

**THE REGULATORY FRAMEWORK FOR ISLAMIC
MICROFINANCE IN LIBERIA: LESSONS FROM
BANGLADESH***

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ABSTRACT

The paper attempts to designate a regulatory ambit of coherent microfinance framework as vibrant poverty alleviation strategy for Liberia. The paper explores and suggests the introduction of regulatory framework for Islamic microfinance in Liberia based on the lessons learned from Bangladesh. The paper finds that the current microfinance system in Liberia is structured based on conventional framework, which charges interest and focuses mainly on women as target group. This concept is not patronised by some segments of the population in the country particularly the Muslims, because it is not consistent with their faith. This phenomenon inherently calls for a reform with introducing the regulatory framework of Islamic microfinance as a viable alternative. The paper suggests there is a need for creating diversified sources of funds for setting up of an independent regulatory authority to be in-charged of licensing and registration of Islamic microfinance. Microfinance industry in Liberia can learn a lot of experiences and lessons from the regulatory framework of Islamic microfinance in Bangladesh.

Keywords: Legal, Regulatory Framework, Islamic Microfinance, Liberia, Bangladesh

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1. INTRODUCTION

Liberia is one of the oldest African countries. In fact, it is believed that it is the only African country that was not colonised.¹ Accordingly, Liberia is a multi-religious and multi-ethnic country which promotes freedom of thought, conscience and religion to its citizens without any restriction. The Liberian constitution provides for the religious and cultural freedom in the country.² The population of Liberia is approximately (4.937) million inhabitants.³ Nonetheless, Liberia could have been one of the African economic and political giant, if not the instability occasioned by the 14 years civil war, which broke out in 1989 and ended in 2003. The civil war impaired the infrastructural development, social order, economic growth, political, health and educational systems of the country.⁴

Meanwhile, Liberia is still backward pertaining to microfinance product development, financial sustainability, and capacity

¹ Robert Allen Sedler, "Law Reform in the Emerging Nations of Sub-Saharan Africa: Social Change and the Development of the Modern Legal System," . Louis ULJ 13 (1968): 200.

² The Constitution mandates that: "All persons shall be entitled to freedom of thought, conscience and religion and no person shall be hindered in the enjoyment thereof except as may be required by law to protect public safety, order, health, or morals or the fundamental rights and freedoms of others. All persons who, in the practice of their religion, conduct themselves peaceably, not obstructing others and conforming to the standards set out herein, shall be entitled to the protection of the law. No religious denomination or sect shall have any exclusive privilege or preference over any other, but all shall be treated a like; and no religious tests shall be required for any civil or military office or for the exercise of any civil right. Consistent with the principle of separation of religion and state, the Republic shall establish no state religion." See Chapter 3, Article 14 "Constitution of the Republic of Liberia," 6 January 1986, accessed August 12, 2019, <http://www.unhcr.org/refworld/docid/3ae6b6030.html> [accessed 13 August 2019].

³ United Nations, "World Population Prospects 2019: Data Booklet" (United Nations, 2019), https://population.un.org/wpp/Publications/Files/WPP2019_DataBooklet.pdf. (accessed on 13 August 2019): 15.

⁴ Samuel Wai Johnson, "Microfinance in Post-Conflict Liberia: Implications and Challenges," *Cover Page Was Compiled by Dr. William B. Kory, with Cartography Work by Joe Sernall*, 2012, 48-49.

building. This is perhaps due to the civil war. The civil war affected the microfinance industry and as its going concern.⁵ In fact, the plight has paralysed the microfinance services across the country and specifically the rural areas due to lack of proper regulatory framework to create suitable environment for the microfinance sector.⁶ Furthermore, the aftermath of the war resulted in the increasing poverty rate.⁷ In response to this drawback, some efforts and measures have been put in place by the Liberian government and the international community to empower the poor through microfinance programme. The international partners in this effort include: the African Development Bank (AfDB), the United Nations Development Programme (UNDP), the United Nations Development Fund for Women (UNIFEM) and the United Nations Capital Development Fund (UNCDF).⁸

Similarly, there have also been some efforts to create regulatory framework for microfinance in Liberia. Based on the findings, it is concluded that the current efforts on the framework on microfinance is mainly based on the conventional system, as it

⁵ P Gondo, "A Review of Forest Financing in Africa," *Southern Alliance for Indigenous Resources (SAFIRE)*, Zimbabwe, 2012; USAID, "Property Rights and Artisanal Diamond Development (PRADD) The Feasibility of Microfinance for Artisanal Diamond Miners," 28., accessed May 25, 2016, http://www.usaidlandtenure.net/sites/default/files/USAID_Land_Tenure_PR_ADD_Microfinance_Report_0.pdf.

