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The Position of Employment in Banks in the Islamic Legal System

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Abstract: Employment in banks is one of the issues that is of particular importance in the Islamic legal system from the perspective of the legitimacy of economic activity, compliance with Sharia standards, and ensuring social justice. As effective institutions in mobilizing and allocating financial resources, banks play an important role in creating job opportunities, capital circulation, supporting production, and achieving public welfare. However, employment in these institutions is not limited to generating income for individuals, but must be consistent with principles such as business worthiness, justice, trustworthiness, transparency, prohibition of usury, avoidance of greed, and protection of the rights of employees and customers. Based on the principles of Islamic jurisprudence, the principle of employment and earning income is legitimate and emphasized; provided that the subject of the activity, the method of earning income, and its economic effects do not conflict with Sharia rules and moral values. Therefore, bank employees must, in addition to enjoying rights such as fair wages, job security, human dignity, and equal opportunity, pay attention to principles such as trustworthiness, confidentiality, responsibility, and observance of justice in performing their duties. The present study, using a descriptive-analytical method, examines the position of employment in banks in the Islamic legal system and concludes that banking employment, if the structure and operation of the bank comply with the Sharia standards, not only does not have any religious prohibition, but it can also be a means of realizing public interests, economic justice, and social development. In contrast, employment in usurious activities, transactions based on deception, or actions harmful to society will not be compatible with the goals and legal principles of Islam.

Keywords: Banking employment, Islamic legal system, Islamic banking, economic justice, prohibition of usury, employee rights, professional ethics.

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Introduction

One of the necessities that immediately became part of the Islamic regime's agenda after the victory of the Islamic Revolution in Bahman 1978 and, subsequently, the change of the country's political system to an Islamic Republic, the drafting of a constitution, and the formation of various institutions was the gradual change of the country's banking system to interest-free banking, which began through an 8-stage process with the nationalization of banks by the Revolutionary Council in June 1979, and with the approval of the Interest-Free Banking Law in 1984 and its amendment in 1989. 69, carried out (Mirjalili, 1372, 73). This indicates that carrying out banking transactions and earning income through employment in banks has been a matter of concern and concern for a large number of Muslim employees working in the banking system of Islamic countries since ancient times, and in fact, since the establishment of money changers and early banks. In this regard, the legislators of these countries have always tried to enact laws governing banking operations. They should observe the principles and foundations of jurisprudence and the conditions and characteristics of Islamic employment and provide appropriate responses to these occupations. This research attempts to express the views of jurists and scholars of various Islamic sects and schools of thought regarding banking and the conditions of Islamic banking without usury, and the legitimacy or illegitimacy of earning income through employment in banks, as well as to examine and compare the banking systems of Iran and several Islamic countries, and to analyze and analyze these issues. With regard to Opinions and views of Islamic jurists: Islamic and non-usury banking, as opposed to traditional banking, and earning income through employment in Islamic banks have been accepted to a large extent and under certain conditions. A: Opinions and views of Shiite jurists and scholars: 1. The Commander of the Faithful said: The Messenger of Allah (peace and blessings of Allah be upon him) has cursed usury, its consumption, its consumption, its pledge, its purchase, its writing, and its witnessing. Ali (peace be upon him) (Min la-Ihdhar al-Faqih, vol. 3, p. 274) The Messenger of God (peace be upon him and his family) cursed usury, the one who consumes it, the one who sells it, the one who buys it, the one who writes it down, and the two witnesses. 2- Hazrat Ali (peace be upon him) considered the sin of all the factors of usury to be equal and said: "The one who consumes it, the one who pays it, the one who writes it down, and the two witnesses are all responsible for it (in the case of al-Wazr) except for the one who consumes it, the one who gives it, the one who writes it down, and the two witnesses." (Min la-Ihdhar al-Faqih, vol. 3, p. 274) (Ribadah) are equal in sin. 3- In a narration from the Prophet of Islam (peace be upon him and his family), it is narrated that he said: "If Allah forbids something, He also forbids its price." According to this narration, the act of an employee who takes steps towards a riba transaction or is somehow involved in its realization or continuation is forbidden. Therefore, the price of this service, which is the same as the rights and wages of the worker, is also forbidden and invalid and he has no right to receive it. 4- According to His Eminence Ayatollah Khamenei, there is no problem in principle with working in banks, but working in banking operations related to usury transactions is not permissible, and a person is not entitled to receive wages and benefits for doing so, and it is not permissible for him to work there, and it is not permissible to engage in unlawful work simply because he cannot find another lawful job to earn his living. (Moazam Leh website) Also, in response to the question of whether receiving benefits for work in the field of credit, It is permissible to audit and manage a bank. They have answered that "there is no problem in working in the aforementioned banking sectors and receiving remuneration for it, as long as it is not related in any way to transactions that are forbidden by Islamic law." (Ayatollah Khamenei, Answers to Inquiries, Question 1394).

