

Islamic Banking & Finance Issues & Solutions

Edited by
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ISLAMIC BANKING & FINANCE
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Chapter Three

Bridging Islamic Juristic Differences in Contemporary Islamic Finance

Younes Soualhi

Abstract: The research is an attempt to formulate a viable shariah framework for juristic differences in contemporary Islamic finance. While acknowledging the legitimacy of juristic differences as an inherent feature of Islamic law, the same differences could jeopardize a nascent Islamic finance industry, leading to what has come to be arbitrarily termed shariah risk in Islamic finance. Two blocks seem to represent the two disputing sides ever since this industry was launched, i.e., the Middle East and South East Asia markets. Thus, this research aims at bridging differences in Islamic finance by proposing a frame work and a set of parameters that can be applied in all products of Islamic banking, Islamic Capital Market and Takaful. Apart from the outlined framework that aims to get out of juristic disputes, the research concluded that no juristic dispute resolution in Islamic finance is attainable without appreciating the legal and regulatory differences in which Islamic finance operates across the globe.

Key words: Islamic finance; bridging; juristic dispute; dispute resolution

3.0 Introduction:

Islamic finance, growing from a niche market is gradually positioning itself in modern finance as a mainstream choice, offering its customers a myriad of alternative instruments and presenting an ethical financial system that promotes equitable distribution of wealth whilst aiming at creating real markets, where real assets are traded and risk is shared by all trading parties. The pace of growth of this industry could not have been possible without the *Shariah* framework