

DEVELOPMENT OF WA‘D-BASED PRODUCTS IN THE ISLAMIC BANKS OF BANGLADESH: A CASE STUDY

**Md. Faruk Abdullah¹
Asmak Ab Rahman²**

ABSTRACT

A large number of product innovations in Islamic banking have been achieved globally through the usage of wa‘d. However, little is known about the product innovation in the Islamic banks of Bangladesh. Therefore, this study aims at examining the development of wa‘d-based product in the Islamic banking of Bangladesh. It analyzes the product structures that involve wa‘d and attempts to find out the Shariah issues and other challenges. Besides, it suggests potential mechanism to innovate more products based on wa‘d for the Islamic banks in Bangladesh. The study adopts a case study approach where two full-fledged Islamic banks and one Islamic banking window are selected. The study conducts semi-structured interviews with the bankers and Shariah advisors in Bangladesh. Besides, it employs document analysis method to strengthen the findings. The study finds out that even though wa‘d has much potential, it has been used only in three consumer banking products. Due to the stringent position

¹ PhD Candidate, Department of Shariah and Economics, Academy of Islamic Studies, University of Malaya, Kuala Lumpur, farukabdullah77@gmail.com

² Senior Lecturer, Department of Shariah and Economics, Academy of Islamic Studies, University of Malaya, Kuala Lumpur, asmak@um.edu.my

of the Shariah scholars, it is not possible to practice remarkable treasury products as well as some consumer products. The study recommends that the Shariah scholars should be more flexible in exercising legal reasoning (ijtihad). Together with the wa'd, muwā'adah and wa'dān can be two viable concepts for more product innovation in Bangladesh. The study might be useful for the practitioners in other jurisdictions. Furthermore, it adds new knowledge for Islamic banking product development.

Keywords: *wa'd, Islamic bank, Islamic banking product, Bangladesh, Shariah*

INTRODUCTION

In Islamic banking practices, banks cannot simply provide loans to their customers. Instead, the bank purchases a commodity from the market and sells it to the customer at a profit. However, the bank may encounter loss in case the customer does not purchase the commodity from the bank after the bank has purchased it from the market. Therefore, before purchasing the commodity, the bank needs an assurance that the customer will purchase the item from the bank. Thus, *wa'd* is practiced here as a risk management instrument where the customer promises to purchase a commodity from the bank. In addition, *wa'd* is an excellent alternative for forward contracts. As an example, in the case of *salam*, the commodity type, quantity and date of delivery etc. must be specified, but if *wa'd* is used in lieu of *salam* then it is quite flexible as there is no restriction of commodity delivery or pricing from the Shariah perspective.³

³ Nurdianawati Irwani Abdullah, 'Status and Implications of Promise (*wa'd*) in Contemporary Islamic Banking,' *Humanomics* 26/2 (2010): 84-98; Marjan Muhammad, Hakimah Yaacob & Shabana Hasan, 'The Bindingness and Enforceability of a Unilateral Promise (*wa'd*): An Analysis from Islamic Law and Legal Perspectives,' (Kuala Lumpur: International Shari'ah Research Academy for Islamic Finance (ISRA), Research paper no. 30, 2011), 2; Muhammad Taqi Usmani, *An Introduction to Islamic Finance* (The Hague: Kluwer Law International, 2002), 84.

Considering these advantages, different types of products based on *wa'd* have been innovated throughout Islamic banking developments.⁴ Bangladesh is one of the significant countries for Islamic finance. It has notable market share in Islamic banking where only the full-fledged Islamic banks comprise 16.85 percent of the total banking asset.⁵ However, sufficient information is not available on the application of *wa'd* in Islamic banking products. There is a possibility that *wa'd* plays a very important role to develop new products in Islamic banking in Bangladesh.

Therefore, this study aims at analyzing the *wa'd*-based products in the Islamic banks in Bangladesh. It attempts to find out the Shariah issues as well as other challenges in the *wa'd*-based products. Furthermore, it provides some suggestion for further innovation of products based on *wa'd*.

At first, the paper provides the definition of *wa'd* and its status in the Shariah. Following that, an overview on the Islamic banking in Bangladesh is given. In addition, the paper compares the status of *wa'd* with Bangladeshi Contract Act 1872. Finally, it demonstrates the *wa'd*-based products in the Islamic banks of Bangladesh and discusses the challenges, Shariah issues and prospects related to those products.

WHAT IS *WA'D*?

Literally, *wa'd* means promise. It is a verbal noun. A few words provide similar meaning e.g. '*iddah* and *maw'idah*. The word *wā'id* is derived from the same root word of *wa'd* but it is used to promise for a bad deed while *wa'd* is used

⁴ Mohd Saiful Azli Md Ali, 'Wa'ad dan Aplikasinya di dalam Kontrak Hibrid Islam: Kajian di Bank Muamalat Malaysia Berhad,' (Academic exercise, University of Malaya, Kuala Lumpur, 2011); Shofian Ahmad & Azlin Alisa Ahmad, 'Konsep Wa'd dan Aplikasinya di dalam Sukuk,' *Proceedings of the Malaysian National Economic Conference III* (Bangi: School of Economics, Faculty of Economics and Management, Universiti Kebangsaan Malaysia, 2008), 222-227; Chady C. Atallah & Wafica A. Ghoul, 'The Wa'd-Based Total Return Swap: Sharia Compliant or Not?', *The Journal of Derivatives* 19/2 (2011): 71-89.

⁵ Bangladesh Bank, *Annual Report 2010-2011* (Dhaka: Bangladesh Bank, 2012); Iqbal Kabir Mohon, *Islami Orthoniti O Banking* (Dhaka: Zerine Publishers, 2011); Bangladesh Bank, *Financial Stability Report 2012*, 43.

to promise for a good deed. When two persons promise to each other then it is called *muwā'adah*.⁶

The technical definition of *wa'd* is not far different from its literary definition. Nevertheless, both the classical and the contemporary scholars have defined *wa'd* which is somewhat more precise than its literal meaning. Badr al-Dīn al-'Aynī, the commentator of al-Bukhārī defines *wa'd* as: "Technically, *wa'd* is a declaration that something good will be done to someone in the future, and breaking the *wa'd* means to turn a promise to a contradiction."⁷ Based on this definition, it is clear that *wa'd* is for a good action only. While literally *wa'd* is used for both the good and bad actions then technically *wa'd* is defined for a good action. Besides, the action of a *wa'd* will be done in the future. Therefore, the action of a *wa'd* is not required to be accomplished on the spot rather it can be fulfilled in the future.

Similarly, another classical scholar Ibn 'Arafah defines it as: "It is a declaration from the declarer that he intends to perform a good deed in the future."⁸ This definition also says that *wa'd* is a declaration for performing a good action in the future. It is noteworthy to mention that *wa'd* is made by only one party. Unlike a contract, there is no mutual agreement in *wa'd*. Rather, *wa'd* is a voluntary offer from one person to do something good to another person. Moreover, in normal circumstances there is no remuneration for the promisor. In a *wa'd*, the promisor voluntarily offers to do something good to the promisee.

Along with the classical scholars Nazīh Ḥammād, a contemporary Islamic jurist defines *wa'd* as follows: "It is a declaration of someone for performing an act in the future, which is related to other party irrespective of whether it is good or bad."⁹ This definition is contradictory with the previous definition.

⁶ Abū al-Ḥossayn Aḥmad bin Fāris bin Zakariyā, *Mu'jam Maqā'is al-Lughah*, vol. 6, ed. 'Abd al-Salām Muḥammad Hārūn (Beirut: Dār al-Fikr, 1979), 125; Muḥammad bin Mukarram bin 'Alī bin Aḥmad bin Manzūr, *Lisān al-'Arab*, vol. 55 (Cairo: Dār al-Ma'ārif, n.d.), 4871; Aḥmad bin Muḥammad bin 'Alī al-Fayūmī al-Maqrī, *al-Miṣbāḥ al-Munīr* (Beirut: Maktabatu Lubnān, 1987), 255; Ismā'īl bin Ḥammād al-Jawhārī, *al-Ṣiḥḥah Tāj al-Lughah wa Ṣiḥḥah al-'Arabiyyah*, vol. 2, ed. Aḥmad 'Abd al-Ghafūr 'Aṭṭār (Beirut: Dār al-'Ilm li al-Malāyīn, 1984), 551-552.

⁷ Badr al-Dīn Abī Muḥammad Maḥmūd bin Aḥmad al-'Aynī, *Umdah al-Qārī Sharḥ Ṣaḥīḥ al-Bukhārī*, vol. 1, ed. 'Abd Allāh Maḥmūd Muḥammad 'Umār (Beirut: Dār al-Kutub al-'Ilmiyyah, 2001), 347.

⁸ Muḥammad bin Aḥmad bin Muḥammad 'Alīsh, *Fatḥ al-'Alī al-Mālik fī al-Fatwā 'alā Madhhab al-Imām Mālik*, vol. 1 (Cairo: Muṣṭafā al-Bābī al-Halabī, 1958), 254.

⁹ Nazīh Ḥammād, *Mu'jam al-Muṣṭalaḥāt al-Māliyyah wa al-Iqtiṣādiyyah fī Lughat al-Fuqahā'* (Damascus: Dār al-Qalam, 2007), 473.

In this definition, declaration of performing both good and bad act in the future are considered as *wa'd* whereas in the previous definitions only good act is included in *wa'd*. Another distinctive part of this definition is that the performance of the good/bad action should be related to another person. If a person declares to perform an action in the future for him/herself then it is not regarded as *wa'd*.

Muhammad Ayub defines *wa'd* as “one party binds itself to do some action for the other.”¹⁰ Muhammad Ayub emphasizes on the binding quality of *wa'd* where one party is bound to do some action for another party. This definition also indicates that *wa'd* is made for a good action.

Wa'd should be specified for a good act. This is because; a promise to perform something bad to someone is not commonly permissible in Islam. Therefore, *wa'd* can be defined as “a declaration from one party to perform something good to other party in the future”.

THE STATUS OF *WA'D* IN THE SHARIAH

In general, *wa'd* is permissible (*mubāḥ*) in Islamic law. A person who promises to perform something in the future should be sincere in his heart. If the person promises that, he will perform something in the future but in his heart he does not intend to do it then it is impermissible (*ḥarām*) in Islamic law. Moreover, while making a promise the promisor should pronounce the phrase ‘if Allah wills’ (*In Shā Allah*). This is because, as human beings, we do not know whether we will be able to perform something in the future or not.¹¹ Moreover, it is not permissible to promise for an evil action. If someone promises to commit adultery or drink alcohol then it is not lawful in Islam.¹² Islamic scholars unanimously agreed on this matter. However, there is disagreement amongst scholars as to whether or not a promise is legally binding for the promisor.

The classical and contemporary scholars are divided into three groups of opinions on the binding quality of *wa'd* which is firstly, *wa'd* is recommended

¹⁰ Muhammad Ayub, *Understanding Islamic Finance* (West Sussex: John Wiley & Sons Ltd, 2007), 114.

¹¹ Abū Bakr Aḥmad bin ‘Alī al-Rāzī al-Jaṣṣāṣ al-Ḥanafī, *Aḥkām al-Qur’ān*, vol. 3 (Beirut: Dār al-Kutub al-‘Arabī, n.d.), 442; Abū ‘Abd Allāh Muḥammad bin Aḥmad bin Abū Bakr al-Qurṭubī, *al-Jāmi’ li Aḥkām al-Qur’ān*, vol. 20 (Beirut: Al-Resalah Publishers, 2006), 434.