Banks in the Islamic Legal System

In the field of Islamic banking, the books Islamic Banking by Shahid Sadr and Banking Without Riba by Najatullah Siddiqui are some of the first books that have been written in this field. However, over time, establishing an Islamic banking system without riba has always been the dream of every Muslim. Perhaps for this reason, with the establishment of the Islamic Republic, the first resolution of the Revolutionary Council in this regard was approved approximately three months after the victory of the revolution and with the aim of promoting banking activities towards Islamization, and the Council of Money and Credit took steps to eliminate interest from the banking system with another resolution on 10/3/1358. In this resolution, interest was guaranteed in the banking system and wages were foreseen for attracting savings and granting credit. Accordingly, banks were allowed to pay a guaranteed interest of at least 7 percent for attracting sight deposits (settlement) and at least 8.5 percent for attracting term deposits. It was also stipulated that at the end of the year and in the event of higher interest, the excess over the guaranteed minimum would be distributed among depositors. In relation to bank credits and facilities, it was also stipulated that the bank would pay a wage to real and legal persons, the amount of which would vary depending on the circumstances. There were various differences, take it.

Considering the problems and objections that the last approved law had, it was stipulated in the commentary of Article 54 of the Budget Law of 1360

that:

The government is obliged to carry out the necessary studies as soon as possible from the date of approval of this law to eliminate usury from the banking system and reform the banking system and submit the relevant bill to the Islamic Council of Ministers. In any case, these studies and reviews and submission of the bill should not exceed 6 months. (Salarban Abdul Aziz) Daylmi, (1414 AH).

Objectives and Duties of the Banking System in the Islamic Republic of Iran

Establishing a monetary and credit system based on truth and justice (with Islamic principles) in order to regulate the correct circulation of money and credit for the health and growth of the country's economy.

Activities to achieve the goals, policies, and economic programs of the Islamic Republic government with monetary and credit instruments.

Creating the necessary facilities to expand public cooperation and charitable lending through the attraction and mobilization of free funds and Savings, savings, and deposits, and their mobilization and provision in order to ensure the conditions and opportunities for work and investment in order to implement clauses "2" and "9" of Article 43 of the Constitution. Maintaining the value of money and creating equilibrium in the balance of payments and facilitating trade exchanges.

Facilitating payments, receipts, exchanges, transactions, and other services entrusted to the bank by law.

The duties of the banking system include:

Issuing banknotes and coins in common use in the country in accordance with the law and regulations.

Regulating, controlling, and guiding the circulation of money and credit in accordance with the law and regulations.

Carrying out all foreign exchange and rial banking operations and undertaking or guaranteeing foreign exchange payments to the government in accordance with the law and regulations.

Supervising gold and foreign exchange transactions, the import and export of Iranian currency and foreign exchange, and regulating the regulations related to them in accordance with the law.

Carrying out operations related to securities and documents in accordance with the law and regulations.

Implementing monetary and credit policies in accordance with the law and regulations.

Banking operations related to that part of the approved economic programs that must be carried out through the monetary and credit system.

Opening various types of credit accounts (current and savings) and long-term investment deposits and issuing related documents in accordance with laws and regulations.

Granting loans and credit without usury (interest) in accordance with the law and regulations.

Granting loans and credit and providing other banking services to legal cooperatives in order to achieve Clause “2” of Article 43 of the Basic Law. Carrying out gold and silver transactions and safeguarding and managing the country’s foreign exchange and gold reserves in compliance with the relevant laws and regulations.

Guarding the rial funds of international monetary and financial institutions or similar institutions or those affiliated with these institutions in accordance with the law and regulations.

