SAC, whether the decision making should be bound to the Court's decision, and whether the provisions in question do not have any retrospective effects. An in-depth study needs to be conducted for enhancement and coordination to coordinate the Shariah principles in the context of civil courts (Muhammad Hafiz Badaruzaman, 2012).

The Islamic finance advisory board should be respected because it is their responsibility for protecting the implementation of Islamic principles regarding financial matters. It is important to follow and respect the decisions made by this committee to protect the Islamic banking principles. Others should not argue with the decisions done by the committee as they are scholars and experts in the Islamic banking field. Referring to the resolved cases, it is clear that only the civil courts have the jurisdiction to the Islamic finance and banking. The revised acts have been effective. Based on the opinions and information given by the MPS to clarify the Islamic principles regarding Islamic finance and banking, they remain under the jurisdictions of the civil courts' judges. Therefore, the suggestion to establish an Islamic trading court which will be chaired by the representatives from the civil court and Shariah needs to be established quickly. Besides that, the judges and law enforcers should first be trained to understand the systems of Islamic finance and banking. The next issue is the criterion and qualifications of the appointed judges in hearing the Muamalat-related cases. How does this matter is handled using Shariah laws? There is a need for a paradigm shift in understanding and appreciating the principles and practice of Islamic banking according to the created guidelines or merit (Muhammad Hafiz Badaruzaman, 2012).

Conclusion

The Islamic banking system in Malaysia is moving forward and continues to improve until it becomes a distinguished banking model worldwide. However, the occurring tribulations and challenges have nevertheless caused the public to doubt the Islamic banking products and operational system. Therefore, the legal framework of the Islamic banking should be practised according to the exact and accurate Shariah compliance although the matters are handled by the civil courts.

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