

THE EFFECTIVENESS OF THE LEGAL FRAMEWORK OF THE ISLAMIC BANKING SYSTEM IN MALAYSIA

Zulkifli Hasan

Lecturer, Faculty Syariah and Law,

Islamic University College of Malaysia (KUIM)

Tel: 06-7988483 Fax: 06-7988530 E-mail: zul361977@yahoo.com

The growth and development of Islamic banking industry is undeniably depending much by having a comprehensive legal framework. The success of the implementation of Islamic banking relies on the correct approach of its legal facilities. In Malaysia, Islamic financial institutions have not only duties to meet the syariah compliance, other statutory laws either substantive or procedural and also to comply with Bank Negara Malaysia and Securities Commission's Directive. This paper will present a general overview on the effectiveness of the legal framework in the implementation of Islamic banking in Malaysia. Generally, it is submitted that the existing legal framework make valuable contributions towards the development of Islamic banking.

Keywords: Legal framework and Islamic financial institution.

1.0 Introduction.

“Today, we have a comprehensive Islamic financial landscape underpinned by strong institutional infrastructure and effective legal, regulatory and Shariah framework”¹.

It could not be denied that Malaysia has achieved a tremendous growth in developing Islamic banking industry locally as well as internationally. This achievement adheres much on the comprehensive approach of the authorities as well as the players themselves especially to its legal aspects. Hence, this article tries to explore the effectiveness of the existing legal framework of Islamic banking in Malaysia.

In tackling this topic, the preceding discussion will be divided into four parts. Part 1 refers to the introduction. Part 2 explains brief historical background of the Islamic banking in Malaysia. Part 3 elaborates the effectiveness of the legal framework. Part 4

¹ Tan Sri Dr. Zeti Akhtar Aziz. *Governor Bank Negara Malaysia's Speech at the Official Launch of AmIslamic Bank Berhad. Menara AmBank. Kuala Lumpur. 18 May 2006.*

concludes the discussion. This paper is intended to provide a general overview on the existing legal infrastructure on the implementation of Islamic banking, current practice and to what extent it works.

2.0 Brief Historical Background.

The first bank that has been set up was in 1983 by Bank Islam Malaysia Berhad. Bank Islam Malaysia Berhad started its operations as Malaysia's first Islamic bank on July 1st 1983, set up with an initial authorized capital of RM600 million a paid-up of RM 79.9 million².

After 10 years, on 4 March 1993, BNM introduced a scheme known as "*Skim Perbankan Tanpa Faedah*" (Interest-free Banking Scheme) in which conventional banks may offer Islamic banking products through its windows³. With that policy, many conventional banks set up their Islamic windows.

On 1 October 1999, a second Islamic bank, namely Bank Muamalat Malaysia Berhad (BMMB) commenced operations. The establishment of BMMB was the effect of the spin-off following the merger between Bank Bumiputra Malaysia Berhad (BBMB) and Bank of Commerce (Malaysia) Berhad⁴.

Malaysia now has 12 Islamic banking institutions operating under the Islamic Banking Act. There are two full fledged Islamic banking institutions, the 3 new foreign Islamic banking players and 7 Islamic banking windows that have been transformed into subsidiaries and six of them have now commenced operations⁵.

3.0 The Legal Framework.

² n.a. 20 June 2006. <http://www.bankislam.biz>.

³ Ahmad Ibrahim, "*Legal Framework of Islamic Banking*", IKIM Law Journal, Vol.1 (1): 1997. p. 23.

⁴ Nik Norzrul Thani. 200. *Legal Aspects of Malaysian Islamic financial Systems*. Kuala Lumpur: Sweet and Maxwell Asia. p. 147.

⁵ Supra note 1.

In Malaysia, separate Islamic legislation and banking regulations exists side-by-side with those of the conventional banking system. Islamic banking was put under Federal List since it refers to commercial dealings although it actually falls under the purview of Islamic law. Thus, it is the parliament to pass any law governing the Islamic financial institutions.

