The Challenges of Shariah Compliance in the Islamic Banking Practices: Whether Ibn-Al Qayyim’s Principles of Muamalat be the Panacea?

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Abstract

The practices of Islamic banking under diverse economic and legal system across the world constitute challenges to its Shariah compliance regime which is the hallmark of its uniqueness. This study presents some of the factors that militate against the Shariah compliance requirement and its proposes the standardization of Ibn Qayyim’s principles of al-Muamalat as the mechanism for the surmounting of the challenges. The focused areas in the study include: the challenges of conflicting of al-Fatwa, the quandary of the dominance of the civil law, the subjugation of the Islamic banks to the adjudication of the civil court, the supremacy of the International Monetary laws and regulatory bodies. Each of the challenges was discussed vis-à-vis of the principle that is proposed for its resolution. The study conclude that the Ibn Qayyim’s principle of al-Muamalat is tested in the past generations by mutta’ of his time and proved to be viable. It is, therefore, believed that the adoption and adaptation of the principles into the guidelines of Shariah decision making for the practices of Islamic banking and finance will contribute immensely to the resolution of the challenges of Shariah compliance management. It is suggested for future work on this topic to look into the possibility of universal adaptation of the adaptation of the principle in Shariah guideline across the world.

Keywords: Islamic banking, shariah compliance, principles of Ibn Qayyim.

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