

Islamic Banking Windows of Conventional Banks: Evaluation of Performance on the basis of Shariah Standards

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Abstract

Islamic Banking is flourishing speedily and rapidly in Pakistan. In the year of 2016, the assets and capitals of Islamic Banking Industry (IBI) were noted and recorded magnification and growth of Rs. 65 billion and touched and reached to the limit of Rs. 1,853 billion. Deposits and money of IBI also multiplied and increased by Rs. 97 billion and extended and reached to Rs. 1,573 billion. In this increasing and expending market, a series of different Commercial and Conventional (Interest/Usury Based) Financial Institutions and Banks in all different states and countries in addition to Pakistan are also offering the services of Islamic Banking Branches (IIB's). So, these IIB's are offering the services of Islamic tools and modes of financing under the umbrella and supervision of Sharia's Supervisory Board and execute and fulfill all the demands and requirements of Central Bank. But in spite of this, there are some hesitations and doubts apropos of Sharia's permissibility and legitimacy and Sharia's compliance among whole general public. The target, goal and objective of this research is to present a compendious and comprehensive investigative, exploratory and analytical information and study about the Islamic Banking Branches and Islamic Banking Windows in the shadow and light of Sharia's perspective. In this article the synchronizations of regulations of State Bank of Pakistan (SBP) and overview and view point of opponents and proponents are also researched and examined.

Keywords: IBI, Magnification, Conventional, IBB, CB, Permissibility, Legitimacy, Compendious, Exploratory, Analytical, IBW, Synchronization, SBP, Opponents, Proponents

INTRODUCTION

Islamic banking is a fast-expanding system that is growing rapidly not only in Pakistan but also in other Muslim and non-Muslim states. According to State Bank data, in April-June 2017, there was a recorded an increase of Rs 150 billion in the assets of Islamic Banks, while with the Islamic Banking Industry, total assets increased from Rs 1885 billion to Rs 2035 billion. During this period, the accounts (deposits) of Islamic Banks increased by Rs 156 billion, which increased from Rs 1564 billion to Rs 1720 billion.¹

On the other hand, it is a fact that the total assets of Islamic banks are only 713 per cent against the assets of the (Conventional) Commercial Banks. At present, most of the countries are running parallel with Islamic and (Conventional) banking systems.²

In this regard, Islamic financial institutions were also established at the end of the 20th century. In view of the increasing development of Islamic Financial Institutions in Muslim and non-Muslim countries, The Conventional Banks started their Islamic sub-branches, in this regard the first sub-branch of The Conventional Banks was started by the Egyptian Bank in 1980 and it has 29 Islamic branches in 2004,³ and later Egypt's other Conventional banks also started their

sub-Islamic branches, which numbered in 2004 by 58. Similarly, in other countries, The Conventional Banks also inaugurated their sub-Islamic branches, so al-Arabi Bank⁴ started its sub-Islamic branch in Jordan in 1998, and Cairo Aman started many of its sub-Islamic branches within Palestine in 1996 and after that this series was saved globally, which is now gaining the attention of the people in Europe as well. This clearly shows that The Conventional Banks cannot deny the importance of Islamic banks at this time, that the styles transaction used in Islamic Banks are not used in the Conventional Banks. And that's the real thing, that like the Conventional Banks, Islamic banks have a special system and foundations which are completely different from the Conventional banks.⁵ Now that the two systems are running and the rules are different from each other, how can the two-system run together or under each other's supervision, especially the sub-Islamic branch of the Conventional Bank? The main purpose of this research is to highlight the fact that what is the Shariah performance and status of such sub-Islamic branches? And, at present, there are two different, justified and unjustified opinions about dealing with sub-Islamic branches of Conventional banks in the Muslim and non-Muslim world, so the main purpose of this study is to conduct a scholarly review of all these opinions for the purpose of evaluating of performance of Islamic Banking Windows and Islamic Branches of Conventional Banks.

LITERATURE REVIEW

Several researchers have taken up a pen on this subject, however, there is no significant research on the subject in Urdu and English, while the investigations and researchs found in Arabic are as follows:

Dr. Zuair Muhammad Abdul Karim, in 2002, a debate on the title of Al-Al-Aqat bain al-Bunuk al-Islamiyah wa'l-Bunuk al-Taqaalididiah (العلاقة بين البنوك الإسلامية والبنوك التقليدية)

at Sharjah University, presented at a conference on "Daurul Masrafia al-islamiyah fil istismar wal-tanamiah" (دور المصرفية الإسلامية في الاستثمار والتنمية) in which he has discussed the Islamic branches of the Conventional Banks by comparatively reviewing the Islamic branches of Conventional Banks, as a result of which an Islamic branch, the beginning will lead to an increase in the Islamic economy.