Concluding payment agreements in the implementation of Monetary, trade and transit contracts between the government and other countries in accordance with the law and regulations.

Accepting and maintaining deposits of gold and silver, precious objects, securities and official documents from real and legal persons and renting deposit boxes.

Issuing, approving and accepting foreign currency and rial guarantees for customers.

Providing attorney and guardianship services in accordance with the law and regulations of Yousefi, 1381.

According to the investigations carried out, although there is no information on the subject of usury transactions and banking without Numerous studies have been conducted, but a study similar to the one presented here that examines the legitimacy of banking and employment in banks has not yet been conducted. Now, in this section, we will present a number of existing studies in the field of Islamic and usury-free banking and review them briefly and comprehensively: - Ebrahimi, Hossein, Shiasy-Arani, Ali, Zamanian, Masoumeh, (2018), Study and Analysis of the Efficiency and Risks of the Islamic Banking System and Conventional and different approaches to profit sharing;

Banks, as the largest financial intermediaries, carry out the provision and allocation of resources, which is their main activity. This activity naturally exposes the bank to risks. Therefore, banks are trying to prevent or transfer risks in various ways or are pursuing preventive measures. Islamic banks, as an alternative to conventional banks in Islamic countries, are also faced with the common risks of banking. Given the new developments in the banking industry and the acceptance of Islamic banking as opposed to conventional banking, assuming that Islamic banking is different from conventional banking and that this difference is due to the existence of a legal system called Islamic contracts, it is necessary to pay attention to the supervision of the ruling party and, in accordance with its structure and functions, to calculate risk and distinguish between Islamic contracts. In this article, after reviewing the concepts and types of risk, the difference between Islamic and conventional banking and the method Risk distribution and management in two different Islamic and conventional systems have been discussed and we will conclude that the risks of interest-free banking in Iran and conventional banks do not differ much from each other except for two cases: liquidity risk and operational risk. - Barkar, Mohammad (2013) A study to examine Islamic banking laws from the perspective of Islamic difference and with the aim of increasing the commonality of views on Islamic banking and in the direction of comparative approaches. Banking transactions have been carried out in accordance with the Sharia and jurisprudential principles of each transaction. - Hajzadeh, Hadi, (2012), Legal Requirements of Private Banking and Their Review in the Legal System of Iran, Privatization of Banks or Private Banking, undoubtedly requires the introduction of prerequisites and compliance with various requirements and rules in various fields. From a legal perspective, these prerequisites and requirements can be analyzed and reviewed from two aspects:

"Changes in the Fields of

"Changes in the Ownership Structure" and

"Changes in the Ownership Structure" It is about

decision-making and monitoring. "In this study, in addition to a general explanation of each of these requirements, the background and current attitude of the Iranian legal system towards each of them will be analyzed and evaluated, and the strengths and weaknesses of the country's current laws and regulations will be assessed with regard to these requirements.