⁶ USAID, "Property Rights And Artisanal Diamond Development (Pradd) The Feasibility of Microfinance For Artisanal Diamond Miners," 29; Johnson, "Microfinance in Post-Conflict Liberia: Implications and Challenges," 56.

⁷ Johnson, "Microfinance in Post-Conflict Liberia: Implications and Challenges," 46.

⁸ AfDB, "Impacting West Africa: Transforming People's Lives in Liberia through Microfinance," 2;, accessed May 3, 2016, http://www.afdb.org/fileadmin/uploads/afdb/Documents/Project-and-Operations/Impacting_West_Africa_Transforming_People%E2%80%99s_lives_in_Liberia_through_Microfinance_-_Issue_1.pdf.; AfDB is an abbreviation for "African Development Bank Group," UNDP is an abbreviation form for "United Nations Development Programme," UNIFEM is an abbreviation form for "United Nations Development Fund for Women" and UNCDF is an abbreviation form for "United Nations Capital Development Fund."

can be inferred clearly from the definition of microfinance provided by the ‘Microfinance Policy and Regulatory & Supervisory Framework For Liberia (MPRSFL)’.⁹ The Conventional based-microfinance principles embody non-*Shari’ah compliant* and discriminatory practices such as charging of interest and in some cases it focus mainly on women. These have excluded some citizens of the country, particularly the Muslims who constitute (25%)¹⁰ of the population¹¹ and abhor principles which are not in line with their faith.¹² In view of the foregoing, the paper attempts to briefly examine the regulatory framework on microfinance in Liberia. It further analyses the regulatory framework on Islamic microfinance in Bangladesh and inductively deuces the lessons learned for Liberia.

2. REGULATORY FRAMEWORK OF MICROFINANCE IN LIBERIA: AN OVERVIEW

As regard to the regulatory framework of microfinance in Liberia, microfinance sector including Islamic institutions are subject to the same laws, rules and regulations that govern the financial institutions in the country. These laws are vest regulatory powers on relevant authorities, specifically, the Central Bank of Liberia, the Judiciary in case of disputes and interpretation, and other concerned government agencies. Thus, the “Financial Institutions Act of 1999” confers on the Central Bank of Liberia, the powers to regulate and supervise all financial institutions in the country, including the microfinance

⁹ Central Bank of Liberia, “Microfinance Policy and Regulatory & Supervisory Framework For Liberia” (Central Bank of Liberia, 2009), <http://www.cbl.org.lr/doc/lsf/MICROFINANCEMERGEDDOCS.pdf>. (accessed on July 2012): 7.

¹⁰ James S Guseh, “Liberia: A Country in Search of Identity and Unity,” *Liberian Studies Journal* 22 1 (1997), 43; Ssee also Giorgio V Brandolini and Mohammad Tigani, “Liberia Environmental Profile,” *Financed by European Commission and Presented by Agreco GEIE*, 2006, 11.

¹¹ In another source, the population of the Muslims in Liberia ranges between (30%) to (35). See Özgür Kavak, “The Liberian Muslims” (iSAMER, n.d.), https://insamer.com/en/liberian-muslims_1077.html.

¹² Qur’an, *al-Baqarah* 2: 275.

providers inclusive.¹³ In other words, there is still not a specific or adequate regulatory framework for microfinance, besides the “Central Bank of Liberia Act of 1999” and the “New Financial Institutions Act of 1999.” There is also the “Microfinance Policy and Regulatory & Supervisory Framework For Liberia,” which is used as a guide for microfinance activities under the supervision of the Central Bank of Liberia.¹⁴ Based on the above discussion, it can be concluded that, there are three main legislations for the microfinance sector in Liberia. They include the “Central Bank of Liberia Act of 1999,” the “New Financial Institutions Act of 1999,” and the “Microfinance Policy and Regulatory & Supervisory Framework For Liberia.”¹⁵

Central Bank of Liberia Act of 1999

The “Central Bank of Liberia Act of 1999” vests in the Central Bank of Liberia (CBL) the power to serve as the regulatory body for all banking and microfinance institutions in the country.¹⁶ It plays significant role to improve the legal framework, supervisory capacity and financial infrastructure for the financial institutions in the country.¹⁷ After the civil war, the former National Bank of Liberia was re-established by a new Act, named as “the Central Bank Act of Liberia 1999.” On the basis of this new Act, the new Central Bank was established in

¹³ Part 2, Section 3(1) of “The New Financial Institutions Act of 1999.”