¹² Abū Muḥammad ‘Alī bin Aḥmad bin Sa’īd bin Ḥazm, *al-Muḥallā bi al-Āthār*, ed. Aḥmad Muḥammad Shākīr, vol. 8 (Egypt: Idārah al-Ṭibā‘ah al-Munīriyyah, 1352 AH), 28.

(*mustahab*) but not binding. Secondly, *wa‘d* is always compulsory. Thirdly, *wa‘d* is binding but with conditions and exceptions. The following section provides a brief overview on the scholars’ opinion on this issue.

WA‘D IS RECOMMENDED BUT NOT COMPULSORY

Imām Shāfi‘ī, Abū Ḥanīfah and the majority of the scholars believe that *wa‘d* is recommended (*mustahab*). Therefore, if the promisor breaks the promise then it means he has left a noble action and committed a disliked (*makrūh*) deed. However, he is not sinful for his action.¹³

Badr al-Dīn al-‘Aynī mentions that *wa‘d* is recommended to fulfill according to the consensus of the scholars and it is not compulsory. Allah SWT has praised those who have fulfilled their promises. It is part of a noble character.¹⁴

Al-Sarkhasī states that promises are not binding. He provides an example that if someone says that he will go to Allah’s house (Makkah) and he intends a promise in his heart then it is not binding on him as promises are not binding. However, it is recommended for him to fulfill his promise.¹⁵

Ibn ‘Ābidīn was asked, if Zayd promised to ‘Amar to donate him crops of a specific land but after harvesting he had refused to give, then whether it was allowed to force Zayd to fulfill his promise. Ibn ‘Ābidīn replied that according to the Shariah, it was not mandatory for him to fulfill his promise. If he fulfilled the promise then it was just fine.¹⁶

Al-Buhūtī, a Ḥanbalī scholar cites that if a person says that I will pay your debt or fill up whatever debt you have, then by this statement, he does not become the guarantor because it is a promise and it is not an obligation.¹⁷

Ibn Ḥazm mentions that whosoever promises to someone that he will give him a specific or unspecific quantity of wealth, or he will help him in any deed - whether he swears it or not - it is not obligatory for him to fulfil it and

¹³ Muḥyī al-Dīn Abī Zakariyya Yaḥyā bin Sharf al-Nawawī, *al-Adhkār min Kalāmī Sayyidi al-Abrār* (Beirut: Dār al-Minhāj, 2005), 510-511; Ibn ‘Alīsh, *Fath al-‘Alī al-Mālik*, vol. 1, 254; Ibn Ḥazm, *al-Muḥallā*, vol. 8, 28.

¹⁴ Badr al-Dīn Abī Muḥammad Maḥmūd bin Aḥmad al-‘Aynī, *‘Umdah al-Qārī*, vol. 13, 366.

¹⁵ Shams al-Dīn Muḥammad bin Aḥmad al-Sarkhasī, *Kitāb al-Mabsūṭ*, vol. 4 (Beirut: Dār al-Ma‘rifah, 1989), 132.

¹⁶ Muḥammad Amīn bin ‘Umār bin ‘Abd al-‘Azīz ‘Ābidīn, *al-‘Uqūd al-Ḍurriyyah fī Tanqīḥ al-Fatāwā al-Ḥāmidīyyah*, vol. 2 (India: n.p., 1819), 352-353.

¹⁷ Maṣṣūr bin Yūnus bin Idrīs al-Buhūtī, *Kashshāf al-Qinā’ ‘an Matn al-Iqnā’*, ed. Muḥammad Amīn al-Ḍinnāwī, vol. 3 (Beirut: ‘Ālam al-Kutub, 1997), 79.

it will be disliked for him (if he does not fulfil it); if he fulfils it then it would be better for him.¹⁸

Among the contemporary scholars Rafic Yunus al-Masri views that *wa'd* is not binding on the promisor. He argues that although *wa'd* is an alternative of forbidden sale contracts (e.g. selling something that the seller does not own) it is not permissible for the *wa'd* to be binding. This is because a binding promise is similar to a contract. He claims that any views for making *wa'd* binding directly or indirectly on both of the parties or either one of the parties is not based on a legitimate ground.¹⁹

WA'D IS ALWAYS OBLIGATORY (WĀJIB) ON THE PROMISOR

A notable number of scholars hold that *wa'd* is always compulsory on the promisor. Among them who hold this view is Ibn Shubrumah who cites that *wa'd* is always compulsory and the promisor should be forced to fulfill his promise.²⁰ Ibn Ḥajar mentions that 'Umār bin 'Abd al-'Azīz, Ḥasan al-Baṣrī, Sa'īd bin 'Amr bin al-Ashwa', Samurah bin Jundūb (may Allah SWT be pleased with him) and Ishāq bin Ibrāhīm viewed that *wa'd* was compulsory.²¹

Ibn al-'Arabī states that the most accurate opinion to me is that, it is compulsory to fulfill the *wa'd* in all circumstances except where there is an excuse.²² Al-Jaṣṣāṣ says that if anyone obliges himself to perform a religious act or a contract then it is compulsory for him to fulfill it. If he does not fulfill his promise then he will be counted among those whom Allah SWT has criticized.²³

In the commentary of *al-Furūq*, Ibn al-Shāṭ resolves that most of the evidences of the Shariah require not to break the promise. He added that there

¹⁸ Ibn Ḥazm, *al-Muḥallā*, vol. 8, 28.

¹⁹ Rafic Yunus Al-Masri, 'The Binding Unilateral Promise (Wa'd) in Islamic Banking Operations: Is It Permissible for a Unilateral Promise (Wa'd) to be Binding as an Alternative to a Proscribed Contract?' *Journal of King Abdul Aziz University: Islamic Economics* 15/1 (2002): 32.

²⁰ Ibn Ḥazm, *al-Muḥallā*, vol. 8, 28.

²¹ Aḥmad bin 'Alī bin Ḥajar al-'Asqalānī, *Fath al-Bārī 'Sharḥ Ṣaḥīḥ al-Bukhārī*, vol. 5, ed. Muḥammad Fu'ād 'Abd al-Bāqī (Cairo: al-Maktabah al-Salafiyah, n.d.), 290.

²² Abū Bakr Muḥammad bin 'Abd Allāh bin 'Arabī, *Aḥkām al-Qur'ān*, vol. 4, ed. Muḥammad 'Abdul Qādir 'Aṭā (Beirut: Dār al-Kutub al-'Ilmiyyah, 2003) 243.

²³ Al-Jaṣṣāṣ, *Aḥkām al-Qur'ān*, 442.

is sin if the promise is broken based on what is obvious in the Shariah except when it is difficult to fulfill.²⁴

Al-Ghazālī concludes that when the binding quality of *wa'd* is comprehended then it must be fulfilled except when there is an excuse. If the promisor at the time of making the promise determines that he will not fulfill the promise then it is absolutely a hypocrisy.²⁵

Among the contemporary scholars, Yūsuf al-Qaraḍāwī believes that *wa'd* is compulsory for the promisor. He states that the weightiest opinion to him is that *wa'd* is religiously binding on the promisor based on what is apparent from the texts of the Quran and Sunnah. Furthermore, he argues that the classical scholars who viewed that *wa'd* was compulsory, did not differentiate between what is legally binding and what is religiously binding. It is apparent from their thoughts that everything that is compulsory by religion should be binding legally as well.²⁶

WA'D IS BINDING WITH CONDITIONS

The third group of scholars believe that a promise is binding but subject to conditions. Their opinions can be divided into two types. Firstly, the promise is binding if it is connected to a cause even though the promisee did not enter into any action based on the promise. Secondly, the promise is compulsory if it is connected to a cause and the promisee has entered into an action based on this promise.

Ibn Nujaym, Aṣḡagh and others are the proponents of the view that a promise is binding if it is attached to a cause, even though the promisee did not enter into any action based on the promise. Ibn Nujaym mentions that *wa'd* is not binding unless it is attached to a cause.²⁷ Therefore, the Ḥanafī scholars constructed the maxim that “the promise which is attached to a cause is compulsory”.²⁸

²⁴ Ibn al-Shāṭ, *Idrār al-Shurūq 'alā Anwā' al-Furūq*, printed with Shihāb al-Dīn Abī al-Abbās Aḡmad bin Idrīs al-Qarāfī, *al-Furūq*, vol. 4, ed. 'Umar Ḥasan al-Qiyyām (Beirut: Resalah Publishers, 2003), 43.

²⁵ Abū Ḥāmid Muḡammad bin Muḡammad bin Muḡammad al-Ghazālī, *Iḡyā' 'Ulūm al-Dīn* vol. 9 (Cairo: Dār al-Sha'b, n.d.), 1580.

²⁶ Yūsuf al-Qaraḍāwī, 'al-Wafā' bi al-Wa'd,' *Majallah Majma' al-Fiqh al-Islāmī* 5/2 (1988): 631-634.

²⁷ Zayn al-Dīn bin Ibrāhīm bin Nujaym, *al-Ashbāh wa al-Nazā'ir*, vol. 2, ed. Muḡammad Muḡī' al-Ḥāfīz (Damascus: Dār al-Fikr, 2005), 344.

²⁸ *Majallah al-Aḡkām al-'Adliyyah* (n.p.: n.p., 1968), 26 (Code 84).

Ibn Rushd mentions that he asked Aṣḥāgh about his opinion on the fulfillment of a promise attached to a cause. Ibn Rushd provided an example that, a person approached another person and asked for a loan of one hundred *dīnār* saying that he wanted to get married. Then, the person promised to give him a loan of the said amount. After the person had got married, the promisor refused to give him the loan. Aṣḥāgh remarked that in this case, the promisor is required to fulfill the promise based on the cause attached to it. Moreover, the authority might force him to fulfill his promise. Ibn Rushd asked further to Aṣḥāgh as to what his opinion was if the promisor would inform the promisee before he got married that he would not loan him anything. Aṣḥāgh replied that the promisor could not withdraw his promise regardless of the fact that the promisee had already got married. When he promised him relating to the cause of marriage and the promisee informed him about his need for the loan then the promise was binding.²⁹

On the other hand, the famous opinion in the Mālikī School is that the promise is compulsory if it is attached to a cause and the promisee has entered into an action based on this promise. Imām Mālik, Saḥnūn, al-Lakhmī and others are the proponent of this opinion. Imām Mālik states that in a case, a person says to another, “If you buy a slave then I will help you with one thousand *dirham*.” When the promisee buys the slave then it is compulsory for the promisor to fulfill his promise.³⁰

Ibn Rushd mentions that he asked Saḥnūn about the binding quality of a promise then he replied that, if a person said to another, “you repair your house and I will give you loan” or, “Go out for pilgrimage and I will give you loan” or, “Get married” and other similar things, which leads the promisee to enter into an action based on this promise then this promise is compulsory.³¹

Similar to this, al-Lakhmī resolves that if a person says to another, “you buy the particular portion of the land and I will pay you”, the promise is compulsory for the promisor after the promisee has bought the land. This is because; the promise has led the promisee to buy the land.³² The similar opinion is stated by Ibn Rushd.³³

²⁹ Abū al-Walīd bin Rushd al-Qurṭubī, *al-Bayān wa al-Taḥṣīl wa al-Sharḥ wa al-Tawjīh wa al-Ta’līl fī Masā’il al-Mustakhrajah*, vol. 15, ed. Muḥammad Hajjī (Beirut: Dār al-Gharb al-Islāmī, 1988), 343.