Dr. Sharif Fahad, "Al-Furua al-Islamiyah al-Taabia lilmasarif al-Rabawiah, Drasaten fi Zu'a al-iqtisad al-Islami" (الفروع الإسلامية التابعة للمصارف الربوية، دراسة في ضوء الاقتصاد الإسلامي) presented this debate at the third International Conference on Economic Affairs in Jamia Ummu-ul- Qura in 2003, in which he described the motivations for the inauguration of such Islamic branches. And comparing different opinions, it has been concluded that it is necessary for the Conventional Banks to be converted into Islamic banks, the mixed system is not correct.

Dr. Murtan Sa'eed, "Taqwaem ul-Mosisaat al-Tatbeeqiqaal-e-Liliqtisad al-Islami: Al-Nawafiz-ul-Islamiyyah, Lilmasarif al-Taqaalid'iah"

(, تقويم المؤسسات التطبيقية للاقتصاد الإسلامي: النوافذ الإسلامية للمصارف التقليدية)

This debate was discussed economically at the University of Ummu-ul-Qura in 2003. Presented at the third International Conference on Issues, which discussed the history and importance of the Islamic economy and expressed its concern for the validity of such branches, as it increased the Islamic economy.

Dr. Shanaaq Fatimah, Al-Nawaiz-ul-Islamiyyah fi al-Bunuk al-Taqlid'iah:

(النوافذ الإسلامية في البنوك التقليدية) TAQDEER IQTISAADEE ISLAMI, M.Phil Debate, University of Yermok, 2011, in which he visited Islamic branches in 2011. Discussing the movements, the results and the Shariah aspect, it has been concluded that there is nothing wrong with the opening of sub-Islamic branches for the Conventional Banks provided Sharia regulations are adopted,

financial matters need to be settled with a sub-branch is also valid under need.

Dr. Shabibi Sanan Muhammad Raza in 2009 in UAE, at a conference on al-Masrafi al-Arabi al-Duawal, Al-Azimaat: Ru'waitu Lilghad ". (المصرفي العربي الدول، الازمة روية للغد)

He discussed the subject of "Zawabit-o-Mukhatir,,,,,,,,,,,,,,,,,,,,,"

(ضوابط و مخاطر الجمع بين الصيرفة التقليدية والصيرفة الاسلامية في ضوء التجربة الدولية)

in which he explained the importance of organizing the Islamic economy in the international seat and laid down the rules for setting up financial issues in Islamic style for Saudi banks.

Dr. Mustafa Ibrahim Muhammad, Taqyeem Zahirat Tahwal al-Bunuk al-Taqlid'iah Lil-Ma'sraf'iah al-Islamiyyah, (تقييم ظاهرة تحول البنوك التقليدية للمصرفية الاسلامية) M.Phil Magazine, which was presented at the American Open University, Cairo in 2009, while discussing the conversion of Conventional banks into Islamic banks in 2006, has pointed out that it is haraam to deal with Islamic branches of Conventional banks, unless there is a pure Islamic bank. Finances can be settled or, in the case, dealings with such branches can be settled so that the subsidiaries of the Conventional banks which have these sub-branches should be converted into the Islamic economy.

Dr. Sano, Qutb Mustafa, "Fi Afaq al-Taa'aiush bain al-Ma'sra'-f'iah al-Taqlid'iah wa'l-Ma's-raf'iaht al-Islamiyah. (في آفاق التعايش بين المصرفية التقليدية والمصرفية الاسلامية) He presented this debate at the Conference held in 2005 in the United Arab Emirates, on the theme "Al-Mosasat al-Ma'alah al-Islamiyah, Ma'alam al-Waqeh-o- Aafaq al-Mustaqbil".

(المؤسسات المالية الاسلامية، معالم الواقع وآفاق المستقبل)

In it, they have expressed the possibility of Islamic and Saudi banks running together with the financial system and described one of their particular concerns that it can be done together by accepting each other and respecting each other instead of criticizing each other.

Dr. Najib Smeer Kharees, Yermok University, Jordan, Al-Nawafd al-Islamiyyah fi al-Bunuk al-Rabwiya min Manzoor Iqtisadi Islami, (النوافذ الاسلامية في البنوك الربويه من منظور اقتصادي اسلامي) this debate was held in 2014 in volume 14 and issue no. 02 of "Mojallat al-Zarqa Lilbuhus wa Darasat al-Insaniyah" (مجلة الزرقاء للبحوث والدراسات الانسانية) Published in Dr. Najib Sameer, while reviewing the Islamic branches of the Conventional Banks, has forbidden financial dealings with these Islamic branches.