¹⁴ Johnson, “Microfinance in Post-Conflict Liberia: Implications and Challenges,” 56.

¹⁵ There been some efforts to improve the regulatory environment of the microfinance institutions in the country, which have led to the promulgation and issuance of microfinance regulations known as “Prudential Regulations for Microfinance Deposit Taking Institutions,” by the virtue of Part 2, Section 3 of the “New Financial Institutions Act of 1999” and “Microfinance Policy and Regulatory & Supervisory Framework for Liberia.” See Part 1 of “Prudential Regulations for Micro-Finance Deposit-taking Institutions, Regulation No. CBL/RSD/004/2012,” <https://cbl.org.lr/doc/MDIregrev.pdf>.

¹⁶ Part 2, Section 3 (2) (d) of “The Central Bank of Liberia Act of 1999.”; “AccessBank Liberia 2013 Annual Report ,” 6; Part 1, Section 2.0 (i) of “Prudential Regulations for Micro-Finance Deposit-Taking Institutions, Regulation No. CBL/RSD/004/2012.”

¹⁷ “AccessBank Liberia 2013 Annual Report ,” 6.

Liberia as a successor to the default National Bank of Liberia.¹⁸ Accordingly, the name was changed from “National Bank of Liberia” to “Central Bank of Liberia,” and it started operations in 2000. The Act provides that the Central Bank would be headed by an executive governor and two deputy governors who shall be appointed by the President of Liberia subject to the confirmation of the Senate.¹⁹ The Act also gives powers to the CBL, to:

Exercise all powers generally available to corporations as well as those powers specifically granted it by and under the provisions of this Act, and such incidental powers as shall be necessary to carry out the mandate so granted.²⁰

The above provision empowers the Governor of the CBL to initiate all financial policies in Liberia. It also mandates the CBL with full powers without limitation to constitute and regulate anything that might be necessary or important for the financial policies in the country. By extension, it could be argued that, this also enables the CBL to license Islamic microfinance since it falls under the jurisdiction of the CBL by virtue of the Act. The Act further vested the CBL with specific powers:

To administer the New Financial Institutions Act of 1999 and regulate banking activities;²¹

Regulate bank and non - bank financial institutions, as well as non - bank financial services institutions”²²

¹⁸ Part 2, Section 3 of “The Central Bank of Liberia Act of 1999.”

¹⁹ Part 4, Section 10(1) of “The Central Bank of Liberia Act of 1999.”

²⁰ Part 2, Section 3 (2) (d) of “The Central Bank of Liberia Act of 1999.”

²¹ Part 2, Section 4 (6) of “The Central Bank of Liberia Act of 1999.”

²² Part 2, Section 3 (2) (d) of “The Central Bank of Liberia Act of 1999;” Part 1 of “Regulations for Non-Bank Financial Institutions, Regulation No. CBL/RSD/005/2012,” 2012, <https://cbl.org.lr/doc/NBFIregrev2nd.pdf>.

The former section above²³ empowers the Governor of the CBL to regulate the banking sector in Liberia through the “New Financial Institutions Act of 1999.” These powers shall be applied within the capacity of the Governor of the CBL even if the “New Financial Institutions Act 1999” does not provide for the matter. It is deemed fit for the intervention of the Governor of the CBL. In the context of the Islamic microfinance in Liberia, this section is a legal backing for the Governor of the CBL to allow and license such bank even though it is not expressly mentioned by the relevant laws of Liberia. In the context of constitutionality, the constitution of Liberia provides for freedom of religion and guarantee economic well-being of the people regardless of whether the means will provide such economic multiplier effect.²⁴ It means that the laws regulating financial institutions in Liberia overtly and covertly provided for any financial institution in Liberia provided it operates within the confines of the law. It shall be subject to the rules and regulations laid down by the Central Bank Governor. It also means that to have an effective Islamic microfinance institution in Liberia the House of Assembly does not really have to be involved in order to guarantee the independence of the CBL.

The later section²⁵ provides for the powers of the CBL to regulate both bank and non-bank financial institutions. Hence, the section makes it possible for the establishment of any type of microfinance institutions, regardless of it being conventional or Islamic. Based on this, the Islamic microfinance institution is also automatically under the regulation of the CBL. This includes the legality of its establishment. But such establishment shall be done within the regulations of the CBL.²⁶ By extension, Islamic microfinance might be established in Liberia under the permission of the Governor of the CBL. This might thrive because of some of the instruments used by the Islamic microfinance, such as *murabahah* (cost plus mark-up transaction) and *kafalah* (contract of guarantee) which

²³ Part 2, Section 4 (6) of “The Central Bank of Liberia Act of 1999.”