The findings of this study show that although the Iranian legal system has made an acceptable progress in terms of changing the ownership structure of the banking industry, it is still in its infancy in terms of changing decision-making and supervision, and devolution in this area is progressing slowly. - Khorasani, Mohd. (2016) has written a research paper entitled Legal Ways to Avoid Usury in the Banking System of the Islamic Republic of Iran, with the aim of finding legal solutions to avoid usury in Islamic banking, including understanding the types of usury, examining usury in production and commercial loans, and becoming familiar with usury tricks. -Saki, Narges, (2018), Analysis of the Legal Nature of Interest and Bank Profit in the Current Banking System, Bank Profit Rate is one of the variables that plays a very important and key role in monetary policies and economic relations of societies. Over the past years, the need for comprehensive studies and a comprehensive and all-round view in the theoretical and practical fields, especially in the discussion of bank profit rates, has always been felt. In early 1999, after some economic experts and policymakers proposed proposals in the field of adjusting bank interest rates, and after discussions among non-expert members and a mix of expert and non-expert analyses in some newspapers, it was deemed necessary to begin studies in this field in order to prevent any decision from being made before conducting a comprehensive review. Considering the aspects of the matter, studies were first conducted in the theoretical field of the subject. After these stages, studies continued with a focus on the practical aspects of the matter and the benefits, taking into account the requirements of the Usury-Free Banking Transactions Law and the conditions of the Iranian economy, and for this purpose, efforts were made to use some economic indicators and tools to determine interest rates. In order to be more aware of the consequences of the decisions taken, extensive studies were conducted on the impact of changes in interest rates on production units and the financial structure of banks. Finally, during the years of the Third Development Plan, taking into account the conditions of the country's economy and the general characteristics of economic policies, the Monetary and Credit Council and the Central Bank made changes in the interest rates of deposits and facilities. Tahmasbi, Ali, Rezaei, Seyed Mahdi, (2016), Rights and Benefits of Bank Managers, Amount or Structure, The financial crisis of 2008 led to increased concerns about the rights and benefits of executive managers of financial companies. Especially when financial managers increased their activities in an effort to increase their compensation. After the aforementioned financial crisis, stakeholders and supervisory bodies around the world have turned their attention to this issue. Many commentators do not consider the extraordinary financial payments to managers of financial institutions and banks based on their short-term performance to be one of the effective factors in creating the financial crisis of 2008. The origin of this problem is the conflict of short-term interests of bank decision-makers as executives and the long-term interests of bank shareholders and depositors as the main owners of the bank and, in fact, employers. As a result, this conflict of interest occurs and bank managers make risky decisions that are in the short term to the benefit of the bank but may even lead to its bankruptcy in the long term. In the case of financial companies, and especially banks, due to their specific conditions, the role of the government and regulatory and supervisory institutions is much more important. This paper seeks to address the nature and conditions of managers' compensation and to prevent their suboptimal decisions in designing performance-based compensation and benefits. By examining the various issues and cases of understanding the current situation, we conclude that moving towards designing and monitoring the compensation structure as an effective and debatable proposition can be considered.

It is reliable. - Nik Farjam, Mohammad Reza (2002) conducted a research entitled "Investigation of interest-free banking transactions" with the aim of examining the participation contract in interest-free banking. In this dissertation, the subject in question will be presented in a new way and with innovations in the field of writing, so it will be analyzed and examined in a useful way, considering the above issues and shortcomings of the topics.

The method studied

The present study is applied in terms of purpose and descriptive-analytical in terms of method. In this study, the position of employment in banks in the Islamic legal system has been examined using library studies. The required data has been collected through the study of the Holy Quran, narrations, jurisprudential and legal sources, works related to Islamic economics, banking regulations and related scientific research and then evaluated using the method of content analysis and legal inference.

In this study, first, the general principles of employment and work in the Islamic legal system have been studied, including the legitimacy of earning income, the necessity of observing justice, the prohibition of consuming wealth for falsehood, the principle of trustworthiness and protection of human dignity. Then, the activities of banks and the role of bank employees have been analyzed from the perspective of rules such as prohibiting usury, prohibiting flattery and deception, observing the public interest, protecting property and rights of individuals and the necessity of transparency in transactions. Next, the rights and duties of bank employees as well as the responsibility of banks towards employees, customers and society have been examined.

The method of analysis in this study is inferential and comparative; meaning that first the principles and rules governing employment and economic activity are extracted from Islamic sources and then the degree of compliance of banking employment with these principles is evaluated. Accordingly, employment in banks is examined not only in terms of having an employment contract, but also in terms of the subject of the bank's activity, the nature of transactions, the method of earning income, the behavior of employees, and the social effects of banking activity.

Conclusion

The research findings show that the principle of employment in banks is legitimate and accepted from the perspective of the Islamic legal system, because Islam approves work and effort to earn a living, earn a lawful livelihood, and participate in useful economic activities. From this perspective, the activities of bank employees, if carried out within the framework of legitimate and legal affairs, do not face any obstacles from the Islamic and legal perspectives.

It was also found that the legitimacy of banking employment is not absolute and unconditional; rather, it depends on the legitimacy of the bank's activities and the type of tasks assigned to the employees. If the bank operates in the field of mobilizing and allocating resources, providing financial services, supporting production, and conducting legitimate transactions, employment in it will also be legitimate. In contrast, direct employment in usurious activities, formal transactions, operations based on deception, violating customers' rights, receiving bribes, or actions harmful to society are not compatible with the principles of the Islamic legal system.