The decision to establish Islamic banking in the country is a result of the Muslim demands to have a sound banking and financial system which is in accordance to the Shariah. Before this, majority of the Muslims in Malaysia were utilizing the existing conventional banking products which are driven on making profit through interest. This was indeed the basic needs of the Muslims in this modern world whereby they require financial assistance to acquire homes, vehicles and also the expansion of businesses. Seeing the areas of possibilities to set up an Islamic banking system in the middle of the well established conventional atmosphere, Malaysian government has taken proactive effort in setting up an Islamic bank in Malaysia. A steering committee then was formed by the government in 1981 to study the establishment of an Islamic bank in Malaysia.

As a result, Islamic Banking Act 1983 (Act 276) was passed and Bank Islam Malaysia Berhad has been set up as the first Islamic bank in South East Asia. 10 years later, BNM introduced "*Skim Perbankan Tanpa Faedah*" (Interest-free Banking Scheme) for conventional banks to offer Islamic banking products through its windows and for that purpose, section 124 (7) of the Banking and Financial Institutions Act 1989 (Act 372) was introduced.

The development of Islamic banking industry in Malaysia involves several phases whereby Phase 1 started in 1983 until 1993 and Second Phases began in 1994. Malaysia is now in the midst of liberalizing its policy on the implementation of Islamic banking so as to enable us to lead the sector. This staggered development is facilitated and supported by legal infrastructure through several legislations and directives namely Islamic Banking Act 1983, Banking and Financial Institutions Act 1989, Central Banks Act 1958, other relevant statutory legislation, Bank Negara Malaysia (BNM) and Securities Commission's directives and also to the Court's structure.

3.1 Islamic Banking Act 1983 and Banking and Financial Institutions Act 1989.

The legal basis for the establishment of Islamic bank was the Islamic Banking Act (IBA) which came into effect on 7 April 1983. The IBA provides BNM with powers to supervise and regulate Islamic banks, similar to the case of other licensed banks. However, looking at IBA that has 60 sections and divided into 8 parts, it is obviously very brief and it is rather regulatory than substantive in nature.

Although the IBA is general, non-exhaustive and non-comprehensive⁶ which is lead to various interpretations, it is observed that it creates flexibility to Islamic financial institutions. This can be illustrated by referring to the section 2 of the IBA whereby it defines "Islamic banking business" as "banking business whose aims and operations do not involve any element, which is not approved by the Religion of Islam". There are negative and positive views on the interpretation of the section. The former views that the IBA does not stipulate how the section is to be understood in the context of Islamic banking In contrast, it could be understood that the purpose of such general provision is to create a flexible approach on the implementation of Islamic banking itself.

As a result, Islamic financial institution in Malaysia may offer various banking products under multiple modes of financing which is based on the shariah principles. For example Malaysia has the distinction of being the first in several issuances of Islamic bonds including the first to issue a global sovereign sukuk⁷. In fact, a lot of Islamic banking products have been introduced in a range of sectors such as financing for personal consumption, small medium entrepreneur and huge corporation. The increasing demands for Islamic products show a tremendous growth to the Islamic banking sector. Moreover, non-Muslims also were attracted to the package of Islamic products offered in the market.

In responding to the positive demands of the conventional banks to open Islamic counters, Section 124 of the BAFIA 1989 was then introduced which allowed the conventional banks to carry on Islamic banking business. They are required to establish

⁶ Norhashimah Yasin, *Legal Constraints in Applying Islamic Banking and Finance in Malaysia*. Seminar on Islamic Banking. Law Students' Society International Islamic University Malaysia. 30th August 2002, p6

⁷ n.a. 2002. *Sektor Perbankan Dijangka Kekal Stabil*. 1 January. Utusan Malaysia.

the Shariah Committee in order to advise them any matter related to Islamic banking business or Islamic financial business. The introduction of this section allows conventional banks to open Islamic counter to offer Islamic banking products. This scheme is formerly known as Interest Free Scheme Banks and currently known as Islamic Scheme Banks.