³⁰ Mālik bin Anas al-Aṣḥāghī, *al-Mudawwanah al-Kubrā*, vol. 3 (Beirut: Dār al-Kutub al-‘Ilmiyyah, 1994), 270.

³¹ Abū al-Walīd bin Rushd al-Qurṭubī, *al-Bayān wa al-Taḥṣīl*, vol. 15, 343.

³² Ibn ‘Alīsh, *Fath al-‘Alī al-Mālik*, vol. 1, 306-307.

³³ Ibn ‘Alīsh, *Fath al-‘Alī al-Mālik*, vol. 1, 254.

Moreover, most of the contemporary scholars outweighed this opinion. Islamic Fiqh Academy concluded that:

“According to Shariah, a promise (made unilaterally by the purchase orderer or the seller), is morally binding on the promisor, unless there is a valid excuse. It is however legally binding if made conditional upon the fulfilment of an obligation, and the promisee has already incurred expenses on the basis of such a promise. The binding nature of the promise means that it should be either fulfilled or compensation is paid for damages caused due to unjustifiable non-fulfilment.”³⁴

The scholars concluded that a promise is always religiously binding but it is only legally binding on the promisor when the promise is attached to a cause and the promisee has entered into an action based on this promise.

OVERVIEW OF ISLAMIC BANKING IN BANGLADESH

Before we study the application of *wa‘d* in Bangladeshi Islamic banks, it is necessary to be familiar with the Islamic banking system in Bangladesh. An overview on the Islamic banking in Bangladesh provides deeper understanding on its Shariah-based products and services.

Out of 47 banks in Bangladesh, there are seven full-fledged Islamic banks with 750 branches throughout the country. Besides, there are 16 other conventional banks, which are providing Islamic banking services through Islamic banking branches. The full-fledged Islamic banks are as follows:

- 1) Islami Bank Bangladesh Limited
- 2) Al-Arafah Islami Bank Limited
- 3) Social Islami Bank Limited
- 4) Shahjalal Islami Bank Limited
- 5) Export Import Bank of Bangladesh Limited
- 6) First Security Islami Bank Limited
- 7) ICB Islamic Bank Limited.

On the other hand, the conventional banks that have Islamic banking branches are as follows:

- 1) Dhaka Bank Limited

³⁴ Islamic Fiqh Academy, 5th session, resolution no 40-41, 1988, <http://www.fiqhacademy.org.sa/qrarat/5-2.htm>, retrieved on 23 August 2014.

- 2) Arab Bangladesh Bank Limited
- 3) Prime Bank Limited
- 4) Jamuna Bank Limited
- 5) The City Bank Limited
- 6) Southeast Bank Limited
- 7) Premier Bank Limited
- 8) Standard Chartered Bank Limited
- 9) Bank Alfalah Limited
- 10) Trust Bank Limited
- 11) Standard Bank Limited
- 12) Pubali Bank Limited
- 13) Sonali Bank Limited
- 14) Agrani Bank Limited
- 15) Bank Asia Limited
- 16) National Bank of Pakistan.

According to Bangladesh Bank, at the end of December 2012, the total deposit of Islamic banking sector was BDT 1017.9 billion which was 18.9 percent of the total deposit of the banking system in Bangladesh. At the same period, the total credit of Islamic banking sector was BDT 910.1 billion which captured 21.1 percent of the total banking sector credit of the country.³⁵ Excluding the Islamic banking windows, the full-fledged Islamic banks comprise 16.85 percent of the total asset, 19.85 percent of the total investment, 18.33 percent in total deposit, 14.3 percent in total equity and 17.1 percent in total liabilities of the banking sector at the end of December 2012.³⁶

There are several laws that govern the banks and financial institutions in Bangladesh, which are the Bank Companies Act 1991, the Bangladesh Bank Order 1972, the Securities and Exchange Commission Act 1993 and the Income Tax Ordinance 1984. There is no separate law for the operation of Islamic banks and financial institutions. Therefore, all Islamic banks in Bangladesh are required to follow the laws that govern the conventional banks and financial institutions. When Islamic banking was introduced in Bangladesh then no separate law was passed but some clauses were incorporated in the

³⁵ Bangladesh Bank, *Annual Report 2012-2013*, 37.

³⁶ Bangladesh Bank, *Financial Stability Report 2012*, 43.

Bank Companies Act and some amendments were made in the Income Tax Ordinance.³⁷

Bangladesh Bank (BB) is the central bank of the country that monitors, regulates and supervises both Islamic and conventional banks. Bangladesh bank generally provides an equal treatment to both Islamic and conventional banks. However, it has given some special provisions to Islamic banks. It is among the special provision that Islamic banks are permitted to keep their Statutory Liquidity Requirement (SLR) with Bangladesh Bank at the rate of 10 percent of their total deposit liabilities whereas the conventional banks are required to maintain 20 percent. Besides, Islamic banks are independent to fix their profit and loss ratio as well as the markup rates based on their own policy and banking situation.³⁸ Bangladesh bank does not have a separate section to monitor Islamic banking but it has a research and Islamic economics division under the department of research to analyze the state of the Islamic finance industry in Bangladesh.³⁹

In 2009, Bangladesh bank issued guidelines on the operation and management of Islamic banks, which complements the current banking laws. The guidelines are considered as the first attempt by the Bangladesh bank to provide an operational framework for Islamic banks. The guidelines include the mechanism of Shariah and corporate governance, product definition and operational framework, alternative investment modes and conversion of a conventional bank to an Islamic bank. However, they are having some shortcomings. One of the major criticisms against these guidelines is that it is optional for an Islamic bank to have a Shariah board which is contradictory to general worldwide practice.⁴⁰

Bangladesh bank does not have a Shariah board to supervise the Islamic banks in Bangladesh. However, a private non-corporate body is named as “Central Shari’a Board for Islamic Banks of Bangladesh (CSBIB)”. All the Islamic banks in Bangladesh are the member of CSBIB. CSBIB consists of a number of prominent scholars in Bangladesh. It arranges regular meetings to discuss the Shariah issues related to the Islamic banking industry in Bangladesh.

³⁷ Abu Umar Faruq Ahmad & M. Kabir Hassan, ‘Regulation and Performance of Islamic Banking in Bangladesh’, *Thunderbird International Business Review* 49/2 (2007): 256-258.

³⁸ Abu Umar Faruq Ahmad & M. Kabir Hassan, ‘Regulation and Performance’, 255.

³⁹ BMB Islamic, *Global Islamic Finance Report (GIFR) 2011* (London: BMB Islamic UK Limited, 2011), 260.

⁴⁰ BMB Islamic, *Global Islamic Finance Report (GIFR) 2011*, 260.

Moreover, it conducts timely research and publishes books and journals to serve its members.⁴¹

THE LEGAL STATUS OF *WA'D* IN THE CIVIL LAW OF BANGLADESH

As there is no separate law for the operation of Islamic banks in Bangladesh, any Islamic banking dispute should go under the civil court. In the civil law of Bangladesh, there are some clauses in the Contract Act 1872 where the concept of promise is discussed in relation with a contract.

The section 2 (b) of the contract law says:

“When the person to whom the proposal is made signifies his assent thereto, the proposal is said to be accepted. A proposal, when accepted becomes a promise.”

It means that when the person to whom it is made accepts a proposal then it becomes a promise. Therefore, a proposal is an important element of a promise. Section 2 (a) defines proposal as:

“When one person signifies to another his willingness to do or to abstain from doing anything, with a view to obtaining the assent of that other to such act or abstinence, he is said to make a proposal.”

It is understood from this clause that a proposal is someone's offer to perform or to abstain from something subject to the consent of the person to whom it is offered. Based on this, it can be said that there is a difference between the concept of promise and *wa'd*. The performance of *wa'd* does not rely on the acceptance of the promisee while in the Act 1872, the promisee should accept the offer of the promisor to make a promise. In this sense, the concept of proposal is similar to the concept of *wa'd* in Islamic law.

Apart from that, it is stated in the Act of 1872 that every promise is an agreement if it has a consideration and when an agreement is enforceable by law then it is a contract. Section 2 (e) mentions:

“Every promise and every set of promises, forming the consideration for each other, is an agreement.”

After that, section 2 (h) states:

“An agreement enforceable by law is a contract.”

⁴¹ BMB Islamic, *Global Islamic Finance Report (GIFR) 2011*, 260.

Therefore, it can be resolved that a promise having a consideration is a contract in the Act of 1872. It means that there is similarity between a promise and a contract in the civil law of Bangladesh. However, consideration is described in section 2 (d) as:

“When, at the desire of the promisor, the promisee or any other person has done or abstained from doing, or does or abstains from doing, or promises to do or to abstain from doing, something, such act or abstinence or promise is called a consideration for the promise.”

It means that when a promisee starts to perform or abstain from something relying on the promise then it is called consideration. The promise that has a consideration becomes a contract and every contract is binding in the law. Section 37 reads:

“The parties to a contract must either perform, or offer to perform, their respective promises, unless such performance is dispensed with or excused under the provisions of this Act, or of any other law.”

Consequently, if the promisor does not fulfill his promise then he should compensate the promisee in case of loss incurred to the promisee. Section 73 mentions:

“When a contract has been broken the party who suffers by such breach is entitled to receive, from the party who has broken the contract, compensation for any loss or damage caused to him thereby, which naturally arose in the usual course of things from such breach, or which the parties knew, when they made the contract, to be likely to result from the breach of it.”

Based on the clauses mentioned above, it seems that the Mālikī jurists’ opinion related to the binding quality of *wa’d* is similar to the Contract Act of 1872. The Mālikīs view that a promise is binding on the promisor if it is attached to a cause and the promisee has started an action based on that promise. Similarly, in the Contract Act of 1872, the term ‘consideration’ denotes that when the promisee relying on the promise starts an action or abstains from an action then it is binding on the promisor. However, the contract law recognizes a promise when it is accepted by the promisee. Thus, a promise is similar to a contract in the Contract Act of 1872. On the other hand, *wa’d* is a voluntary offer which does not rely on the acceptance of the promisee.

RESEARCH METHODOLOGY

The objective of this study is to achieve in-depth knowledge on the application of *wa'd* in Islamic banks in Bangladesh. Therefore, case study should be the most suitable method.⁴² One of the advantages of case study is that, it permits the researcher to communicate with the respondents. Therefore, it provides opportunities to explore more details and ask for deeper explanation of the answers.⁴³ Joachim K. Blatter mentions, it is widely acknowledged that case studies have become the key foundation of theoretical innovation.⁴⁴ Three Islamic banks in Bangladesh have been chosen for this study. The reason to choose three banks is, to cater for in-depth information. This study is concerned with deep knowledge on the application of *wa'd*. Therefore, the number of the banks has been minimized so that rich information can be gathered and analyzed from the limited number of sources. The three banks chosen for this study are:

- (1) Islami Bank Bangladesh Limited (IBBL)
- (2) Shahjalal Islami Bank Limited (SIBL)
- (3) Prime Bank Limited (PBL).

The above-mentioned banks are selected based on their type, precedence in establishment, size, popularity and communication availability. Islami Bank Bangladesh Limited (IBBL) is the oldest and biggest Islamic bank in Bangladesh and it is the most popular in the country. After that, Prime Bank Limited (PBL) is the first conventional bank in Bangladesh that has started an Islamic banking window. Thirdly, Shahjalal Islami Bank Limited (SIBL) is another notable full-fledged Islamic bank in Bangladesh after IBBL.⁴⁵

⁴² Monique Hennink, Inge Hutter & Ajay Bailey, *Qualitative Research Methods* (London: SAGE Publications Ltd., 2011), 10.