²⁴ Chapter 3, Article 14 of the “Constitution of the Republic of Liberia.”

²⁵ Part 2, Section 3 (2) (d) of “The Central Bank of Liberia Act of 1999.”

²⁶ Part 2, Section 3 (2) (d) of “The Central Bank of Liberia Act of 1999.”

apparently look like the conventional loan system. But in practice the two systems are far apart. This apparent similarity may serve as a convincing factor to the Liberia authority for the efficacy of Islamic microfinance system within the fold of microfinance subsector in Liberia.

New Financial Institutions Act of 1999

Another regulatory organ for microfinance sector in Liberia is the “New Financial Institutions Act of 1999.” The Act repealed the “Financial Institutions Act of 1974” which governs banks and non-banking financial institutions.²⁷ Meanwhile, both conventional and Islamic microfinance institutions might be established under the power mandated by this Act of the CBL. In this case, both institutions shall obtain licenses from the CBL. The Act provides that:

No person in Liberia shall carry out banking business or provide non-bank financial services as a business without a license from the Central Bank of Liberia. A local financial institution shall not do banking business or provide non-bank financial services as a business in Liberia or abroad nor shall a foreign financial institution do banking business or provide non-bank financial services as a business in Liberia without a license granted by the Central Bank authorizing the licensee to do such business. The license shall indicate the class of financial institution and the operations the licensee is authorized to do.²⁸

The aforesaid provision, empowers the CBL to provide license to any local financial institution to carry out financial services. The provision did not specify the type of local financial institution. In this regard, the Islamic microfinance institution can be established as a local financial institution. The established Islamic microfinance might be permitted to provide any type or kind of financial services, since there is no

²⁷ Section 1 of “The New Financial Institutions Act of 1999.”

²⁸ Part 2, Section 3(1) of “The New Financial Institutions Act of 1999.”

restriction on the type of financial services that might be provided by the licensed institution under this provision. However, the classification of the institution and authorized activities shall be mentioned in the license as it can be inferred from the above provision.

It can also be inferred from the provision that; Islamic microfinance might be established as an Islamic microfinance-bank. In this case, the established Islamic microfinance-bank shall focus its activities on banking business. This is corresponding with the definition of the phrase “local financial institution.” Under the Act, the words “Local financial institution” refers to a financial institution organized under the law of Liberia to carry out banking business in Liberia.²⁹ The banking business includes, receiving funds from the public through voluntary money deposits payable upon demand or funds from the government or from any foreign or international financial institution, to utilise some part of it or whole for loans provision or investments.³⁰

Another power vested in the CBL is the licensing and registration of the microfinance institutions. It is also responsible for the establishment of national microfinance steering committee implementing regulatory and supervisory framework.³¹ It shall review the policy and guidelines as well as promote the linkage activities between the banks, microfinance institutions and other specialized financing institutions. Creation of prudent microfinance policy which includes licensing criteria, operational standards and guidelines for microfinance stakeholders are also the responsibility of the CBL.³² Moreover, the microfinance institutions are regulated by the Regulation and Supervision Department of the CBL. Nonetheless, the law permits the establishment of microfinance institutions by

²⁹Part 1, Section 2(10) of “The New Financial Institutions Act of 1999.”

³⁰ Part 1, Section 2(1) (i) of “The New Financial Institutions Act of 1999.”

³¹ Section 2.5.2 (i) (ii) of “Microfinance Policy and Regulatory & Supervisory Framework For Liberia.”

³² Section 2.5.2 (v) (vi) and Section 3.4 of “Microfinance Policy and Regulatory & Supervisory Framework For Liberia.”

people, a group of people, community development associations, private companies (corporate entities) and foreign investors. Upon the establishment of any microfinance institution, the word “microfinance” must be added to the name of licensed or registered microfinance institution.³³

Microfinance Policy and Regulatory & Supervisory Framework For Liberia (MPRSFL)

The Microfinance Policy and Regulatory & Supervisory Framework For Liberia (MPRSFL) is another regulatory arm for the microfinance sector in Liberia. The MPRSFL was created by the CBL as an effort to build legal infrastructure for microfinance activities in the country.³⁴ The MPRSFL recognises the existence of informal microfinance institutions under the umbrella of the CBL. The MPRSFL was prepared by the CBL by virtue of the New Financial Institutions Act of 1999.³⁵ Accordingly, the microfinance institutions shall be supervised by the MPRSFL under the authority of CBL.³⁶