The introduction of section 124 of BAFIA promotes healthy competition amongst Islamic banking players. More banks offer Islamic banking products in various concepts and package. In fact, some banks gain a tremendous profit through it Islamic windows than its normal conventional products. As a result, currently there are seven Islamic scheme banks from local and foreign were granted full fledged Islamic bank licenses and 6 of them has already started their operations.

3.2 Central Banks Act 1958.

Apart from the IBA and the BAFIA, the Central Banks Act 1958 (CBA) plays a major role in term of regulating the aspects of supervision and monitoring of the implementation of Islamic banking. For instance, in providing effective shariah governance of the Shariah Advisory Council of various Islamic financial institutions, the parliament has amended section 16B of the CBA 1958 in 2003.

The amendment provides that the National Shariah Advisory Council will be the sole authorities to be referred by the civil courts pertaining to Islamic banking and finance. Section 16B (1) of the CBA 1958 provides that the Bank may establish an Advisory Council which shall be the authority for the ascertainment of Islamic law for the purposes of Islamic banking business, takaful business, Islamic financial business, Islamic development financial business, or any other business which is based on principles and is supervised and regulated by the BNM. The effect of this amendment is expectedly to ensure that any deliberation of the SAC will bind the court and should be followed by all Islamic financial institutions in Malaysia.

Section 16 B (8) provides that where in any proceedings relating to Islamic banking business and Islamic financial business which is based on Syariah principles before any court or arbitrator any question arises concerning a Syariah matter, the court or the arbitrator may refer such question to the Syariah Advisory Council for its ruling. Any ruling made by the Syariah Advisory Council pursuant to a reference by a court, be taken into consideration by the court and if the reference was made by an arbitrator, be binding on the arbitrator.

The amendment of 16B provides a better position on the national shariah advisory council (SAC) whereby it uplifts the position of Islamic banking and finance in the country. However, the writer is of the view that the amendment is still not sufficient in the aspects of confirming the decision made by the SAC. The amendment only mentions that the court may refer to the SAC's deliberation but it is not bound to follow the decision. Since there are no cases yet really challenge the legal standing of the said amendment, it is still open to be interpreted widely by the practitioners. It is better if we could have a clear provision states that any decision of the court which is against the rulings made by the SAC should be void.

3.3 Other Relevant Statutory Legislation.

Beside IBA, BAFIA or CBA, there are other related legislation that so significant in the implementation of Islamic banking. These include the National Land Code 1965, Hire Purchase Act 1967 and the Stamp Act 1949. This paper will only touch on the applicability of these three acts.

Many types of financing involve selling and buying transaction and these include immovable property or land. Any transaction regarding with the land is governed by the National Land Code 1950. The Code is originated from Australia which is based on Torrens System. There are elements in the Code that contrary to the shariah principles such as the term interest in Form 16A to secure payment of a principle sum. BNM has set up a working committee in reviewing the whole provisions of the Code so as to ensure that it will meet the shariah compliance. At the moment, the practice is that we just

change the term interest to profit in the Form 16A and it is so far acceptable by the land office and no body has ever tried to challenge its validity.

The Hire-Purchase Act 1967 (HPA) is under the jurisdiction of the Ministry of Domestic Trade and Consumer Affairs and regulates the business of hire purchase financing which is normally carried out by Credit Companies licensed under the Moneylenders Act, 1951 (or being granted exemption) and Finance Companies licensed under the BAFIA and the IBA. The HPA only covers types of vehicles and there was also an element of interest. The rate of interest charged is the annual effective rate of interest. Due to the obstacles in meeting the requirement of the HPA, some Islamic banks opt to offer financing for vehicles based on *Bay' Bithaman Ajil* concept. This creates problem to the bank in term of repossession of the vehicles in the case of default. Under the concept of *Bay' Bithaman Ajil*, the bank could not simply repossess the vehicle without a Court's order whereas under the HPA the bank may do it through notice of repossession. Normally the finance company will engage a reposessor who is registered with the Association of Hire Purchase Companies Malaysia to repossess any motor vehicle. It is reported that BNM has set up a working committee to study on the needs of Islamic Hire Purchase Act.