⁴³ Dacheng Zhao & Michael Singh, 'Why do Chinese-Australian Students Outperform their Australian Peers in Mathematics: A Comparative Case Study', *International Journal of Science and Mathematics Education* 9/1 (2011): 69-87.

⁴⁴ Joachim K. Blatter, 'Case Study', in *The SAGE Encyclopedia of Qualitative Research Methods*, ed. Lisa M. Given (Thousand Oaks: Sage Publications Inc., 2008), 68-72.

⁴⁵ Muhammad Nurul Islam, *Bangladeshe Islami Bank Protishthar Andolonar Itihash* (Dhaka: Amar Desh Publications Ltd., 2010); Iqbal Kabir Mohon, *Islami Orthonito o Banking*, 137; Mohammad Abdul Mannan, *Islami Bank Babostha* (Dhaka: Central Shari'a Board for Islamic Banks of Bangladesh, 2010), 47; Abdul Awwal Sarker, 'Islamic Banking in Bangladesh: Achievements & Challenges,' *Journal of Islamic Economics, Banking and Finance* 1/1 (2005): 2; BMB Islamic, *Global Islamic Finance Report (GIFR) 2011*, 259.

The study employs document analysis method to collect the data. Margaret Olson states that documents present a precious source of data in case study research. Together with interview and observations, they contain one of the important types of data sources for explanation and analysis in case study research.⁴⁶ Document analysis is defined as a systematic process for evaluating and examining document including printed or electronic forms. Similar to other analytical research techniques, document analysis necessitates that data should be analyzed and explained so that, the meaning is brought out, understanding is achieved, and empirical data is acquired. Document analysis is an economical way to get empirical data. It is less time-consuming and easily obtainable.⁴⁷ In this study, document analysis includes assessing the documents used by the Islamic banks. Primarily, annual reports, Product Disclosure Sheet (PDS), product application form, product brochure, Government act etc. are examined.

Finally, qualitative interviews are conducted to achieve in-depth information. Qualitative interview is mandatory to get rich and in-depth information.⁴⁸ The study employs semi-structured interview. Semi-structured interview is usually arranged through a series of prearranged open-ended questions where further questions come out from the conversation between the interviewer and the interviewee. Semi-structured detailed interviews are predominantly practiced interviewing technique for qualitative research.⁴⁹ For this research, several Shariah officers, product development officers as well as Shariah committee members of several Islamic banks in Bangladesh were interviewed.

⁴⁶ Margaret Olson, 'Document Analysis', in *Encyclopedia of Case Study Research*, ed. Albert J. Mills, Gabrielle Durepos, and Eiden Wiebe (Thousand Oaks: Sage Publications Inc., 2010), 319-21.

⁴⁷ Glenn A. Bowen, 'Document Analysis as a Qualitative Research Method,' *Qualitative Research Journal* 9/2 (2009): 27-40.

⁴⁸ Daniel W. Turner, 'Qualitative Interview Design: a Practical Guide for Novice Investigators,' *The Qualitative Report* 15/3 (2010): 754; Nigel King & Christine Horrocks, *Interviews in Qualitative Research* (London: SAGE Publications Ltd., 2010), 1.

⁴⁹ Jennifer Mason, 'Semistructured Interview,' in *The SAGE Encyclopedia of Social Science Research Methods*, ed. Michael S. Lewis-Beck, A. Bryman & Tim Futing Liao (Thousand Oaks: Sage Publications, Inc, 2004), 1021-1021; Philipp Köker, 'Semi-Structured Elite Interviews in a Nested-Analysis Framework: Studying Presidential Activism in Central and Eastern Europe', in *SAGE Research Methods Cases* (London: SAGE Publications, Ltd., 2014). doi: <http://ezproxy.um.edu.my:2479/10.4135/978144627305014534927>.

WA'D-BASED PRODUCTS IN THE ISLAMIC BANKS OF BANGLADESH

The three banks studied in Bangladesh have adopted the Mālikī scholars' opinion that *wa'd* is binding on the promisor if breaking the promise causes harm to the promisee. The promisor is obliged to compensate the promisee the amount of loss incurred to the promisee.⁵⁰ Mostly *wa'd* is used in the consumer banking products. There is no usage of *wa'd* in treasury products. Discussions are going on among the scholars on the permissibility of Islamic FX forward. The consumer banking products which employ *wa'd* in their product structures are:

- (1) *Bay' Murābahah* on Purchase Orderer
- (2) *Bay' Mu'ajjal*
- (3) *Hire Purchase under Shirkatul Melk* (HPSM).

All the three banks studied in Bangladesh apply these three products in the same way. Islami Bank Bangladesh Limited (IBBL) is actually the leading Islamic bank in Bangladesh in terms of product innovation whereas others usually follow IBBL.⁵¹ The sections below discuss the operational steps of these products emphasizing the usage of *wa'd* element.

1. *Bay' Murābahah* on Purchase Orderer

Bay' murābahah means sale on profit. Technically, it is defined by IBBL as:

“A contract between a buyer and a seller under which the seller sells certain specific goods (permissible under Islamic Shariah and the Law of the land), to the buyer at a cost plus agreed profit payable in cash or on any fixed future date in lump-sum or by

⁵⁰ M. Shamsuddoha (Vice President, Shariah Secretariat, Research Unit, Islami Bank Bangladesh Limited), interview with the researcher, 7 April 2014; Mohammad Mizanur Rahman (Executive Officer, Islamic Banking Division, Prime Bank Limited), interview with the researcher, 7 April 2014; Md. Farid Uddin (Junior Assistant Vice President & Muraquib, Shahjalal Islami Bank Limited), interview with the researcher, 13 April 2014.

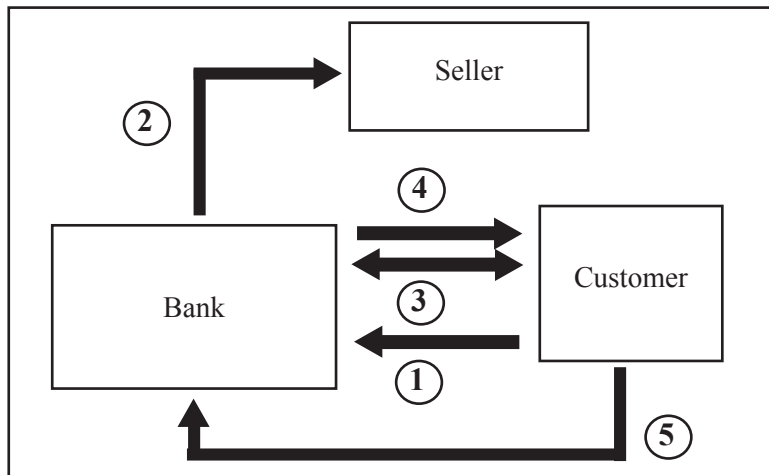
⁵¹ Mohammad Mizanur Rahman (Executive Officer, Islamic Banking Division, Prime Bank Limited), interview with the researcher, 7 April 2014; Md. Farid Uddin (Junior Assistant Vice President & Muraquib, Shahjalal Islami Bank Limited), interview with the researcher, 13 April 2014.

installments. The profit marked-up may be fixed in lump-sum or in percentage of the cost price of the goods.”⁵²

It means that *murābahah* is a cost plus profit sale. The profit can be based on a fixed amount or in proportion of the cost price of the commodity. The purchaser can pay the price of the goods either in lump sum or in installments.

This is the classical type of *murābahah*. However, there is a little modification in its practice by the Islamic banks in Bangladesh. It is called ‘*bay’ murābahah* on purchase orderer’. In this type of *murābahah*, three parties are the buyer, the seller and the bank as an intermediary trader between the buyer and the seller. The bank upon request of the customer and a promise to buy the goods from the bank purchases the goods from the seller and sells it to the customer with an agreed profit.⁵³ Three banks studied in Bangladesh practice *murābahah* on purchase order mostly for financing business products, house furniture and appliances. The figure below shows the practical steps of a *murābahah* on purchase orderer transaction.

Figure 1. *Murābahah* on Purchase Orderer.



Source: Interview with the bankers.

⁵² Islami Bank Bangladesh Limited, ‘Bai Murabaha’, *Islami Bank Bangladesh Limited* website, <http://www.islamibankbd.com/prodServices/prodServBaimurabaha.php>, retrieved on 8 July 2014.

⁵³ Muhammad Shamsul Huda & Muhammad Shamsuddoha, *Islami Banker Biniog Paddhoti: Shari’ahr Neetimala* (Dhaka: Islami Bank Bangladesh Limited, 2011), 17.

Practical steps:

1. The client proceeds to the bank and applies for the *murābahah* financing. The client promises to purchase the goods from the bank after the bank has purchased it.
2. The bank purchases the goods from the seller and takes possession of them.
3. The purchase and sale agreement is done between the bank and the client.
4. The bank delivers the goods to the customer.
5. The customer pays the selling price to the bank in installment.

There is a unilateral promise (*wa'ad*) in the above structure from the customer to the bank. Considering the promise of the customer, the bank purchases the specific goods and sells it to the customer. The *wa'ad* is very important here to minimize the risk of the bank. If the customer does not purchase the goods after the bank has purchased then the bank will incur loss. However, there is no application of *muwā'adah* (mutual promise) and *wa'dān* (two independent promises) in the above structure.⁵⁴

The terms and conditions of the *murābahah* contract reveal that the promise is binding on the customer. Moreover, Islamic banks can take security money from the customer as a security to fulfill the promise. If the promisor does not fulfill the promise then the bank can take the security money as a compensation based on the loss incurred. If there is no loss incurred to the bank in reality then the security money is returned to the customer. However, in normal practice, no security money is charged from the customer. The customer only undertakes to purchase the commodity from the bank on a piece of paper.⁵⁵

Mohammad Mizanur Rahman⁵⁶ reveals that in many cases the case of taking a promise is ignored by the bank. This frequently happens when a fake *murābahah* transaction takes place. In that case, the customer and the bank

⁵⁴ M. Shamsuddoha (Vice President, Shariah Secretariat, Research Unit, Islami Bank Bangladesh Limited), interview with the researcher, 7 April 2014; Nurul Kabir (Shariah Officer, Shariah Secretariat, Islami Bank Bangladesh Limited), interview with the researcher, 7 April 2014.

⁵⁵ M. Shamsuddoha (Vice President, Shariah Secretariat, Research Unit, Islami Bank Bangladesh Limited), interview with the researcher, 7 April 2014; Nurul Kabir (Shariah Officer, Shariah Secretariat, Islami Bank Bangladesh Limited), interview with the researcher, 7 April 2014.

⁵⁶ Mohammad Mizanur Rahman (Executive Officer, Islamic Banking Division, Prime Bank Limited), interview with the researcher, 7 April 2014.

officer both sign the *murābahah* agreement on a single meeting and then the bank merely transfers money to the customer's account. The bank does not really purchase the goods but just provides money to the customer. However, when the actual *murābahah* is practiced then *wa'd* plays a significant role here.

In IBBL and Prime bank, a separate document is used for *wa'd*. In case of Shahjalal Islami Bank, the application for *murābahah* and the promise is combined together. The customer will request the bank to purchase a commodity for him and at the same time will promise to purchase from the bank the specific product after the bank has purchased it. Apart from that, in Shahjalal Islami Bank the customer is appointed as *wakīl* to purchase the product on behalf of the bank.⁵⁷

2. Bay' Mu'ajjal

Bay' mu'ajjal means credit sale. In the Islamic banking practice, it is defined as:

*“An agreement between bank and client whereby bank delivers goods to the client upon deferred payment, i.e. the client shall pay the price at some future date at a time, by lump sum or by installment. Under this mode of investment, bank is not supposed to disclose cost price and profit separately.”*⁵⁸

It is comprehended that *bay' mu'ajjal* is a sale where the bank sells a commodity to the client on the spot but the customer pays the price at a later date by lump sum or installment. Sale in credit is the key feature of *bay' mu'ajjal*.