The MPRSFL mandates under Section 2.5.3, Section 3.1 (i) to (ii) and Section 3.2.1 (ii) that, all microfinance institutions in Liberia shall provide efficient and effective financial services to their clients. These services include credit or loan, savings, commodity and leasing services.³⁷ On the other hand, Section

³³ Section 3.3, Section 3.4 and 3.12 (3.12.1) of “Microfinance Policy and Regulatory & Supervisory Framework For Liberia.”

³⁴ Section 1.3 and Section 1.4 of “Microfinance Policy and Regulatory & Supervisory Framework For Liberia.”

³⁵ Part 2, Section (3) of “The New Financial Institutions Act of 1999.”

Section 1.3 of “Microfinance Policy and Regulatory & Supervisory Framework For Liberia.” Meanwhile, there is also be another legal development for the microfinane sector in Liberia. This incldue the development and approval of the regulatory and supervisory framework for mirofinane deposit taking isntutions. Prodentitial regualtion for the microfinance deposit taking institution has been finalised. Under the regulation, the minimum capital required for the microfinance deposit taking istitutions is USD one million. See Kamara, “Liberia Liberia,” 26.

³⁶ Section 1.3, Section 1.4 and Section 1.5 of “Microfinance Policy and Regulatory & Supervisory Framework For Liberia.”

³⁷ Section 2.5.3, Section 3.1 (i) to (ii) and Section 3.2.1 (ii) of “Microfinance Policy and Regulatory & Supervisory Framework For Liberia.” The

2.4 (i) to (iv) of MPRSFL, prescribed various goals and objectives which shall be observed pursuant to guidelines issued to all registered microfinance institutions. These include provision of diversified, suitable and reliable microfinance financial services in order to empower the poor. These involve engagement of microfinance institutions in competitive and long term development activities as well as suitable entrepreneurial activities which will assist the poor to be self-reliant. Other functions of the registered microfinance institutions shall include savings mobilisation, creating employment opportunities and increasing the productivity of the active poor who have the capacity to generate money and support themselves, but lack financial means or resources. The registered microfinance institutions shall further strive to improve the living standard and income level of the individual household of the poor. The registered microfinance institutions shall also provide programmes to encourage the participation of the poor in the socio-economic development and utilization of the allocated resources.³⁸

Meanwhile, Section 3.2.1 (i) to (vi) of the MPRSFL, issued guideline on some permissible activities for Bank Microfinance Institutions (Bank MFIs) in Liberia. These include the provision of microcredit or loan, insurance, transfer of funds, domestic and international remittance services. The Bank's MFIs are eligible to charge interest based on the agreement between the clients and the institutions. They are also permitted to receive deposits as well as interest based on the mutual agreement between the Bank's MFIs and their clients. The Bank's MFIs might also provide services related to maintenance and operations of accounts with any bank in the country. They may

microfinance institutions are not authorised to collect or mobilise savings but are permitted to provide loans' products. Moreover, the staff of the microfinance institutions should be well-trained and qualified, professional and competitive. The institutions must provide training and capacity building programmes continuously to their staff. See Tetra Tech ARD, "Property Rights and Artisanal Diamond Development (PRADD): The Feasibility of Microfinance for Artisanal Diamond Miners," 27–28.

³⁸ Section 2.4 (i) to (iv) of "Microfinance Policy and Regulatory & Supervisory Framework For Liberia."

also provide capacity building services, such as small business management and record keeping services in order to promote and monitor loan usage among their clients.³⁹

According to Section 3.2.2 (i) to (ii) of MPRSFL, the MFIs are not allowed to provide non-traditional and asset-based collateralised loans. They are also prohibited to fund social obligation.⁴⁰ Meanwhile, the above mentioned permissible activities are also lawful for Non-Bank Microfinance Institutions (Non-Bank's MFIs), except the acceptance of deposits.⁴¹ Furthermore, Section 3.2.2 (i) to (v) of MPRSFL, disallowed the Non-Bank's MFIs to accept any deposit. Similarly, they are not allowed to engage in foreign exchange transaction, corporate finance, international electronic fund transfer and current account or cheque clearing activities.⁴²

3. REGULATORY FRAMEWORK OF ISLAMIC MICROFINANCE IN BANGLADESH: ANOVER VIEW

Research has shown that there is no autonomous legislation or Act for Islamic financial institutions, and Islamic microfinance institutions in Bangladesh. In other words, there is no specific

³⁹ Section 3.2.1 (i) to (vi) of "Microfinance Policy and Regulatory & Supervisory Framework For Liberia."