Mustafa Ibrahim, Taqim Zaherat Tahwal al-Bunuk al-Taqaaleediah Lilmasrafath al-Islamiyah (تقييم ظاهرة تحول البنوك التقليدية للمصرفية الاسلامية) . This debate was presented as an M.Phil. degree within the U.S. Open University of Egypt, in which the researcher reviewed the background of branches of Islamic banks, the causes of evolution, and ordered financial settlements with them, saying that it was right for Muslims in non-Islamic countries to settle financial issues with these Islamic branches as needed, however in Islamic countries a Muslim must abstain in countries.

RESEARCH METHODOLOGY

In this research article, a comprehensive, analytical and detailed comparison of the laws of the State Bank Pakistan and the opinions of contemporary Economist has been presented in the light of Quran and Sunna (Shariah Rules) about the Islamic Branches of Conventional Banks. Moreover, this effort has been made to get knowledge about the legal position (Shariah Position) of the dealings with Islamic branches of Conventional Banks.

EVOLUTION OF ISLAMIC BANKING

Islamic Banking system is a system spanning the last five decades which started from Egypt in 1973 when the Islamic Bank of The Miat Ghamer was established. Earlier, some efforts and experiments in this regard had also taken place in Hyderabad, a Muslim state in south India. After this experience of Hyderabad Deccan, during the period 1950 and 1951, such an initial effort was also made in Pakistan. In

which Sheikh Ahmed Rashad played a key role. In 1969, an institution called Tabong Haji Hajjaj's Administrative Fund and Board was established in Malaysia with the job of providing financial facilities to the pilgrims. It is generally believed that the Miat Ghamar of Egypt and the Tabong Haji Board of Malaysia were practical forms of Islamic Banking, but in the first practical and creative forms of establishing Islamic Banking, these two institutions, if examined, can be called an initial incomplete form of Islamic Banking, but it is not known to apply a full Islamic Bank to them because these two institutions were extremely set up for limited purposes. The Miat Ghamar project was to provide financial facility to the pilgrims in view of the viable farmers and the Tabong Haji of Malaysia, which was not a complete Banker but an early form of Banking. Later, the Egyptian government established a Bank in 1971AD which was called Nasir Social Bank. It was a huge project in resources because it was a government Bank. A few years after the establishment of Nasir Social Bank, Islamic development Bank was established in 1975 and later Dubai Islamic Bank was established. Kuwait Finance House was established in 1977.

Islamic Banking in Pakistan:

Of course, Pakistan is an ideological state and it must enforce Islamic laws. It is clearly written in the Constitution of Pakistan that no law of Pakistan will conflict with Islam.

"All existing laws shall be brought in conformity with the Injunctions of Islam as laid down in the Holy Quran and Sunnah, in this part referred to as the Injunctions of Islam, and no law shall be enacted which is repugnant to such Injunctions."⁶

The meaning of this paragraph is that all the existing rules and regulations of our nation will be made in accordance with the Islamic rulings mentioned and regulated in the Holy Quran and Sunnah, which is referred to in this part as Islamic rulings, and no code of law will be enacted that will not be according the Rulings of The Qur'an and Hadith."

Quaid-e-Azam Muhammad Ali Jinnah (may Allah have mercy on him) said in July 1948, at the inauguration of the State Bank;

"The adoption of Western economic theory and practice will not help us in achieving our goal of creating a happy and contented people. We must work our destiny in our own way and present to the world an economic system based on true Islamic concept of equality of manhood and social justice. We will thereby be fulfilling our mission as Muslims and giving to humanity the message of peace which alone can save and secure the welfare, happiness and prosperity of mankind."⁷

In simple words the explanation of this address is that the western Economic Ideology will not help in creating a prosperous society and a conservative individual in implementing Western economic ideology and practice. We must have made our own destiny by working on an Islamic economic system that is governed by the principles of Islamic justice and equality. And it has to be presented to the world.