In Bangladesh, the practice of *bay' mu'ajjal* somehow resembles *bay' al-murābahah*. Similar to *murābahah*, the bank will purchase a commodity from the market after the client has requested the bank to purchase. After that, the bank will sell the commodity to the customer on credit. The bank usually determines a certain amount of profit on the goods purchased and sells to the

⁵⁷ Md. Farid Uddin (Junior Assistant Vice President & Muraquib, Shahjalal Islami Bank Limited), interview with the researcher, 13 April 2014.

⁵⁸ Shahjalal Islami Bank Limited, 'Islamic Mode of Investment', *Shahjalal Islami Bank Limited* website, <http://www.shahjalalbank.com.bd/investment.php>, retrieved on 8 July 2014.

customer on deferred basis. The client is required to pay the price within a specific date.⁵⁹

Nevertheless, there are a few differences between *bay' mu'ajjal* and *bay' al-murābahah*. The key characteristic of *murābahah* is the sale on profit whereas in *bay' mu'ajjal* the main factor is the sale on credit. In *bay' murābahah*, the profit is fixed and it is certain. On the other hand, the profit is not the main element in *bay' mu'ajjal*. Therefore, *bay' mu'ajjal* can occur with profit or without profit but it should be on credit.

Another important difference between *bay' murābahah* and *bay' mu'ajjal* is that in case of *bay' mu'ajjal* it is not compulsory for the bank to disclose the purchase price of the goods. But, in case of *bay' murābahah*, the bank is required to disclose the purchase price of the commodity to the client. The basic characteristic of *murābahah* is that the bank and the client will determine the profit based on the purchase price. Without knowing the purchase price, it is not possible to conclude a *murābahah* contract.⁶⁰

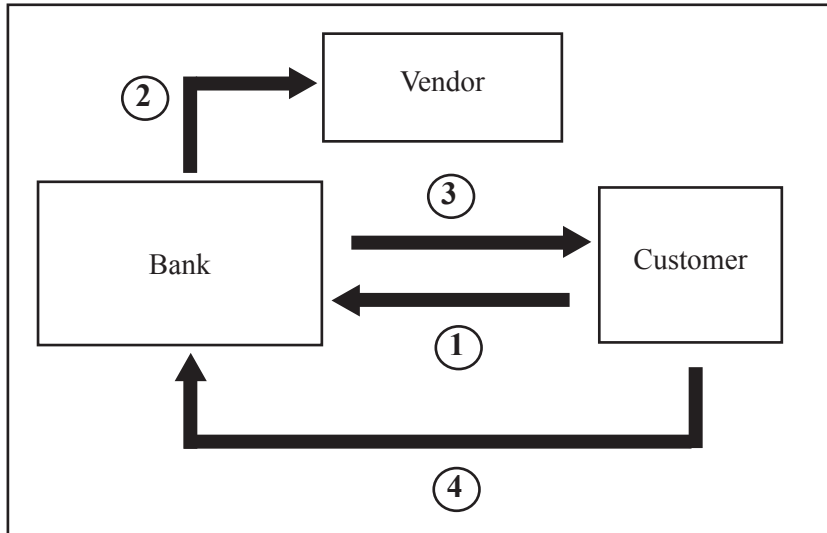
Bay' mu'ajjal is mostly used for home financing, real estate financing, working capital financing, agricultural sector supply and industrial materials. Apart from that, this mode of financing is used in IBBL's rural development scheme. It is an Islamic micro-finance initiative by IBBL. Through this micro-finance scheme, IBBL provides equipment for agriculture, goods for small business and others. To make the transaction easy and simple, *bay' mu'ajjal* is most dominantly used in IBBL's rural development scheme.⁶¹ IBBL solely practices *bay' mu'ajjal* as an Islamic microfinance product while other Islamic banks have yet to introduce Islamic micro-finance in their operations. The figure below illustrates the operational structure of *bay' mu'ajjal*.

⁵⁹ Huda & Shamsuddoha, *Islami Banker Biniog Paddhoti*, 64; M. Shamsuddoha (Vice President, Shariah Secretariat, Research Unit, Islami Bank Bangladesh Limited), interview with the researcher, 7 April 2014; Nurul Kabir (Shariah Officer, Shariah Secretariat, Islami Bank Bangladesh Limited), interview with the researcher, 7 April 2014.; Mohammad Mizanur Rahman (Executive Officer, Islamic Banking Division, Prime Bank Limited), interview with the researcher, 7 April 2014.

⁶⁰ Huda & Shamsuddoha, *Islami Banker Biniog Paddhoti*, 65.

⁶¹ M. Shamsuddoha (Vice President, Shariah Secretariat, Research Unit, Islami Bank Bangladesh Limited), interview with the researcher, 7 April 2014; Nurul Kabir (Shariah Officer, Shariah Secretariat, Islami Bank Bangladesh Limited), interview with the researcher, 7 April 2014.

Figure 2. *Bay' Mu'ajjal*.



Source: Interview with the bankers.

Operational Steps: ⁶²

1. The customer approaches the bank and requests the bank to purchase a specific commodity. The client promises to purchase the commodity from the bank.
2. The bank purchases the goods from the vendor and takes ownership.
3. The bank sells the goods and delivers the goods to the customer.
4. The customer pays the sale price on credit within a fixed period.

Based on the above structure, it is apparent that the customer promises to the bank to purchase the goods after the bank has purchased it. Similar to

⁶² M. Shamsuddoha (Vice President, Shariah Secretariat, Research Unit, Islami Bank Bangladesh Limited), interview with the researcher, 7 April 2014; Nurul Kabir (Shariah Officer, Shariah Secretariat, Islami Bank Bangladesh Limited), interview with the researcher, 7 April 2014; Mohammad Mizanur Rahman (Executive Officer, Islamic Banking Division, Prime Bank Limited), interview with the researcher, 7 April 2014.

murābahah, there is *wa'd* from one party only. In the feature of *bay' mu'ajjal* contract, IBBL mentions;

*“It is permissible to make the promise binding upon the client to purchase from the Bank, that is, he is to either satisfy the promise or to indemnify the damages caused by breaking the promise without excuse. It is permissible to take cash/collateral security to Guarantee the implementation of the promise or to indemnify the damages.”*⁶³

It means that the *wa'd* is compulsory on the customer in IBBL. If the customer does not fulfill his promise then he is obliged to indemnify the loss incurred to the bank. The bank may charge security money to guarantee the implementation of the promise as binding. However, in practice the bank usually does not charge security money.⁶⁴ Prime bank limited and Shahjalal Islami bank limited follow the practice of IBBL in terms of the implementation of *wa'd* in *bay' mu'ajjal*.⁶⁵

3. Hire Purchase under *Shirkatul Melk* (HPSM)

Hire purchase under *shirkatul melk* (HPSM) is the combination of three contracts, which are *shirkat*, *ijārah* and *bay'*. *Shirkat* means partnership. The type of *shirkat* used here is *shirkatul melk*, which means joint ownership. Based on the *Shirkatul melk* concept two or more individuals jointly own a property and share profit and loss in proportion to their respective share in the property. *Ijārah* means lease and *bay'* means sale. According to hire purchase under *shirkatul melk* contract, the bank and the customer co-own a property. After that, the bank leases out its share of the property to the customer. The customer pays monthly rental payment to the bank and gradually purchases

⁶³ Islami Bank Bangladesh Limited, 'Bai-muajjal', *Islamic Bank Bangladesh Limited* website, <http://www.islamibankbd.com/prodServices/prodServBaimuajjal.php>, retrieved on 8 July 2014.

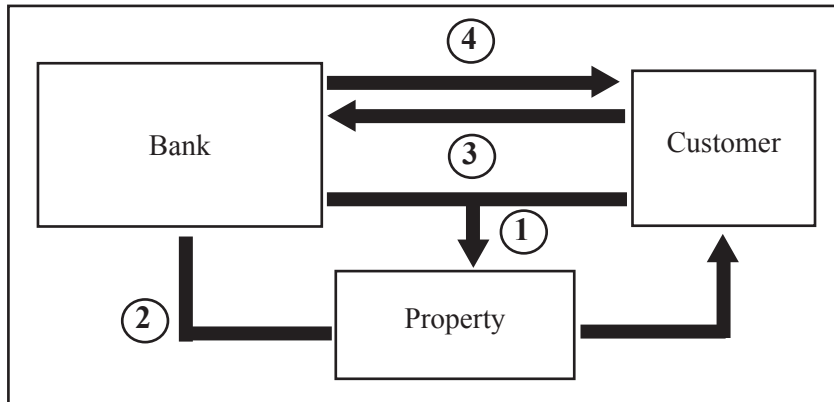
⁶⁴ M. Shamsuddoha (Vice President, Shariah Secretariat, Research Unit, Islami Bank Bangladesh Limited), interview with the researcher, 7 April 2014; Nurul Kabir (Shariah Officer, Shariah Secretariat, Islami Bank Bangladesh Limited), interview with the researcher, 7 April 2014.

⁶⁵ Mohammad Mizanur Rahman (Executive Officer, Islamic Banking Division, Prime Bank Limited), interview with the researcher, 7 April 2014; Md. Farid Uddin (Junior Assistant Vice President & Muraquib, Shahjalal Islami Bank Limited), interview with the researcher, 13 April 2014.

bank's share in the property. At the end of the tenure, the customer fully owns the property.⁶⁶

Even though it seems that hire purchase under *shirkatul melk* is similar to *ijārah muntahiyah bi al-tamlīk* but there is a difference between them. In *ijārah muntahiyah bi al-tamlīk*, the bank solely owns the property during the *ijārah* term and when the *ijārah* term is finished then the bank transfers the title of the property to the customer with either a token price or gift. On the other hand, the bank and the customer jointly own a property at the commencing of hire purchase under *shirkatul melk*.⁶⁷ It is quite similar to the concept of *mushārahah mutanāqishah* which is widely applied in most of the countries practicing Islamic banking. Below are the operational steps that a customer and the bank go through in hire purchase under *shirkatul melk*:

Figure 3. Hire purchase under *shirkatul melk*.



Source: Interview with the bankers.

Operational steps:

1. The bank and the customer jointly purchase a property.
2. The bank rents its share of the property to the customer for a fixed period.

⁶⁶ Prime Bank Limited, 'Hire Purchase under Shirkatul Melk Concept,' *Prime Bank Limited* website, retrieved on 8 Jul 2014, https://www.primebank.com.bd/index.php/home/hire_purchase_under_shirkatul_melk; Islami Bank Bangladesh Limited, 'Hire Purchase under Shirkatul Meelk', *Islami Bank Bangladesh Limited* website, <http://www.islamibankbd.com/prodServices/prodServHPUSM.php>, retrieved on 8 July 2014.

⁶⁷ Huda & Shamsuddoha, *Islami Banker Biniog Paddhoti*, 97-98.