Islamic banking products especially for debt financing involve trading transaction. It is different with conventional bank whereby it only involves a loan transaction. Basically this concept refers to the financing of houses, motor vehicles, lands, consumer goods, cash line facilities, education financing packages and personal consumption. Trading transaction requires two separate agreements namely purchase and selling agreement and these reflect double taxation. In order to stimulate the growth and the development of Islamic banking sector, the government then introduced incentives for Islamic financial institutions through tax exemption. Any legal documentation that involves trading transaction will only incur a normal cost of tax as provided under the Stamp Act 1948.

For example the Stamp Duty (Exemption) (No. 9) Order 2000 [P.U.(A) 64] provides reduction of stamp duty on instruments for Islamic banking products. Previously, the procedure in transacting Islamic banking products involves the repetitive payment of

stamp duties and in some cases; the rates imposed are higher than those of the conventional banking products. Since the Islamic banking scheme requires two agreements in a single financing facility or a new agreement whenever there is an adjustment to the duration or financing amount. Thus, Islamic banking products will involve more than one document and each document will attract stamp duty. As a result, Islamic banking products are less competitive as an alternative to conventional banking products. Therefore, in order to enhance the competitiveness of Islamic banking products, all instruments related to Islamic banking are subject to stamp duty similar to instruments used in conventional banking. This incentive is very effective and in fact the statistic shows that debt financing portion, is the biggest contributor in terms of growth and profit to the Islamic financial institutions in Malaysia⁸.

3.4 Bank Negara Malaysia's Directive.

BNM may issue a directive to banking and financial institution as and when it is necessary. Amongst the most important directive related with the Islamic banking are the Guidelines and Procedures for Shariah Committee (BNM/GPS1). The IBA and the BAFIA make it compulsory to the financial institution to follow and meet all the guidelines and procedures issued by BNM⁹.

As regard to the SC's governance, Bank BNM/GPS 1 regulates the governance of the Shariah Committee of an Islamic financial institution. This guideline consists of 10 parts with 24 sections and one appendix. The contents include objectives, scope of application, establishment of the SC, membership, restrictions, duties and responsibilities of the SC and Islamic financial institutions, reporting structure, effective date and secretariat of the SAC BNM. Islamic financial institutions have to comply with the guideline by 1st April 2005 (Section 23) and the dateline has been extended to a development financial

⁸ n.a.. 25 May 2005. http://www.bnm.gov.my/files/ib_statistic/2005/pdf/fin_by_concept.pdf

⁹ Section 53 of the IBA and section 116 of the BAFIA respectively provide that BNM may with approval of the Minister from time to time make such regulations as may be necessary or expedient for giving full effect of both acts.

institution prescribed under the Development Financial Institutions Act 2002 (DFIA) which carries on Islamic Banking Scheme to 1st September 2005.

The objective of BNM/GPS 1 is to set out the rules, regulations and procedures in the establishment of the SC, to define its role, scope of duties and responsibilities and to define relationship and working arrangement between the SC and the SAC of BNM. As for the appointment of the SC members for example, section 8 provides that they will be appointed by the board of directors of an Islamic financial institution upon recommendation of its nomination committee. Section 10-13 mentions the qualifications to be the SC members who shall be an individual and have qualification or possess necessary knowledge, expertise or experience in Islamic jurisprudence (*Usul al-Fiqh*); or Islamic transaction/commercial law (*Fiqh al-Mu'amalat*).

The above guideline may solve the issue of clashes of opinion amongst the SC of various Islamic financial institutions that may cause confusion to the general public. As we know that there are two main branches of schools in Islamic jurisprudence, namely the Sunni branch and the *Shiah* branch and within the Sunni there are four other madhahib, the *Shafi'e*, the *Hanafi*, the *Maliki* and the *Hanbali* schools. These *madhahib* varied on many aspects of the Islamic law. At this point, the guidelines provides that the national shariah advisory council of BNM has the authority to decide which view it sees best on any issue on Islamic finance either it is in line with the principles of Shariah or not. In fact, a court and an arbitrator may refer to the national shariah advisory council of BNM on any dispute involves shariah issues whereby the former just as a matter of taken into consideration and the latter is absolutely binding.