Practical work on Islamic Banking in Pakistan started in 1979, a lot of work was done at the public and private level. In early 2000 the Government of Pakistan decided to shift the Conventional Economic System into the Islamic Economic System in three ways. And a plan of action was prepared for the implementation of Islamic Banking in a phased manner, according to which the following three ways were planned to allow the opening of Islamic Banks by giving a boost to Islamic Banking. The project allowed the following three ways to promote Islamic Banking:⁸

1. A complete Islamic Bank on private level
2. Sub-Islamic Branches of Conventional Banks
3. Islamic Branches of Conventional Banks

Commercial Bank Scheduled Islamic

A full Islamic Bank refers to an autonomous Pakistani or foreign Islamic commercial Bank with products and services in accordance with Shariah Principles, and no subsidiary of a Bank or financial institution and a complete Islamic Bank register with the State Bank of Pakistan. There are currently five fully Islamic Banks operating in Pakistan whose names and branches can be seen as under,

There are five full-fledged Islamic Banks (Al Baraka Bank Pakistan, Bank Islami Pakistan, Dubai Islamic Bank Pakistan, MCB Islamic Bank and Meezan Bank) and 17 Conventional Banks with stand-alone Islamic Banking branches in the country.07-Feb-2022

Subsidiaries (Branches) by Existing Commercial (Conventional) Banks

Various scholars of economics and Islamic Sharia have tried to explain the meaning of the Islamic Branches of the Conventional Banks by introducing them, in which, although their statements are different, but all agree in meaning and connotation, similarly some have described one part, mostly giving it preference, and other definitions emphasize another part. Therefore, Dr. Shahatah praises the Conventional Banks and says, "Al-Furua allati-Tantami ila Masaarif Rabawa'iah, Watamarsa Jamia al-Nishasat at-alMa'sraf'iah stabqa li-AHakam al-Shariah al-Islam'iah"⁹

الفروع التي تنتمي إلى مصارف ربوية ، وتمارس جميع النشاطات المصرفية صبقاً لأحكام الشريعة الإسلامية (CONVENTIONAL BANKS refer to Islamic branches as branches that are attributed to the Conventional Banks (by name and perform all the work of the Bank according to Sharia). While Dr. Murtan describes them as praising Islamic branches as "biannaha wahdaat tanazimiyyah tudirha al-masaref al-rabaw'iah, vatkunu mukhkhusat fi taqdim al-khidmaat al-Ma'al-'a'iah al-Salamiyyah, بأنها وحدات تنظيمية تديرها المصارف الربوية، وتكون مخصصة في تقديم الخدمات المالية الإسلامية (The Units (Booths), which are run by the Conventional Banks, and they are limited only to running Islamic finances).¹⁰ And sometimes they were called "Zahrat al-Nizam al-Mazdoj" (ضاهرة النظام المزدوج) (the problem of the mixed financial system).

That is, the Conventional Banks which carry out the Industrial Activities (Services) as well as Islamic finances.¹¹ So Islamic branches are settling Islamic affairs within the same Conventional Banks.

In short, the Islamic Banking branch of Conventional Banks is like a sub-sector which is not a fully autonomous body.¹² The basic plan formulated by the State Bank for the launch of Islamic Banking is a link to this, which was allowed by the State Bank to open these branches in 2003 through Circular No.1

According to which a Conventional Bank will have to take the following steps to open its Islamic Banking branches.¹³

1-A division of Islamic Banking will be set up at the headquarters and details of its administrative structure will be submitted to the State Bank. And the Head of which will be accountable to the Bank president (the Chief Executive).¹⁴

2- Shariah Advisor and Shariah Advisory Board will be appointed in Islamic Banking Division. Which will ensure compliance of sharia in branch matters of Islamic Banking and verify all contracts/products and services.

3- Bank requests details of all products and services offered in its Islamic Banking branches to submit which should be approved by the advisor and Sharia Board.¹⁵

4-An Islamic Banking Fund will be set up under the Islamic Banking Division. And according to the rulings from the Islamic Banking Fund, all of investing will be adopted.

5- Training of staff of Islamic Banking branches will be organized.¹⁶

An autonomous (Independent) institution means that the one who has his own capital and the Head of the institution, while the Islamic Banking branches are not independent, they are acting like a department of Conventional Banks whose head/responsible is a group head.¹⁷

The financial statements of this institution are published separately in the annual report of the Conventional Banks.¹⁸ At present, the branches of All Conventional Banks from Pakistan are providing Sharia products and services, their names and number of branches can be seen in the following lines,

In the light of the decision given by Supreme Court and Federal Sharia'h Court in 1992 to convert the Conventional Banking system into Islamic Banking System, the first Islamic Bank, Meezan Bank was established in 2002. Till today, there are 5 full-fledged Islamic Banks working in the country having **767 branches**.05-Jul-2022

There are many Islamic Banks working in Pakistan. The list of Banks is given below:

1. Allied Aitebar Islamic Banking^[2]
2. Meezan Bank Limited
3. Soneri Mustaqeem Islamic Bank

4. Dubai Islamic Bank
5. Al Baraka Bank
6. Bank Alfalah Islamic
7. BankIslami Pakistan Limited
8. Askari Bank Ltd
9. MCB Islamic Banking
10. UBL Islamic Banking
11. HBL Islamic Banking
12. National Bank of Pakistan
13. Bank Al Habib Islamic Banking
14. Bank of Punjab Islamic Banking
15. Faysal Bank (Islamic)
16. HabibMetro (Sirat Islamic Banking)
17. Silk Bank (Emaan Islamic Banking)

These are the names of Islamic Banks having accreditation license from the state Bank of Pakistan.

