

ABSTRACT

This study suggests & carries out the remarks of professional bankers and lawyers and teachers on provisions in banking companies' ordinance 1962 and financial institution ordinance 2001 against the Islamic principles. We have conducted a survey based on semi-structured interviews from different professionals and found out that banking companies' ordinance 1962 has some provisions which don't allow to conventional banking to be transformed properly in the right line of Islamic values such as section 7(1) (a) which talks about lending which means any amount which is returned to the financial institution(s) for the use of money more than actually lent to the debtors and this is nothing but mark-up. SBP circular no 32 clearly restricts the interest but the same was replaced by the word "mark-up" which has no difference in meaning of interest. We can say interest and mark-up are same. Mark-up is price charged over the cost but the Islamic basic rule, money is not considered as commodity because it doesn't create any utility such as money cannot be eaten, drunk, wrapped, etc. But money is used to buy some goods which fulfill the utility and that's why money is not commodity in terms of utility (Supreme Court judgment on Riba PLD 2000 SC page 719). The same statement has been driven in the pld-2000 Aslam khaki case. Section 5(b) of banking companies' ordinance 1962 also carries word "lending" and this becomes definition as mentioned in section 5(b) & c. Section 7(1) has some other issues like 7(1) (c) & 7(1) (d) & 7(1) (o) because they all invoke interest-based transactions such as loan negotiation means charge mark-up on loan and nothing else (banking companies ordinance 1962). Financial institution ordinance 2001 also discusses the mark-up because the section 2(d) dealing in finance definition and this is included in it. Sections 25(2) (a) & (b) of banking companies ordinance 1962 have very much importance because under these sections, SBP has authority and autonomy to determine interest rate and banks become forceful to charge with the debtors. While the cost of fund is also charged under section 3(2) of financial institution ordinance 2001 approximately, all the respondents agree that the above sections should be removed in order to bring conventional banking on line of Islamic banking. Approximately all agreed on the importance of governments' attitude, public attitude, and educational level. Interest charged on loan also brings inflation either for productive purpose or

consumption. Cost of funds has mixture of opinions because it either may be interest or not but it is interest from definition point of view (Quran chapter 2 verse 275-279 & chapter 30 verse 39).

KEYWORDS: BANKING COMPANIES' ORDINANCE 1962 (BCO 1962), FINANCIAL INSTITUTION ORDINANCE 2001 (FIO 2001), GOVERNMENTS' ATTITUDE, PUBLIC ATTITUDE, INFLATION, FEDERAL SHARIAT COURT (FSC), SUPREME APPELLATE BENCH (SAB), CONSTITUTION 1973,