3.5 Securities Commission's Directive.

Securities Commission was established in 1993 with an objective to be an authority to evaluate the issuance of any securities in Malaysia. As regard to the Islamic Securities which are offered by the Islamic financial institution, the Securities Commission has

issued Guidelines on the *Offering of Islamic Securities* on 26 July 2004. This guideline contains several procedures for the issuance of Islamic Securities which are as follow:-

- (a) application of the Guidelines on the Offering of Islamic Securities to the Issue of, Offer for Subscription or Purchase, or Invitation to Subscribe for or Purchase, Foreign Currency Denominated Islamic Securities;
- (b) Application of the Guidelines on the Offering of Islamic Securities to the Issue, Offer or Invitation of Ringgit Denominated Islamic Securities by a Multilateral Development Bank or Multilateral Financial Institution in Malaysia;
- (c) Application of the Guidelines on the Offering of Islamic Securities to Foreign Governments and Agencies or Organisations of Foreign Governments;
- (d) Application of the Guidelines on the Offering of Islamic Securities to the Issuance of Islamic Negotiable Instruments with Original Tenures of More than Five Years; and
- (e) Application of the Guidelines on the Offering of Islamic Securities to an Issuance of Islamic Commercial Papers or a Combination of Islamic Commercial Papers and Medium Term Notes.

The effectiveness of the above guidelines can be illustrated through several successful Islamic securities. For example, SAC has approved the concept and mechanism applied in issuing Islamic bonds based on *mudharabah* principle through securitisation of Islamic Hire Purchase Debt. The purchasing of Islamic Hire Purchase Debt is based on the Syariah concept of *bai` al-dayn* (debt trading).¹⁰ In 2005, the Securities Commission approved a total of 126 bond issues, valued at 61 billion ringgit, of which 77 were Islamic bonds valued at 43 billion ringgit or more than 70 percent of new bonds issued¹¹. The guideline issued by the Securities Commission on the issuance of Islamic securities is considered as a mechanism in developing truly viable projects through securitization of the asset and at the same time shariah matters are taken into consideration.

3.6 Administration of Justice.

¹⁰ n.a. 20 June 2006. <http://www.sc.com.my/>.

¹¹ Tan Sri Nor Mohamed Yakcop. *His Speech at the Official Launch of Dow Jones Citigroup Sukuk Index*. Kuala Lumpur. 17 March 2006.

In Malaysia, cases on Islamic banking are under the jurisdiction of the civil courts. This is due to the fact that Islamic banking is considered as under the item 'finance' in the Federal Constitution. The issue here is the vulnerable position of Islamic finance principles, whether the SC's resolution on certain matter could be defended as one of law which has legal standing. In fact, the judges in civil courts face difficulties to understand certain concepts and terms of Islamic finance.

As a matter of fact, BNM with a cooperation of judicial body has agreed to set up a special High Court in the Commercial Division known as the Muamalah bench. According to Practice Direction No.1/2003, paragraph 2, all cases under the code 22A filed in the High Court of Malaya will be registered and heard in the High Court Commercial Division 4 and this special high Court will only hear cases on Islamic banking. Section 16B (8) provides that the Court shall take into consideration of the SAC's deliberation if the case involves shariah issues.

3.7 To What Extent The Existing Legal Framework Works?

The effectiveness of the existing legal framework of the Islamic banking system in Malaysia can be measured through facts and figures. From 1983 until 2004 the Islamic Banking assets in Malaysia amounted to RM89 billion, accounting for 9.9 per cent of total banking asset¹². The Islamic banking industry, continues to show good performance with profitability and assets surpassing for the first time the threshold of RM1 billion and RM100 billion respectively at the end of 2005. The Islamic banking sector has become a major contributor to the overall economic growth, with assets equivalent to nearly 25% of the country's gross national product¹³. This commendable performance could not be achieved without having a strong and effective legal framework.

¹² n.a. 2004. "Al Rajhi, Qatar-led Group Get Islamic Banking Licenses". New Straits Times. Malaysia. 15 October. p. B1.