3. The customer pays monthly rentals and gradually purchases shares of the bank in the property.
4. At the end of the tenure, the bank transfers the title of the property to the customer.⁶⁸

There is an element of *wa'd* in the above structure. At the beginning of the *shirkatul melk* contract, the customer promises to the bank to purchase the bank's share either on gradual basis or in lump sum. There is only one unilateral promise here. There is no *wa'd* from the bank's side. In case of early settlement, the customer may face difficulty because there is no *wa'd* from the bank on this. Islamic banks in Bangladesh include in the terms and the conditions of the hire purchase under *shirkatul melk* contract that a customer may ask for early settlement. However, there is no element in that contract which obliges the bank to accept the customer's request to have an early settlement.⁶⁹

The *wa'd* from the customer allows the bank to recover loss in case the customer defaults. Based on this binding promise, the bank may take compensation when the customer does not purchase the property. When the customer defaults in the payment of the monthly installment then the bank will sell the property at the market price. If the bank incurs loss then the customer is required to compensate for the loss.

Islamic FX Forward

At present, there is an initiative by the "Central Shari'a Board for Islamic Banks of Bangladesh (CSBIB)" to structure Islamic FX forward. However, the Shariah scholars of Bangladesh have different views for and against the status of FX forward in the Shariah. Some view that FX forward is not permissible in the Shariah. They argue that there is a doubt of *ribā* in FX forward. It is required by the Shariah that currencies should be exchanged on the spot basis based on their price on the spot. If a binding promise is employed to conclude a currency exchange contract (*ṣarf*) in the future based on today's exchange rate then it is not allowed. Currency exchange should be based on the exchange

⁶⁸ Huda & Shamsuddoha, *Islami Banker Biniog Paddhoti*, 96-97.

⁶⁹ M. Shamsuddoha (Vice President, Shariah Secretariat, Research Unit, Islami Bank Bangladesh Limited), interview with the researcher, 7 April 2014; Nurul Kabir (Shariah Officer, Shariah Secretariat, Islami Bank Bangladesh Limited), interview with the researcher, 7 April 2014.; Mohammad Mizanur Rahman (Executive Officer, Islamic Banking Division, Prime Bank Limited), interview with the researcher, 7 April 2014.

rate at the time of concluding the contract. However, if the currencies are exchanged based on a predetermined rate then it is prohibited.⁷⁰

On the other hand, some Shariah scholars in Bangladesh view that FX forward should be allowed in the Shariah. They argue that according to the Ḥanafī School of jurisprudence, it is allowed to make *wa'd* as well as the *muwā'adah* binding on the promisor based on the need of the public. As FX forward is a need for Islamic banking in Bangladesh then it is allowed to employ a binding mutual promise (*wa'd mulzim*) in FX forward. There is a clear difference between a contract and *muwā'adah*. There is no transfer of ownership and *ījāb qabūl* in *muwā'adah*. Therefore, no Shariah ruling related to a contract is attributed to *wa'd*.⁷¹ However, the debate on this issue is still going on and the scholars were not able to come up with a concrete decision on this matter. Therefore, FX forward is still not issued by any Islamic bank in Bangladesh.⁷²

DISCUSSION OF THE FINDINGS

The above findings show that Islamic banks in Bangladesh apply *wa'd* in three consumer banking products which are *bay' murābahah* on purchase orderer, *bay' mu'ajjal* and hire purchase under *shirkatul melk*. In these three products, the customer gives *wa'd* to purchase a commodity/property from the bank. However, the bank does not provide any *wa'd* to the customer. There is no application of mutual promise (*muwā'adah*) or two independent promises (*wa'dān*). There is no application of *wa'd* in treasury products so

⁷⁰ Abu Bakr Rafiq (Member, Central Shari'a Board for Islamic Banks of Bangladesh), interview with the researcher, 4 May 2014; Shakhawatul Islam (Member Secretariat, Central Shari'a Board for the Islamic Banks of Bangladesh), interview with the researcher, 19 April 2014; M. Shamsuddoha (Vice President, Shariah Secretariat, Research Unit, Islami Bank Bangladesh Limited), interview with the researcher, 7 April 2014.

⁷¹ A.Q.M. Safiullah Arif (Secretary General, Central Shari'a Board for Islamic Banks of Bangladesh), interview with the researcher, 16 April 2014; Mufti Shahed Rahmani (Member, Central Shari'a Board for Islamic Banks of Bangladesh), interview with the researcher, 10 April 2014; Ahsanullah Miah (Member of the Shariah Supervisory Committee, Islami Bank Bangladesh Limited), written communication with the researcher, 10 April 2014.

⁷² Shakhawatul Islam (Member Secretariat, Central Shari'a Board for the Islamic Banks of Bangladesh), interview with the researcher, 19 April 2014; Md. Farid Uddin (Junior Assistant Vice President & Muraquib, Shahjalal Islami Bank Limited), interview with the researcher, 13 April 2014.

far. Compared with the previous studies it seems that Bangladesh did not have much development in *wa'd*-based products.⁷³

The reason behind the limited development of *wa'd*-based product in Bangladesh might be the stringency of the Shariah scholars. As for example, FX forward is permissible by the notable Shariah authorities like the Accounting and Auditing Organization for Islamic Financial Institutions (AAOIFI)⁷⁴ and the Shariah Advisory Council (SAC) of the Central Bank of Malaysia but it is not allowed in Bangladesh.⁷⁵ According to AAOIFI, it is permissible to implement a binding promise (*wa'd mulzim*) for a forward currency transaction. Besides, the Shariah resolution of the Central Bank of Malaysia states:

*“Islamic financial institutions are allowed to conduct forward foreign exchange transactions based on unilateral wa'd mulzim (binding promise) which is binding on the promissor. In addition, the party who suffers losses due to non-fulfillment of promise may claim compensation. The forward foreign exchange transactions may be carried out by the Islamic financial institutions with their customers, among Islamic financial institutions, or between the Islamic and conventional financial institutions.”*⁷⁶

However, the Shariah scholars in Bangladesh do not allow forward foreign currency exchange based on unilateral promise (*wa'd*). Even though the Ḥanafī School of jurisprudence allows implementing mutual binding promise in case of necessity, the scholars do not allow it for fear of *ribā* in currency transaction as we have mentioned earlier.⁷⁷ If the Shariah scholars become more flexible then it might be possible to develop FX forward in Bangladesh.

⁷³ Mohd Saiful Azli Md Ali, 'Wa'ad dan Aplikasinya di Dalam Kontrak Hibrid Islam: Kajian di Bank Muamalat Malaysia Berhad'; Shofian Ahmad and Azlin Alisa Ahmad, 'Konsep Wa'd dan Aplikasinya di dalam Sukuk', 222-227; Chady C. Atallah & Wafica A. Ghoul, 'The Wa'd-Based Total Return Swap: Sharia Compliant or Not?', 71-89.

⁷⁴ Accounting and Auditing Organization for Islamic Financial Institutions (AAOIFI), *Shari'ah Standards for Islamic Financial Institutions* (Manama: Accounting and Auditing Organization for Islamic Financial Institutions, 2010), 7, Shari'ah standard no. 1 (2/9).

⁷⁵ Bank Negara Malaysia, *Shariah Resolutions in Islamic Finance* (Kuala Lumpur: Bank Negara Malaysia, 2010), 138.

⁷⁶ Bank Negara Malaysia, *Shariah Resolutions in Islamic Finance*, 138.

⁷⁷ Fakh al-Dīn Ḥasan bin Manṣūr al-Ujzandī Qāḍī Khān, *Fatāwā Qāḍī Khān*, printed with Niẓām al-Dīn al-Balkhī *et al.*, *al-Fatāwā al-Hindīyyah*, vol. 2 (Būlāq: al-Matba'ah al-Kubrā al-Amīriyyah, 1892), 165; Mufti Shahed Rahmani (Member, Central Shari'a Board for Islamic Banks of Bangladesh), interview with the researcher, 10 April 2014.

Along with FX forward, Bangladesh can develop profit rate swap and cross currency swap based on *wa'd*. Besides, *ijārah* rental swap can be developed based on *wa'd*. However, all these swaps involve *tawarruq* contract, which is controversial among the scholars in Bangladesh. Majority of the Islamic scholars in Bangladesh view that *tawarruq* is not allowed in the Shariah.⁷⁸ Similar to the Islamic Fiqh Academy, some view that organized *tawarruq* is not allowed and at present, there is no infrastructure developed in Bangladesh to practice the real *tawarruq*.⁷⁹ Based on the second view, it is possible to introduce *tawarruq* in Bangladesh with the condition that there is a free commodity market to practice the real *tawarruq*.

On the other hand, some new products can be added in the Islamic banking in Bangladesh e.g. *al-Ijārah Thumma al-Bay'* (AITAB) vehicle financing. There is no major Shariah issue related to this product in Bangladesh. Instead of AITAB, Islamic banks in Bangladesh currently employ HPSM or in other words *mushārahah mutanāqishah* for vehicle financing. Even though no Shariah issue is evident in using HPSM for vehicle financing, globally AITAB is used for vehicle financing. Besides, AITAB does not involve any major Shariah issue either. AITAB is used for car financing because it is less complicated than HPSM. It is known that car prices always depreciate. It is not difficult for the customer to purchase the car at the end of the lease period. On the other hand, house prices usually appreciate and consequently, it is difficult for the customer to purchase the house at the end of the lease period. Therefore, HPSM is more suitable for house financing while AITAB is more suitable for vehicle financing. Moreover, AITAB may provide more product diversity for Islamic banking in Bangladesh.⁸⁰

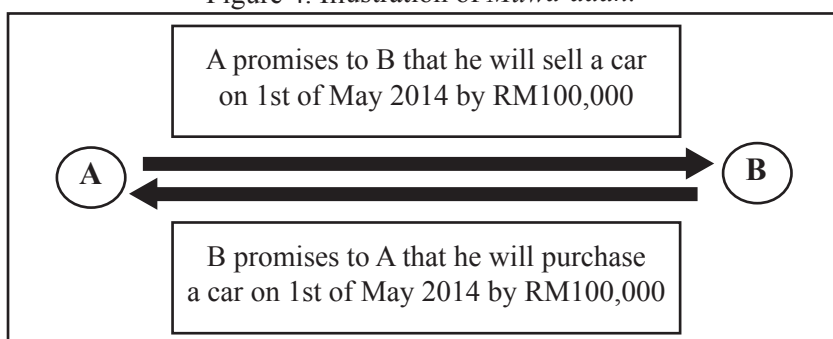
⁷⁸ Ahsanullah Miah (Member of the Shariah Supervisory Committee, Islami Bank Bangladesh Limited), written communication with the researcher, 10 April 2014; M. Shamsuddoha (Vice President, Shariah Secretariat, Research Unit, Islami Bank Bangladesh Limited), interview with the researcher, 7 April 2014; Nurul Kabir (Shariah Officer, Shariah Secretariat, Islami Bank Bangladesh Limited), interview with the researcher, 7 April 2014.

⁷⁹ Mufti Shahed Rahmani (Member, Central Shari'a Board for Islamic Banks of Bangladesh), interview with the researcher, 10 April 2014.

⁸⁰ Seif I. Tag El-Din & N. Irwani Abdullah, 'Issues of Implementing Islamic Hire Purchase in Dual Banking Systems: Malaysia's Experience', *Thunderbird International Business Review* 49 (2007): 225-249; Ryan Dong Chen, Christopher Gan, Baiding Hu & David A. Cohen, 'An Empirical Analysis of House Price Bubble: A Case Study of Beijing Housing Market', *Research in Applied Economics* 5/1 (2013): 77-97; Karl Storchmann, 'On the Depreciation of Automobiles: An International Comparison', *Transportation* 31/4 (2004): 371.