Another finding of the research is that in the Islamic legal system, bank employees are not only wage earners, but also have professional and moral responsibilities towards customers, the bank, and society. Trustworthiness, honesty, maintaining customer secrets and information, observing justice in providing services, avoiding discrimination, preventing abuse of information and job position, and providing accurate information are among the most important duties of bank employees.

The findings also show that banks are obliged to respect the fundamental rights of their employees. Paying fair wages, enjoying job security, respecting human dignity, creating equal opportunities for employment and promotion, prohibiting discrimination, providing a healthy work environment, and paying attention to the competence of individuals are important requirements of banking employment within the framework of the Islamic legal system. Therefore, the employment relationship between the bank and employees must be based on justice, satisfaction, transparency, and respecting mutual rights.

The studies indicate that Islamic banking is not achieved by simply changing the name of contracts or using Sharia terms; rather, the real nature of transactions and their economic effects must be in line with Islamic standards. As a result, Sharia and legal supervision of bank activities, employee training, contract transparency, conflict of interest control, and the establishment of effective mechanisms for handling customer complaints play an important role in ensuring the legitimacy of banking employment.

From a social perspective, the findings also show that employment in banks can be effective in achieving the general goals of Islam. Banks can create employment and public welfare by financing production, supporting entrepreneurship, providing fair access to financial resources, and participating in economic development. However, whenever banking activities lead to unfair concentration of wealth, increasing harmful debts, economic exploitation, or deprivation of weak groups in society, it will deviate from the justice-oriented goals of the Islamic legal system.

Overall, the research findings show that the position of employment in banks in the Islamic legal system is a legitimate, important, and social position; However, its legitimacy and desirability depend on the simultaneous observance of three basic conditions: the legitimacy of banking activities, respect for the rights of employees and customers, and the employees' adherence to the ethical and professional principles of Islam. Therefore, banking employment will be in harmony with the Islamic legal system when, in addition to securing economic benefits, it serves justice, trustworthiness, and the protection of the rights of individuals and public interests.

Employment in banks in the Islamic legal system is in itself legitimate and has a positive status, because Islam has approved the principle of work, economic effort, and earning income through legitimate means. Banks, as institutions that play a role in organizing financial resources, providing capital, supporting production, and creating employment, can be effective in achieving the economic and social goals of Sharia. Therefore, the principle of activity and employment in banks is legitimate as long as it does not conflict with Islamic rules and values.

However, the legitimacy of banking employment is not absolute and depends on the type of bank activity and the way employees perform their duties. Whenever banking activities are based on usury, deception, ignorance, discrimination, violation of customers' rights, or acquisition of wealth through illegitimate means, employment in such activities will also not be compatible with the principles of the Islamic legal system. From the perspective of Islam, the legitimacy of a job is not achieved only by receiving a salary and having an employment contract, but the subject of the work, the means of doing it, and the individual and social effects of the activity must also be legitimate.

In the Islamic legal system, bank employees, in addition to enjoying job rights, have responsibilities to customers, employers, and society. Observing trustworthiness, honesty, maintaining customer confidentiality, avoiding discrimination, providing accurate information, observing justice in granting facilities, and preventing abuse of job positions are among their most important ethical and legal obligations. Banks are also required to provide a fair and healthy environment for employment and to consider rights such as fair wages, job security, human dignity, prohibition of discrimination, and the possibility of career advancement. On the other hand, Islamic banking should not be limited to simply changing the title of contracts or using Sharia terms, but should also implement Islamic principles in the actual structure of transactions and work relationships. Sharia supervision, transparency of contracts, continuous training of employees, control of conflicts of interest, and accountability of banking institutions are essential tools to ensure that banking activities comply with Islamic standards. In this framework, banking employment can go beyond a purely economic relationship and become an arena for achieving justice, public service, and protecting the interests of society.

Finally, it can be said that the position of employment in banks in the Islamic legal system is an accepted and constructive position; but this position is conditional on the simultaneous observance of two sets of requirements: first, respecting the rights of employees and ensuring fair and humane working conditions; and second, the compliance of banking activities and employee performance with Sharia, ethical and legal standards. Accordingly, an Islamic bank is desirable as a bank that, in addition to being economically efficient, also takes steps towards achieving social justice, supporting production, protecting the rights of individuals and preventing illegitimate activities.

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