¹³ Datuk Zamani Abdul Ghani. *Deputy Governor's Keynote Address at the Official Launch of Commerce Takaful Berhad*. Kuala Lumpur. 7 April 2006.

In addition, BNM with a cooperation of judicial body has set up a special High Court in the Commercial Division known as the *Muamalat* bench. Here, all cases involving *muamalat* matter will be registered and heard in the High Court Commercial Division 4 that will only hear cases on Islamic banking. The Court may refer to the National Shariah Advisory Council looking for advice and deliberation on any shariah issue involves in the disputed cases. This is due to the background of the judges who are normally well trained in English law and lack of knowledge on shariah aspects.

The implementation of this muamalat bench shows a positive result on the increasing numbers of settled cases. From the statistic, it shows that more than 75% out of 656 cases has been settled by the court from year 2003 to 2005. Below is the statistic of cases under Code 22A from the Chief Registrar of the Federal Court's Office.

Cases Registered from 1.3.2003 – 1.12.2005	Settled Cases from 1.3.2003-1.12.2005	Balance of Cases up to 1.12.2005	Percentage of Settled Cases from 1.3.2003 – 1.12.2005
656	497	388	75.7% $(\frac{497 \times 100}{656})$ 415

It is observed that majority of the cases on Islamic finance are concerning the issue of unable to pay the financing facility rather than deciding the shariah issues. For instance in the case of *Bank Islam v. Adnan Omar* [1994] 3 CLJ 735; [1994]3 AMR 44 and *Dato' Nik Mahmud Bin Daud v. Bank Islam Malaysia Berhad* [1996]4 MLJ 295, both cases refer to the issues pertaining to the default payment by the customer. The recent case in the High Court of Kuala Lumpur between *Affin Bank Berhad vs Zulkifli Abdullah* (New Straits Times, December 2005) also discusses the same issue. In this case, Justice Datuk Abdul Wahab Patail ordered the house that has been purchased through scheme of *bay' bithaman ajil* to be auctioned under the National Land Code to recover over RM582, 000 sought by the bank. Affin Bank Berhad had sued Zulkifli Abdullah, for defaulting on the payment of the facility given out by the bank in December 1997 for a double-storey corner link house.

The setting up of a special High Court in the Commercial Division is a very good initiative especially when the cases on muamalat are keeping increasing from time to time. In promoting good governance on the legal frameworks of the Islamic financial system, cooperation between the authority such as BNM and the judicial body is really crucial. This is to maintain confidence by the public on the administration of justice regarding with the implementation of Islamic banking.

4.0 Conclusion.

An effective legal framework requires serious involvement of all individuals and institution, Islamic financial institution as the key player, government as the regulatory body, and also to other persons related such as auditors, accountants, lawyers and consumers. A comprehensive legal framework is a vital component to guarantee a success on the implementation of any Islamic banking system. Generally, we can say that Malaysia has adopted a very effective legal framework that covers regulatory and syariah aspects as well as measures to the viability of the Islamic financial industry.

The enforcement of the existing legal framework shows a commendable performance either in term of numbers of settled cases in court or growth of Islamic banking asset. From the statistic, it shows that more than 75% out of 656 cases has been settled by the court from year 2003 to 2005. This is also due to the setting up of a muamalat bench in the High Court which concerns on the case of Islamic commercial disputes. In 2005, it is recorded that Islamic banking sector has become a major contributor to the overall economic growth, with assets equivalent to nearly 25% of the Malaysia gross national product. It is submitted that the existing legal framework has made valuable contributions towards this achievement.

As regard to the future development of Islamic banking industry in Malaysia, we could not deny that we must be ready with more effective and comprehensive legal framework. The phenomena of globalization require us to mobilize all of our resources in maintaining

the growth of Islamic banking sector that we have today. Beside, Malaysia should also liberalize its Islamic banking policy so as to attract global players to have cooperative framework to promote Islamic banking, particularly in mobilizing financial resources to meet the needs of the Muslims.

BIBLIOGRAPHY

Ahmad Ibrahim and Ahilemah Joned, 1995. 2nd Ed, *The Malaysian Legal System*, Dewan Bahasa dan Pustaka: Kuala Lumpur.