Apart from that, the advanced feature of *wa'd* is not used in Bangladesh. There is no application of *muwā'adah* and *wa'dān*. *Muwā'adah* is defined as "Declaration by two persons on their interest to make a contract in the future the consequences of which will fall onto them."⁸¹ It means that *muwā'adah* is a declaration by two persons to do something good in the future. It is a mutual promise made by two individuals to perform something good for each other regardless of whether it is a contract or otherwise. The figure below shows an example of *muwā'adah*. In this example, A promises to B that he will sell a car on 1 May 2014 by RM100,000. At the same time, B promises to A that he will purchase a car on 1 May, 2014 by RM100,000.

Figure 4. Illustration of *Muwā'adah*.



Source: Author's Own.

On the other hand, *wa'dān* is defined as "Two unilateral promises given by two parties to each other which are not interrelated and their application relies on two different conditions."⁸² It may seem that *wa'dān* is similar to *muwā'adah* but the difference between them is that in *wa'dān*, the two promises are not interrelated to each other. It means that there is no mutual relation between the first promise with the second one. Both promises are independent. Pertaining to this, Marjan Muhammad and others have pointed out that *wa'dān* has two important characteristics which are: the promises are not dependent on each other and their application depends on two separate situations.⁸³

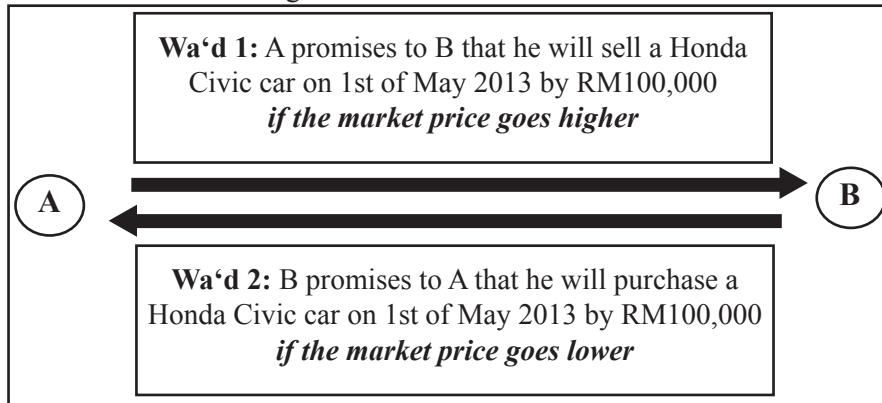
⁸¹ Nazīh Kamāl Ḥammād, 'al-Wafā' bi al-Wa'd fī al-Fiqh al-Islāmī', *Majallah al-Majma' al-Fiqh al-Islāmī* 5/2 (1988): 831.

⁸² Aznan Hasan, 'Pengertian al-Wa'ad, al-Wa'dan dan al-Muwa'adah,' (Paper presented in Muzakarah Cendekiawan Syariah Nusantara, International Shari'ah Research Academy for Islamic Finance (ISRA), Kuala Lumpur, 27-28 February 2008), 1.

⁸³ Marjan Muhammad, Hakimah Yaacob & Shabana Hasan, 'The Bindingness and Enforceability of a Unilateral Promise (*Wa'd*)', 31.

The figure below provides an example of *wa'dān*. In the first *wa'd*, A promises to B that he will sell a Honda Civic car on 1 May 2013 by RM100,000, if the market price goes higher. After that, in the second *wa'd*, B promises to A that he will buy a Honda Civic car on 1 May 2013 by RM100,000, if the market price goes lower. In this example, both of the promises are independent which are based on two different situations. The two different situations are firstly, when the market price of the car is higher than the price fixed earlier and secondly, when the market price is lower than the price fixed earlier.

Figure 5. Illustration of *Wa'dān*.



Source: Author's Own.

Muwā'adah and *wa'dān* ensure that the customer's interest is protected in the transaction. In relation to HPSM, Mohammad Mizanur Rahman points out that using only *wa'd* (unilateral promise) serves the interests of the bank but is an injustice on the customer.⁸⁴ In relation to this, Farid Uddin mentions that there is no problem in implementing *muwā'adah* because *wa'd* may harm the interest of the opposite party.⁸⁵ However, the majority of the Shariah scholars in Bangladesh view that a binding *muwā'adah* is equivalent to a contract. Therefore, it is not allowed to use *muwā'adah* to conclude a contract in the future. Nevertheless, all agree that if the *muwā'adah* is not compulsory on the related parties then it is allowed.⁸⁶

⁸⁴ Mohammad Mizanur Rahman (Executive Officer, Islamic Banking Division, Prime Bank Limited), interview with the researcher, 7 April 2014.

⁸⁵ Md. Farid Uddin (Junior Assistant Vice President & Muraqib, Shahjalal Islami Bank Limited), interview with the researcher, 13 April 2014.

⁸⁶ M. Shamsuddoha (Vice President, Shariah Secretariat, Research Unit, Islami Bank Bangladesh Limited), interview with the researcher, 7 April 2014; Nurul Kabir (Shariah Officer, Shariah Secretariat, Islami Bank Bangladesh Limited), interview with the researcher, 7 April 2014.

On the other hand, a group of scholars in Bangladesh view that a binding *muwā'adah* can be allowed in case of necessity. This is based on the Ḥanafī school of jurisprudence where the scholars view that *muwā'adah* can be binding based on the necessity of the people.⁸⁷ Supporting this opinion Khairun Najmi Saripudin *et al.* view that binding *muwā'adah* is still different from a contract because, *muwā'adah* does not transfer the ownership of the property and there is no *ījāb* (offer) and *qabūl* (acceptance) in *muwā'adah*.⁸⁸ Based on the above discussion it can be concluded that Islamic banks in Bangladesh should use *muwā'adah* and *wa'dān* in their product structure.

Even though the Shariah framework is very strict in Bangladesh, there is a Shariah issue in the *wa'd*-based product which is the fake *murābaḥah* transaction where the bank directly transfers money to the customer's account instead of selling a commodity to the customer. Islamic banks in Bangladesh should implement a strong governance system as well as internal and external audit system to prevent these cases. There should be a strong Shariah audit division under the Shariah advisory committee to ensure that the decisions of the Shariah advisory committee are fully implemented. Moreover, the Bangladesh Bank should enhance its monitoring system for Islamic banks' operation.

CONCLUSION

In conclusion, the development of Islamic banking in Bangladesh is still in the blooming stage. It requires a strong government support, human capital and research for the development of infrastructure and product. The *wa'd*-based products are very limited in the Islamic banks of Bangladesh. There are three consumer-banking products that include *wa'd* in their product structures, which are *bay' murābaḥah* on purchase order, *bay' mu'ajjal* and Hire Purchase under *shirkatul melk*. Only *wa'd* (unilateral promise) is employed in the above mentioned products. There is no application of *muwā'adah* (mutual promise) and *wa'dān* (two independent promises). Even though only a small number of products involve *wa'd* still in some cases the *wa'd* element is ignored when a fictitious *murābaḥah* transaction takes place between the bank and the customer. Besides, the *wa'd* (unilateral promise) only serves the interest of the

⁸⁷ Mufti Shahed Rahmani (Member, Central Shari'a Board for Islamic Banks of Bangladesh), interview with the researcher, 10 April 2014.

⁸⁸ Khairun Najmi Saripudin, Shamsiah Mohamad, Nor Fahimah Mohd Razif, Sofhan Jamiela Rosli & Bahiyah Ahmad, 'Application of Promise in Sukuk Musharakah Structure', *Middle-East Journal of Scientific Research* 12/2 (2012): 165.

bank while the customer's interest is always overlooked. There is no *wa'd*-based Islamic treasury product in the Islamic banks of Bangladesh. Therefore, *wa'd* can play a very significant role to develop different types of Islamic treasury product in Bangladesh.

This study suggests that the Shariah scholars in Bangladesh should be more flexible to accept new Shariah products. In this regard, they are required to revisit their juristic reasoning (*ijtihad*) based on all the schools of Islamic jurisprudence instead of confining it to only Hanafi school. Besides, research activity should be enriched to achieve profound knowledge on Shariah-based banking products. Along with this, there should be more initiatives by the practitioners to develop Islamic banking products through exploring the practice of other jurisdictions. The government should provide support through enacting a separate law for Islamic banking which must have a provision for *wa'd*.

REFERENCES

- Abū 'Abd Allāh Muḥammad bin Aḥmad bin Abū Bakar al-Qurṭubī, *al-Jāmi' li Aḥkām al-Qur'ān* (Beirut: Al-Resalah Publishers, 2006).
- Abū Ḥāmid Muḥammad bin Muḥammad bin Muḥammad al-Ghazālī, *Ihyā' Ulūm al-Dīn* (Cairo: Dār al-Sha'b, n.d.).
- Abū al-Ḥossayn Aḥmad bin Fāris bin Zakariā, *Mu'jam Maqā'is al-Lughah*, ed. 'Abd al-Salām Muḥammad Hārūn (Beirut: Dār al-Fikr, 1979).
- Abū al-Walīd bin Rushd al-Qurṭubī, *Al-Bayān wa al-Taḥṣīl wa al-Sharḥ wa al-Tawjīh wa al-Ta'līl fī Masā'il al-Mustakhrajah*, ed. Muḥammad Ḥajjī, (Beirut: Dār al-Gharb al-Islāmī, 1988).
- Abū Bakr Aḥmad bin 'Alī al-Rāzī al-Jaṣṣāṣ al-Ḥanafī, *Aḥkām al-Qur'ān*, (Beirut: Dār al-Kutub al-'Arabī, n.d.).
- Abū Bakr Muḥammad bin 'Abd Allāh bin 'Arabī, *Aḥkām al-Qur'ān*, ed. Muḥammad 'Abd al-Qādir 'Aṭā' (Beirut: Dār al-Kutub al-'Ilmiyyah, 2003).
- Abī Muḥammad 'Alī bin Aḥmad bin Sa'īd bin Ḥazm, *al-Muḥallā bi al-Āthār*, ed. Aḥmad Muḥammad Shākir (Egypt: Idārat al-Ṭibā'ah al-Muniriyyah, 1352 AH).
- Aḥmad bin Muḥammad bin 'Alī al-Fayūmī al-Maqrī, *al-Miṣbāḥ al-Munīr*, (Beirut: Maktabatu Lubnān, 1987).
- Aḥmad bin 'Alī bin Ḥajar al-'Asqalānī, *Fath al-Bārī' Sharḥ Ṣaḥīḥ al-Bukhārī*, ed. Muḥammad Fu'ād 'Abd al-Bāqī (Cairo: al-Maktabah al-Salafiyyah, n.d.).