Islamic Banking Windows (IBWs) of Conventional Banks

While The Conventional Banks Have Started Islamic Banking Branches, the Islamic Banking Window has also been started in the Conventional Banks with the Permission of the State Bank of Pakistan. The aim of these windows is intended to facilitate customers of Islamic Banks so that Banking facilities are available to them in the Conventional branches of the same Bank. The Islamic Banking Windows were formally permitted by the State Bank of Pakistan in November 2007¹⁹, which clearly states that Banks that have not opened Islamic Banking but can introduce deposit schemes by availing the benefits of their branches of Conventional Banks.²⁰ At present, 8 Conventional Banks in Pakistan are providing Islamic Banking Window. Their names and number of branches can be seen in following lines,

- Bank al-Falah
- Bank al-Habib
- Bank of Khyber
- Summit Bank
- Standard Chartered
- Sindh Bank

This means that if a person opens his account in the Islamic Banking Branch of the Conventional Bank, he can also deposit or withdraw his account from a branch of the Conventional Bank which is providing Islamic Banking facility in the form of Islamic Banking window. This does not mean that if the person deposit or withdraw any amount from Islamic Banking Window, his accounts would be in the Conventional Bank, but his account would be in the Islamic Banking branch of Conventional Bank. For example, there is a Conventional Bank called "A" which has started its Islamic Banking branches called "Al-Halal". And Bilal has opened his account in the Al-Halal Banking branch at present. Bank "A" facilitates Bilal to deposit or withdraw money in his nearest Conventional branch, which will affect his account of "Al-Halal".

Review of Some Country Laws on The Islamic Branches of Conventional Banks:

Islamic Banking in Pakistan restarted in 2001, the State Bank of Pakistan periodically introduces laws for Islamic Banks to operate Islamic Banking on Shariah principles. Initially, for uniformity in the products and services of Islamic Banks, the State Bank issued a circular statement explaining various styles of investment or finance and making it mandatory for Islamic Banks to appoint a Shariah Advisor to each Islamic Bank, whether local or non-local, to ensure that the Islamic Banks follow Sharia laws in their products and services.²¹ And to provide Sharia guidance on the preparation and implementation of services and to ensure through Sharia audit whether all the products and services in the Bank are in accordance with the principles of Shariah or not? If the Sharia advisor feels that the sharia principles are not being followed in the Bank's products and style, then the Sharia advisor will be able to get income from this particular product and will be included in the charity fund. Later, in view of the growing trend of Islamic Banking in Pakistan, the State Bank of Pakistan in 2013 released a detailed and comprehensive Sharia Governance Framework which applies to all Islamic Banks and Islamic branches of Conventional Banks.²² The purpose of this circular is to make the following of Islamic Banks more effective in the pursuit of the law.

According to this framework, Islamic Banks must form a Sharia Board²³ based on at least three scholars, one of whose members will serve in the Bank as a full-time Sharia Advisor. The Shariah Board also includes experts in law, accounting and calculation and economics in addition to scholars in view of the need, can be done. Shariya Board members will be appointed for three years which can be re-elected. In this governance framework, where the responsibilities of the Shariya Advisory Board and Shariya advisers are explained, the following audit slots in Islamic Banks are also necessary to check the implementation of Shariah governance framework.

The following steps were made necessary for this purpose.

- The institution of each Islamic Bank will form a Sharia Supervisory Board which has the responsibility to carefully review the provisions, regulations, procedures, agreements and publicity materials relating to all products and services of the Islamic Bank.

- And take it and ensure the following of the law in it.
- Issue fatwas in Islamic Banks cases that Islamic Banks should follow.²⁴

- The Shariah Board should discharge its responsibilities freely and impartially. Board of Directors should be assured that there is no pressure from the Management and Board of Directors on the Shariah Board.

So Islamic Banks should follow the following instructions in this regard.²⁵

- ❖ The letter of appointment of Shariah Board explains the role and responsibilities of Sharia Board member and Shariah Board members.