Ahmad Ibrahim, “*Legal Framework of Islamic Banking*”, IKIM Law Journal, Vol.1 (1): 1997

Datuk Zamani Abdul Ghani. *Deputy Governor's Keynote Address at the Official Launch of Commerce Takaful Berhad*. Kuala Lumpur. 7 April 2006.

Halal Malaysia, Islamic Capital Market and Financial Services, YADIM: Kuala Lumpur, 2003.

Mohamed Ismail bin Mohamed Shariff, “*Salient Features of Islamic Banking Act 1983 and Banking and Financial Institutions Act 1989*”, working paper presented during Seminar on Shariah and Legal Aspects of Islamic Banking Practice, BIMB Institute of Research and Training, Kuala Lumpur, 1996.

Mohamed Ismail Mohamed Shariff, *Isu –isu Rangka Kawalselia dan Perundangan Dalam Pasaran Modal Islam*, Muzakarah Pasaran Modal Islam, Suruhanjaya Sekuriti Kualala Lumpur, 6th September 2005, p.19

Muzakarah Pakar “*Memantapkan Sistem Kewangan Islam: Ke Arah Mencapai 20% Pasaran Kewangan Negara Menjelang 2010*”. 22-23 September 2005/18-19 Syaaban 1426h at Pusat Dagangan Dunia Putra, Kuala Lumpur.

n.a. 2004. “*Al Rajhi, Qatar-led Group Get Islamic Banking Licenses*”. New Straits Times. Malaysia. 15 October. p. B1.

n.a. 2002. *Sektor Perbankan Dijangka Kekal Stabil*. Utusan Malaysia. 1st January.

Nik Norzrul Thani. 200. *Legal Aspects of Malaysian Islamic financial Systems*. Kuala Lumpur:

Sweet and Maxwell Asia.

Norhashimah Yasin, *Legal Constraints in Applying Islamic Banking and Finance in*

Malaysia. Seminar on Islamic Banking. Law Students' Society International Islamic University Malaysia. 30th August 2002.

Nor Mohamed Yakcop. *His Speech at the Official Launch of Dow Jones Citigroup Sukuk Index*. Kuala Lumpur. 17 March 2006.

Penentuan Hukum produk Perbankan Islam: Pengalaman Bank Negara Malaysia, Muzakarah ahli-Ahli Majlis Penasihat Syariah Institusi Kewangan di Malaysia, Bahagian Penyelidikan JAKIM, Hotel Pan Pacific, 4-5 Mac 2004.

Practice Direction No.1/2003, High Court of Malaya.

Sheikh Gazali Hj Abd. Rahman “*Peranan Institusi Syariah Dalam Menghadapi Cabaran Era Globalisasi*”, Majlis Pelancaran Komuniti Syariah dan Wacana Ilmiah, Hotel Legend, KL, 5 Dth December 2005

The Guidelines on the governance of Syariah Committee for The Islamic Financial Institutions, issued by BNM in December 2004

Tan Sri Dr. Zeti Akhtar Aziz. *Governor Inaugural speech in 3rd Annual Islamic Finance Summit London*. 13th January 2004.

Tan Sri Dr. Zeti Akhtar Aziz. *Governor of Bank Negara Malaysia's Speech at the Official Launch of AmIslamic Bank Berhad. Menara AmBank*. Kuala Lumpur. 18 May 2006.

Cases

Bank Islam v. Adnan Omar [1994] 3 CLJ 735; [1994]3 AMR 44
Dato' Nik Mahmud Bin Daud v. Bank Islam Malaysia Berhad [1996]4 MLJ 295 (HC); [1998]3 MLJ 393 (CA)
Affin Bank Berhad vs Zulkifli Abdullah in *New Straits Times*, December 29.

Acts

The Islamic Banking Act 1983 (Act 276)

The Banking and Financial Institutions Act 1989 (Act 372)

The Central Bank Act 1958

The National Land Code 1965

The Hire Purchase Act 1967

The Stamp Act 1949 (Act 378).