⁴⁰ Section 3.2.2 (i) to (ii) of "Microfinance Policy and Regulatory & Supervisory Framework For Liberia."

⁴¹ Section 3.2.1 (i) to (vi) of "Microfinance Policy and Regulatory & Supervisory Framework For Liberia."

⁴² Section 3.2.2 (i) to (v) of "Microfinance Policy and Regulatory & Supervisory Framework For Liberia." Some efforts have taking in place to enact some Acts to strengthen the legal regulatory framework for the banking sector. These Acts include, Securities Market Act and Insurance Act. Creating a deposit insurance scheme and collateral registry as also on the way. See AccessBank Liberia, "AccessBank Liberia 2013 Annual Report," 6., accessed June 14, 2016, http://accessholding.com/export/sites/accessholding.com/PDF_Resources/ABL_Annual_Report_2013.pdf. Meanwhile, the regulatory and supervisory framework for microfinance deposit taking institutions has been developed and approved. Prudential regulation in relation to the deposit taking institution has been finalised. Under the regulation, the minimum capital required for the microfinance deposit taking institutions is USD one million. See Kamara, "Liberia Liberia," 26.

Act for the supervision or guiding the activities of Islamic microfinance institutions in Bangladesh.⁴³ However, concerted effort was made by Bangladeshi government to develop special guidelines and policies for all microfinance institutions. This effort led to the enactment of the Micro Credit Regulatory Authority Act, 2006.⁴⁴ This development ensures that the Islamic microfinance in Bangladesh might deduce its regulatory framework from various laws of the country, such as the Micro Credit Regulatory Authority Act 2006, the Societies Registration Act 1860, the Trust Act 1882, the Voluntary Social Welfare Agencies (Registration and Control) Ordinance 1961, the Cooperative Societies Act (Act no. 47 of 2001) and the Company Act (Act 18 of 1994).⁴⁵ However, it is important for the regulatory framework of the Islamic microfinance in Bangladesh to be governed by specific rules and regulations distinct from conventional rules. This will assist in the creation of a sustainable legal environment for its operations and activities. It will further improve its development across the country. Moreover, it will provide access to its services and supervision.

With respect to Islamic microfinance operations, the Islamic microfinance institutions in Bangladesh largely depend on *bay' mua'jjal* (price deferred sale or deferred payment sale) mode of financing in their microfinance schemes.⁴⁶ Thus, it can be observed that the deferred payment mode of financing is similar to that of the conventional mode of financing. The mode

⁴³ Abdul Awwal Sarker, "Regulation and Supervision of Islamic Banks and Financial Institutions: Bangladesh Perspective," *Thoughts on Economics* 22, no. 03 (2014): at 71.

⁴⁴ Syed Lutful Kabir Chowdhury, "Regulated Microfinance in Bangladesh-Prosper and Challenges," *International Journal of Research* 1, no. 6 (2014): 441.

⁴⁵ Chapter 1, Section 21 (a) to (e), Chapter 4, Section 15 (1), Chapter 5, Section 30 (1) to (2), Chapter 51, Section 1 and Section 2 (a) to (q) of "Micro Credit Regulatory Authority Act 2006."

⁴⁶ Norma Md Saad et al., "Towards Adopting Zero Interest Financing (ZIF) and Profit and Loss Sharing (PLS) Principle in Islamic Microfinance: The Case of Amanah Ikhtiar Malaysia," *Journal of Islamic Finance* 2, no. 2 (2013): 39.

contains fixed profit margin which creates debt. In other words, it is a debt-based financing mode.⁴⁷ At the same time, the lending process is based on fixed interest mode of financing.⁴⁸ This kind of lending process is against the principles of *Shari'ah*-based financing which discourage creation of debt.⁴⁹ It is advisable for Islamic microfinance institutions in Bangladesh to adopt the equity-based modes of financing. The modes manifest in the implementation of profit and loss sharing financing mechanisms. The modes include basically the usage of two main *Shari'ah* compliant products, namely, *mudarabah* (profit-sharing) and *musharakah* (partnership) contracts. The modes have profound features, as it secures the ownership of assets by the poor and the micro-entrepreneur.⁵⁰ Another feature of the discussed contracts is that, they are applicable to working capital and project financing.⁵¹

Furthermore, there are other *Shari'ah* compliant products which might be useful for the Islamic microfinance institutions in Bangladesh. They include *muzara'ah* (agricultural co-operative contract) and *ijarah* (leasing or hire) contracts.⁵² The *muzara'ah* contract can be useful for agricultural financing. Under this contract, the Islamic microfinance institution can finance the agricultural project in which the poor is interested. Both parties can later share the profit gained from the project according to a pre-determined percentage. For example, the project can be farming or cattle or livestock business. Under this scheme, the poor will act as *mudarib* (micro-entrepreneur) with working skill to manage the project.