- ❖ Members of Shariah Board are required not to be the part of the management of the Bank.²⁶

- In consultation with all Islamic Banking institutions Shariah Board and management of the Bank, in addition to the Chairman Shariah Board, a sharia board member will be nominated as resident Sharia Board member, which will guide about the day to day matters of the Bank.

- A Sharia audit unit will be set up in all Islamic Banks which is internal/internal audit, which may be part of the department or separately independent unit which is dependent on the Bank's volume. The unit aims to carefully check the Bank's affairs through internal Sharia audit (Internal Shariah Audit) to be assured whether matters are in accordance with the Shariah law or not? • To check the law's follow-up of an independent opinion and Bank's cases on Islamic Bank issues, the State Bank of Pakistan has declared mandatory for all the Islamic Banks through the said Sharia Governance Framework for conducting External Shariah Audit.

(Assets of Islamic Branches of Conventional Banks)

Just as instructions on Shariah issues are issued by the State Bank, instructions are issued by the Banking Policy Department, State Bank of Pakistan on monetary affairs. The basic factors of a Bank are the receipt of deposits and provision of investment. As mentioned earlier, account-sheets of branches of Islamic Banks can deposit and exit their money in the Islamic Banking Branches and Islamic Banking window, where the supply of investment is fixed.

It is in branches that things happen. In this regard, Islamic Banking branches must set up an Islamic Banking fund under the Islamic Banking Division, out of which investment is provided under sharia laws.²⁷

In this regard, Sharia Board and Sharia advisor have a responsibility to ensure that the affairs of the branch of the Islamic Bank are not contrary to the principles of sharia.

The financial statements of Islamic Banking branches of the Conventional Banks are shown in the statements of the Conventional Bank as a whole and their explanatory notes are included at the end of the financial statements, a number of circulars and circular letters were issued by the State Bank in which the initial circular was issued in 2006.²⁸ Later, the previous circular was amended and a circular was issued in 2013.²⁹

According to which the accounts of Islamic branches of the Conventional Banks will be published separately in the annual statements of the Conventional Banks. A model of individual balance (Balance Sheet) was also released along with this letter/circular (Annexure-1). And recently, Islamic Banking branches in the financial statements of the Conventional Banks, a circular was issued on February 29, 2017 to show the finances of Conventional Banks.³⁰

Order to Deal with Islamic Branches:

Islamic branches of Conventional Banks are operating not only in Pakistan but all over the world, which are suspected among the public, such as Islamic Banking branches of Conventional Banks or standalone branches and Islamic Banking windows operating under the management of Conventional Bank, so how is it possible that any mixing may not occur? Due to this ambiguity, Islamic branches of Conventional Banks are operating. There are different opinions among the scholars regarding the settlement of financial matters with, some are convinced of justification, while some are convinced of the non-justification. All these opinions and their arguments are briefly mentioned in the following lines.

Validity of Opinions and Arguments:

There is nothing wrong with a group of Economic and Shariah experts settling financial matters with these Islamic branches of the Conventional Banks if Shariah regulations are taken care of, it is permissible to settle financial matters with them.³¹

First Argument: Islamic Branches Aim to Get Rid of Interest:

One of the various objectives in Sharia finance is to eliminate interest from Islamic society and to eliminate it through whatever possible solution there is for it. So, these Islamic branches in the Conventional Banks are fulfilling this goal, so financial affairs with them are permissible to set.³²

Second Argument: The Two Systems Run Together:

The existence of Islamic branches in The Conventional Banks is a practical example of the Conventional and Islamic economy running together, which is an argument that these two systems can run together, both of which have no war like position. It is as if there is respect for each other in this system.³³

Analysis of Arguments of Those Who Settle Financial Issues with The Islamic Branches:

In the light of the arguments of the scholars who are convinced of the validity of financial matters with the Islamic branches, it is a point of view to say that interest is being destroyed by Islamic branches. Because through these Islamic branches, the Conventional Banks have provided only one facility to their customers. If they have such a sing-out of the Islamic system of economy, how can they not make the whole Bank Islamic? On the other hand, if it is generally understood that the sub-branches of a Conventional Bank are doing a very good business, it also needs to be kept in mind that while Islamic Banking is on the rise, the Conventional Bank (whose argument is evil) is also being strengthened.

The existence of Islamic branches in the Conventional Banks proves that these two systems can run together, which will further enhance the respect for each other, but this is quite contrary to the objectives of Sharia's finances, because the Islamic system of economy is aimed at eliminating interest and Conventional institutions and not by working with it. Similarly, to say that we have been ordered to order the manifest, and that is, the purpose of opening Islamic branches is to eliminate interest and to settle financial matters according to Islamic methods, but this is not enough, but it can be ordered by looking at its practical nature, and that is that the intention of those who open these branches is clear. And that is, they do not want an interest-free economy, because if that is their purpose, they should not start an Islamic branch along with the Conventional affairs, but would have participated in the promotion of luxury in the Islamic system by abolishing the Conventional system altogether, then their system of Conventional continues to run the economy and not abolish it is evidence that they're the purpose of the Conventional system.