- Abdul Awwal Sarker, ‘Islamic Banking in Bangladesh: Achievements & Challenges,’ *Journal of Islamic Economics, Banking and Finance* 1/1 (2005), http://www.ibtra.com/pdf/journal/v1_n1_article5.pdf, December 2012.
- Abu Umar Faruq Ahmad & M. Kabir Hassan, ‘Regulation and Performance of Islamic Banking in Bangladesh,’ *Thunderbird International Business Review* 49/2 (2007).
- Accounting and Auditing Organization for Islamic Financial Institutions (AAOIFI), *Shari‘ah Standards for Islamic Financial Institutions*, (Manama: Accounting and Auditing Organization for Islamic Financial Institutions, 2010).
- Aznan Hasan, ‘Pengertian al-Wa‘ad, al-Wa‘dan dan al-Muwa‘adah,’ (Paper presented in Muzakarah Cendekiawan Syariah Nusantara, International Shari‘ah Research Academy for Islamic Finance (ISRA), Kuala Lumpur, 27-28 February 2008).
- Badr al-Dīn Abī Muḥammad Maḥmūd bin Aḥmad al-‘Aynī, *‘Umdah al-Qārī Sharḥ Ṣaḥīḥ al-Bukhārī*, ed. ‘Abd Allāh Maḥmūd Muḥammad ‘Umār, (Beirut: Dār al-Kutub al-‘Ilmiyyah, 2001).
- Bangladesh Bank, *Annual Report 2010-2011* (Dhaka: Bangladesh Bank, 2012).
- Bangladesh Bank, *Annual Report 2012-2013* (Dhaka: Bangladesh Bank, 2014).
- Bangladesh Bank, *Financial Stability Report 2012* (Dhaka: Bangladesh Bank, 2013).
- Bank Negara Malaysia, *Shariah Resolutions in Islamic Finance* (Kuala Lumpur: Bank Negara Malaysia, 2010).
- BMB Islamic, *Global Islamic Finance Report (GIFR) 2011* (London: BMB Islamic UK Limited, 2011).
- Chady C. Atallah & Wafica A. Ghoul, ‘The Wa‘d-Based Total Return Swap: Sharia Compliant or Not?’ *The Journal of Derivatives* 19/2 (2011).
- Dacheng Zhao & Michael Singh, ‘Why do Chinese-Australian Students Outperform Their Australian Peers in Mathematics: a Comparative Case Study,’ *International Journal of Science and Mathematics Education* 9/1 (2011).
- Daniel W. Turner, ‘Qualitative Interview Design: a Practical Guide for Novice Investigators,’ *The Qualitative Report* 15/3 (2010).

- Fakhr al-Dīn Ḥasan bin Maṣṣūr al-Ujzandī Qāḍī Khān, *Fatāwā Qāḍī Khān*, printed with Niẓām al-Dīn al-Balkhī with others, *al-Fatāwā al-Hindiyyah* (Būlāq: al-Maṭba'ah al-Kubrā al-Amīriyyah, 1892).
- Glenn A. Bowen, 'Document Analysis as a Qualitative Research Method,' *Qualitative Research Journal* 9/2 (2009).
- Ibn al-Shāṭ, *Idrār al-Shurūq 'alā Anwā' al-Furūq*, printed with Shihāb al-Dīn Abī al-'Abbās Aḥmad bin Idrīs al-Qarāfī, *al-Furūq*, ed. 'Umar Ḥasan al-Qiyyām (Beirut: Resalah Publishers, 2003).
- Iqbal Kabir Mohon, *Islami Orthoniti O Banking* (Dhaka: Zerine Publishers, 2011).
- Islami Bank Bangladesh Limited, <http://www.islamibankbd.com/>, August 2014.
- Islamic Fiqh Academy, <http://www.fiqhacademy.org.sa/>, August 2014.
- Ismā'īl bin Ḥammād al-Jawharī, *al-Ṣiḥḥāḥ Tāj al-Lughah wa Ṣiḥḥāḥ al-'Arabiyyah*, ed. Aḥmad 'Abd al-Ghafūr 'Aṭṭār (Beirut: Dār al-'Ilm li al-Malayīn, 1984).
- Jennifer Mason, 'Semistructured Interview,' in *The SAGE Encyclopedia of Social Science Research Methods*, ed. Michael S. Lewis-Beck, A. Bryman & Tim Futing Liao (Thousand Oaks: Sage Publications, Inc, 2004).
- Joachim K. Blatter, 'Case Study', in *The SAGE Encyclopedia of Qualitative Research Methods*, ed. Lisa M. Given (Thousand Oaks: Sage Publications Inc., 2008).
- Karl Storchmann, 'On the Depreciation of Automobiles: an International Comparison', *Transportation* 31/4 (2004).
- Khairun Najmi Saripudin, Shamsiah Mohamad, Nor Fahimah Mohd Razif, Sofhan Jamiela Rosli & Bahiyah Ahmad, 'Application of Promise in Sukuk Musharakah Structure', *Middle-East Journal of Scientific Research* 12/2 (2012).
- Majallah al-Aḥkām al-'Adliyyah* (n.p.: n.p., 1968).
- Maṣṣūr bin Yūnus bin Idrīs al-Buhūṭī, *Kashshāf al-Qinā' 'an Matn al-Iqnā'*, ed. Muḥammad Amīn al-Ḍinnāwī (Beirut: 'Ālam al-Kutub, 1997).
- Margaret Olson, 'Document Analysis', in *Encyclopedia of Case Study Research*, ed. Albert J. Mills, Gabrielle Durepos, and Eiden Wiebe, (Thousand Oaks: Sage Publications Inc., 2010).

- Marjan Muhammad, Hakimah Yaacob & Shabana Hasan, 'The Bindingness and Enforceability of a Unilateral Promise (*Wa'd*): an Analysis from Islamic Law and Legal Perspectives', (Kuala Lumpur: International Shari'ah Research Academy for Islamic Finance (ISRA), Research paper no. 30, 2011).
- Mālik bin Anas al-Aṣḥabī, *al-Mudawwanah al-Kubrā* (Beirut: Dār al-kutub al-'Ilmiyyah, 1994).
- Mohammad Abdul Mannan, *Islami Bank Babostha* (Dhaka: Central Shari'a, 2010).
- Mohd Saiful Azli Md Ali, 'Wa'ad dan Aplikasinya di dalam Kontrak Hibrid Islam: Kajian di Bank Muamalat Malaysia Berhad,' (Academic exercise, University of Malaya, Kuala Lumpur, 2011).
- Monique Hennink, Inge Hutter & Ajay Bailey, *Qualitative Research Methods*, (London: SAGE Publications Ltd., 2011).
- Muhammad Ayub, *Understanding Islamic Finance* (West Sussex: John Wiley & Sons Ltd., 2007).
- Muhammad Nurul Islam, *Bangladeshe Islami Bank Protishtar Andoloner Itihash* (Dhaka: Amar Desh Publications Ltd., 2010).
- Muhammad Shamsul Huda & Muhammad Shamsuddoha, *Islami Banker Biniog Paddhoti: Shari'ah Neetimala* (Dhaka: Islami Bank Bangladesh Limited, 2011).
- Muhammad Taqī Usmani, *An Introduction to Islamic Finance* (The Hague: Kluwer Law International, 2002).
- Muḥammad Amīn bin 'Umār bin 'Abd al-Azīz 'Ābidīn, *al-'Uqūd al-Durriyyah fī Tanqīḥ al-Fatāwā al-Ḥāmidīyyah* (India: n.p., 1819).
- Muḥammad bin Aḥmad bin Muḥammad 'Alīsh, *Fatḥ al-'Aliyy al-Mālik fī al-Fatwā 'alā Madhhab al-Imām Mālik* (Cairo: Muṣṭafā al-Bābī al-Ḥalabī, 1958).
- Muḥammad bin Mukarram bin 'Alī bin Aḥmad bin Manzūr, *Lisān al-'Arab*, (Cairo: Dār al-Ma'ārif, n.d.).
- Muḥyī al-Dīn Abī Zakariyya Yaḥyā bin Sharf al-Nawawī, *al-Adhkār min Kalāmī Sayyidī al-Abrār* (Beirut: Dār al-Minhāj, 2005).
- Nazīh Kamāl Ḥammād, 'al-Wafā' bi al-Wa'd fī al-Fiqh al-Islāmī', *Majallah al-Majma' al-Fiqh al-Islāmī* 5/2 (1988).
- Nazīh Kamāl Ḥammād, *Mu'jam al-Muṣṭalahāt al-Māliyyah wa al-Iqtisādiyyah fī Lughat al-Fuqahā'* (Damascus: Dār al-Qalam, 2007).

- Nigel King & Christine Horrocks, *Interviews in Qualitative Research*, (London: SAGE Publications Ltd., 2010).
- Nurdianawati Irwani Abdullah, 'Status and Implications of Promise (Wa'd) in Contemporary Islamic Banking', *Humanomics* 26/2 (2010).
- Philipp Köker, 'Semi-Structured Elite Interviews in a Nested-Analysis Framework: Studying Presidential Activism in Central and Eastern Europe', in *SAGE Research Methods Cases* (London: SAGE Publications, Ltd., 2014).
- Prime Bank Limited, <https://www.primebank.com.bd/index.php/home>, August 2014.
- Rafic Yunus al-Masri, 'The Binding Unilateral Promise (Wa'd) in Islamic Banking Operations: Is It Permissible for a Unilateral Promise (Wa'd) to be Binding as an Alternative to a Proscribed Contract?', *Journal of King Abdul Aziz University: Islamic Economics* 15/1 (2002).
- Ryan Dong Chen, Christopher Gan, Baiding Hu & David A. Cohen, 'An Empirical Analysis of House Price Bubble: A Case Study of Beijing Housing Market,' *Research in Applied Economics* 5/1 (2013).
- Seif I. Tag El-Din & N. Irwani Abdullah, 'Issues of Implementing Islamic Hire Purchase in Dual Banking Systems: Malaysia's Experience,' *Thunderbird International Business Review* 49 (2007).
- Shahjalal Islami Bank Limited, <http://www.shahjalalbank.com.bd/>, August 2014.
- Shams al-Dīn Muḥammad bin Aḥmad al-Sarkhasī, *Kitāb al-Mabsūṭ* (Beirut: Dār al-Ma'rifah, 1989).
- Shofian Ahmad & Azlin Alisa Ahmad, 'Konsep Wa'd dan Aplikasinya di dalam Sukuk,' *Proceedings of the Malaysian National Economic Conference III*, (Bangi: School of Economics, Faculty of Economics and Management, Universiti Kebangsaan Malaysia, 2008).
- Yūsuf al-Qaraḍāwī, 'al-Wafā' bi al-Wa'd', *Majallah Majma' al-Fiqhī al-Islāmī* 5/2 (1988).
- Zayn al-Dīn bin Ibrāhīm bin Nujaym, *al-Ashbāh wa al-Nazā'ir*, ed. Muḥammad Muṭī' al-Ḥāfiẓ (Damascus: Dār al-Fikr, 2005).

Interview

- A.Q.M. Safiullah Arif (Secretary General, Central Shari'a Board for Islamic Banks of Bangladesh), interview with the researcher, 16 April 2014.
- Abu Bakr Rafiq (Member, Central Shari'a Board for Islamic Banks of Bangladesh), interview with the researcher, 4 May 2014.

- Ahsanullah Miah (Member of the Shariah Supervisory Committee, Islami Bank Bangladesh Limited), written communication with the researcher, 10 April 2014.
- M. Shamsuddoha (Vice President, Shariah Secretariat, Research Unit, Islami Bank Bangladesh Limited), interview with the researcher, 7 April 2014.
- Md. Farid Uddin (Junior Assistant Vice President & Muraquib, Shahjalal Islami Bank Limited), interview with the researcher, 13 April 2014.
- Mohammad Mizanur Rahman (Executive Officer, Islamic Banking Division, Prime bank Limited), interview with the researcher, 7 April 2014.
- Mufti Shahed Rahmani (Member, Central Shari'a Board for Islamic Banks of Bangladesh), interview with the researcher, 10 April 2014.
- Nurul Kabir (Shariah Officer, Shariah Secretariat, Islami Bank Bangladesh Limited), interview with the researcher, 7 April 2014.
- Shakhawatul Islam (Member Secretariat, Central Shari'a Board for the Islamic Banks of Bangladesh), interview with the researcher, 19 April 2014.