⁴⁷ Saad et al., 39.

⁴⁸ Saad et al., 39.

⁴⁹ Qur'an, *al-Baqarah* 2: 275." n.d.

⁵⁰ Saad et al., "Towards Adopting Zero Interest Financing (ZIF) and Profit and Loss Sharing (PLS) Principle in Islamic Microfinance: The Case of Amanah Ikhtiar Malaysia," 39 & 59.

⁵¹ Masudul Alam Choudhury and Asyraf Wajdi Dusuki, "Banking for the Poor: The Role of Islamic Banking in Microfinance Initiatives," *Humanomics* 24, no. 1 (2008): 59.

⁵² Alam Choudhury and Wajdi Dusuki, 59-60.

The *ijarah* contract can also be useful for Islamic microfinance institutions in Bangladesh. Under this contract, the Islamic microfinance institution can purchase fixed asset requested by the poor. It could be machinery, motor or vehicles. The arrangement permits the poor to use the asset for his/her productive needs. However, he/she must pay the rental fees to the institution in accordance with the agreement. The ownership of the asset will remain under the institution. Thus, the poor shall be liable for the maintenance of the asset, as he or she is benefiting from its income while the asset is under his/her control. Certain degree of flexibility should be given to the poor, particularly, the time frame and rental fees.

The fixed assets can also be used as a working capital between the poor and the Islamic microfinance institution. The asset will be sold to the poor at nominal price. Under this contract, the poor needs to work and generate the price or value of the asset. The poor will enter into business venture agreement with the institution known as *musharakah mutanaqisah* (diminishing partnership). The value of the asset will be paid on weekly or monthly basis according to the convenience or capability of the poor. The more the poor pays, the less the ownership of the institution decreases from the asset. If the full payment of the value is completed, the ownership of asset will be transferred to the poor automatically, and he will become the legal owner. Under this contract, the maintenance of the asset shall be borne by the institution.

Meanwhile, the supervision of microfinance operations in Bangladesh is carried out by the Central Bank of Bangladesh and the Micro Credit Regulatory Authority (MRA). They provide rules and guidelines for microfinance institutions in the country.⁵³ In the same vein, the Central Bank of Bangladesh supervises the operations of the Islamic financial institutions. These institutions include Islamic banks and microfinance

⁵³ M Wakilur Rahman and Jianchao Luo, "Regulation of Microfinance Service Provider in China and Bangladesh: An Approach to Strengthening the Regulatory Environment," *African Journal of Business Management* 6, no. 3 (2012): 1023.

institutions. The supervisions are carried out in line with the general guidelines framed for the conventional banks in Bangladesh.⁵⁴

From the above discussion, it can be understood that there are two main regulators of the microfinance investment in Bangladesh. These regulators include the Central Bank of Bangladesh and the MRA. Thus, the MRA is currently responsible for the supervision, provision or cancellation of the licenses of any microfinance institution in Bangladesh.⁵⁵ However, the non-governmental microfinance institutions are permissible to engage in microfinance activities without obtaining licenses from the MRA. From the foregoing, microfinance institutions in Bangladesh can register or obtain licenses under any of the following acts, the Societies Registration Act 1860 (ACT XXI of 1860),⁵⁶ the Trusts Act 1882 (Act II of 1882),⁵⁷ the Voluntary Social Welfare Agencies (Registration and Control) Ordinance 1961 (Ordinance XLVI of 1961),⁵⁸ and the Company Act 1994 (Act XVIII of 1994).⁵⁹

However, the microfinance institutions shall not establish or operate or engage into any microfinance's activities without the approval of the MRA.⁶⁰ In the process of establishing a microfinance institution, the applicant is required to submit his application to the MRA in prescribed form and procedure. On receiving the application, the MRA shall verify the information written in the application.⁶¹ The MRA shall charge the applicant for the issuance of the certificate and its renewal.⁶² Additionally,

⁵⁴ Sarker, "Regulation and Supervision of Islamic Banks and Financial Institutions: Bangladesh Perspective," 71.