However, the Holy Prophet (peace and blessings of Allah be upon him) settled his dealings with Jews, while Jews were interest-takers and did Conventional affairs, so this assumption is not correct.³⁴ Because it is not right for a Muslim to speculate on non-Muslim. In the Qur'an, where it is reported that Jews do Conventional affairs, it does not mean that the Jews with whom the Prophet (peace and blessings of Allah be upon him) settled their finances settled in the Jewish Islamic country, therefore, the Muslim rulers of the Islamic country cannot allow Jews to do Conventional affairs in the Islamic state. And the declaration of war against interest which Allah himself has made against the Muslim increases the intensity against a non-Muslim interest-lender. Therefore, the justification of Islamic branches cannot be allowed by the settling of the financial affairs of the Prophet (peace be upon him) with the Jews.

Opinion to Settle the Matters with the Conventional Banks as Per Requirement:

Some contemporary jurisprudence has taken a valid view of the Islamic branches of The Conventional Banks under the requirement, which are summarized as follows:

1. No doubt, the world is currently running a Conventional system, it is certain that as long as Islamic real Banks come into existence, things can be settled with such Islamic branches as per the requirement, and this command of Allah supports these people.³⁵ The Qur'aan says:

إِنَّمَا حَرَّمَ عَلَيْكُمُ الْمَيْتَةَ وَالْدَّمَ وَلَحْمَ الْخِنْزِيرِ وَمَا أُهْلَ بِهِ لِغَيْرِ اللَّهِ فَمَنْ اضْطُرَّ غَيْرَ بَاغٍ وَلَا عَادٍ فَلَا إِثْمَ عَلَيْهِ إِنَّ اللَّهَ غَفُورٌ رَحِيمٌ

Transliteration

'innamā ḥarrama 'alaykumu l-maytata wa-d-dama wa-l-laḥma l-khinzīri wa-mā 'uhilla bihī li-ghayri llāhi fa-mani ḍṭurra ghayra bāghin wa-lā 'ādin fa-lā 'ithma 'alayhi 'inna llāha ghafūrun raḥīmūn

Translation

He has forbidden you only carrion, blood, the flesh of the swine, and that which has been offered to other than Allah. But should someone be compelled, without being rebellious or aggressive, there shall be no sin upon him. Indeed, Allah is all-forgiving, all-merciful.³⁶

2. Similarly, these men say that in the absence of an Islamic Bank, things were settled with a Conventional Bank. It is better to settle matters with an Islamic branch than to do so.

3. As it is also possible, dealing with Islamic branches can be the reason of converting into Islamic Banks by the Conventional Banks.³⁷

Opinions and Arguments of Non-Justification:

These branches are only a fraud and the Islamic name is a pretext and excuse to settle other issues of understanding, so it cannot be allowed,³⁸ the arguments are as follows:

First Argument: Repentance of The Conventional Matters or Declare War with Allah:

Allah has commanded in the Qur'an to leave the evil affairs together or the declaration of war.

Al- Baqarah (278,279)

يَا أَيُّهَا الَّذِينَ آمَنُوا اتَّقُوا اللَّهَ وَذَرُوا مَا بَقِيَ مِنَ الرِّبَا إِن كُنْتُمْ مُؤْمِنِينَ فَإِن لَّمْ تَفْعَلُوا فَأْذَنُوا بِحَرْبٍ مِنَ اللَّهِ وَرَسُولِهِ وَإِن تُبْتِغُوا فَلَئِمَّ رُءُوسُ أَمْوَالِكُمْ لَا تَظْلِمُونَ وَلَا تُظْلَمُونَ

Transliteration

yā-'ayyuhā lladhīna 'āmanū ttaqū llāha wa-dharū mā baqiya mina r-ribā 'in kuntum mu'minīn
(278) fa-'in lam taf'alū fa-'dhanū bi-ḥarbin mina llāhi wa-rasūlihī wa-'in tubtum fa-lakum ru'usu
'amwālikum lā tazlimūna wa-lā tuzlamūn (279)

Translation

O you who have faith! Be wary of Allah, and abandon [all claims to] what remains of usury, should you be faithful (278). And if you do not, then be informed of a war from Allah and His apostle. And if you repent, then you will have your principal, neither harming others, nor suffering harm. (279)

You guys are in interest to him that is left, if really) you guys are honest, so if you do not do so, believe in fighting Allah and the Messenger of Allah, and if you repent, your real wealth, neither you (anyone) should be oppressed, nor should you be wronged).³⁹ So Allah has given two options to a Muslim, to repent of interest or to fight with Allah Get ready.⁴⁰

Second Argument: Fear of Adulteration of Haram and Halal

It is also haraam to settle matters with Islamic branches because it causes the mixing of haram and halal, in such a way that it sometimes becomes difficult to distinguish between the assets of the Conventional Bank and its Islamic branch, such as the use of an ongoing account (Current Account), that of a customer who has an ongoing account in a Conventional Bank and is financial with its Islamic branch If you are fixing issues and using his ongoing account, how will it know that he is using the current of the Islamic branch? Similarly, such a customer is actually supporting the original Conventional Bank by settling the matter with this Islamic branch. As if the original Bank can use its money for glory if needed, it is in a way akin to the support of the Conventional Bank.⁴¹

Analysis of Arguments of Justification and Non-Justification and the Path to Moderation:

A look at the above arguments regarding dealing with Islamic branches of the Conventional Banks shows that scholars on the side of Halal and Haram have tried to strengthen their opinions and there are strong arguments on both sides. Therefore, the presence of arguments on both sides shows that it is neither right nor wrong to settle matters with these branches. Taking the path of moderation, it seems appropriate to decide financial issues with these branches keeping in view the need and necessity in such a way that these Islamic branches of the Conventional Banks should be declared fair and gradually widened by the monkey and force on it that the Conventional Banks should be converted into Islamic systems, not the goods, that cause profits for the Conventional Banks, and this can be done with great effort and hard work. As the prohibition of alcohol is a testimony to this thing in the case of the sanctity of interest. So, the issuance of Islamic Banks and Islamic branches is a link in adopting the path of change gradually.

Similarly, just as Islam has given concession to eat forbidden food without excess and perseverance for the sake of self-interest, it seems more appropriate to give them leave to settle matters with Islamic Banks and Islamic branches, even if they belong to Conventional Banks, to end the current economic system of interest and to protect Islamic financial objectives. Fixing the affairs of branches can control the Conventional system gradually. Therefore, if the Islamic branches of the Conventional Banks do not lead to the conversion of the Conventional Banks into the Islamic system of economy, and the monkey system of interest is not wrong in resorting to concession and necessity. As in the case of need from the exact texts, Islam has given concession of eating forbidden food. Allah knows.

Summary of Debate:

The prevailing Islamic financial system in Pakistan started in 2002, which is an alternative to the prevailing Conventional Banking system. The prevailing Conventional system is a centuries-old system, so Islamic Banking and finance need to be encouraged and not eliminated by multiplying it by zero in the early days. If this attempt fails, the rest of the Conventional Banking will be left. There is a possibility of Ijtihad mistakes that will be corrected over time, but it is certainly better than Conventional Banking. Justification and non-justification for dealing with Islamic branches of the Conventional Banks.

After detailed discussion of the arguments of the convinced scholars, it is clear that contemporary

Conventional Banks are providing only one facility to their customers through their Islamic branches. On the other hand, it is a fact that the Islamic sub-branches of Conventional Banks are doing very well, which means that the people want Islamic Banking, so why can't the Conventional Banks Islamize the entire Bank instead of a sub-branch? To abolish the Conventional system altogether and participating in the promotion of the Islamic system of economy, these Banks should convert into full Islamic Banks instead of sub-branches, in this regard, the State Bank has recently issued a detailed circular⁴² on the instructions of the Conventional Banks to change the Islamic Banking system. However, there are many misconceptions and doubts about dealing with Islamic branches of Conventional Banks, such as there are many misunderstandings about the accumulation of profits and their calculations etc. of Conventional Banks and Islamic Banks. All these doubts have been discussed in details in the initial pages that under Sharia Governance Laws, the finances of these branches are separated from the Conventional Bank and settled under the supervision of a Sharia Board. A member of this Shariah Board oversees Banks day-to-day affairs as a full-time Sharia Advisor.⁴³ So keeping in view all discussions in this article, it is crystal clear that the performance of Islamic Banking Windows and also Islamic Branches of Conventional Banks is not satisfactory and admirable. In short, if we want the performance of the relevant and concerned Islamic Branches and Islamic Windows of the Conventional Banks up to the mark, we will have to shift all Conventional and Commercial Banks completely into the shape of rules and regulations of Islamic Economy (Shariah System of Islamic Banking).



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