⁵⁵ Rahman and Luo, "Regulation of Microfinance Service Provider in China and Bangladesh: An Approach to Strengthening the Regulatory Environment," 1028.

⁵⁶ Chapter 1, section 21(a) of "Micro Credit Regulatory Authority Act 2006."

⁵⁷ Chapter 1, section 21(b) of "Micro Credit Regulatory Authority Act 2006."

⁵⁸ Chapter 1, section 21(c) of "Micro Credit Regulatory Authority Act 2006."

⁵⁹ Chapter 1, section 21(e) of "Micro Credit Regulatory Authority Act 2006."

⁶⁰ Chapter 4, section 15(1) of "Micro Credit Regulatory Authority Act 2006."

⁶¹ Chapter 4, section 16(1), (3) of "Micro Credit Regulatory Authority Act 2006."

⁶² Chapter 4, section 16(2) of "Micro Credit Regulatory Authority Act 2006."

each microfinance institution is required to pay annual fees and any other fee to the MRA after receiving the certificate.⁶³

In the case where the application is rejected, the MRA shall inform the applicant in written notice providing the reasons for the rejection within a specific time.⁶⁴ However, the applicant can still appeal to the MRA for reconsideration of the matter within thirty (30) days of being informed of the decision.⁶⁵ Each microfinance institution shall prepare and submit the copy of its budget, annual financial description ahead of the end of every fiscal year for the next financial year. The microfinance institution shall also prepare its annual profit, loss accounts and balance sheet.⁶⁶

Section 4 subsection 1 of Micro Credit Regulatory Authority Act provides that the main objectives of any microfinance institution shall be based on poverty alleviation, creation of employments and facilities for the poor and micro-entrepreneurs.⁶⁷ Furthermore, section 24(2) provides that each microfinance institution shall provide loan and supports to the poor in order to be self-reliant. Similarly, the law provides that the microfinance institution must advise the poor in carrying out different economic activities. It shall also open bank account for the poor, provide loan and deposit.⁶⁸ Moreover, every microfinance institution shall invest its surplus fund in sectors approved by the MRA.⁶⁹ The microfinance institution is allowed to offer its poor clients and its members various types of services. These include loan, insurance services and social

⁶³ Chapter 4, section 18 of “Micro Credit Regulatory Authority Act 2006.”

⁶⁴ Chapter 4, section 16(4) of “Micro Credit Regulatory Authority Act 2006.”

⁶⁵ Chapter 4, section 16(5) of “Micro Credit Regulatory Authority Act 2006.”

⁶⁶ Chapter 5, section 22(2) of “Micro Credit Regulatory Authority Act 2006.”

⁶⁷ Chapter 1, section 2(22) and Chapter 2, section 4(1) of “Micro Credit Regulatory Authority Act 2006.”

⁶⁸ Chapter 5, section 24(2) (a) to (d) of “Micro Credit Regulatory Authority Act 2006.”

⁶⁹ Chapter 5, section 24(2) (f) of “Micro Credit Regulatory Authority Act 2006.”

development facilities.⁷⁰ It can receive loan or grant or assistance from banks or any other financial sources to generate funds.⁷¹ The Authority shall determine the rate of service charge for any microfinance institution.⁷²

It is advisable for the microfinance sector, particularly, the Islamic microfinance institutions to waive the service charge for poorest of the poor among its clients. This is to maintain the ideal objective of poverty alleviation and ease hardship upon the poor.⁷³ This will also strengthen the bond between the poor and the rich, as well as creating solidarity among them. However, poor micro-entrepreneurs can be encouraged to donate a portion of their profits, after they have succeeded in the repayment. This can be an alternative to the service charge which may be imposed. The provision of certain amount of profit as a donation should be done voluntarily from the poor as a token of appreciation. Under Islamic jurisprudence, this token can be considered as *hibah* (gift) or *sadaqah* (alms or charity) from the poor to the community. This concept is suitable for the provision of cash loan as a benevolent to the poorest of the poor.⁷⁴

However, in the case where the Islamic microfinance institutions intend to impose service charge, it should be deducted from the profit of joint venture with the micro-entrepreneur. The service charge to be imposed should be the actual administrative fees. In fact, the institutions should charge less as they share loss and profit with the micro-entrepreneur. Charity from the poor based on their will can also be another alternative to the service charge. This charity can be used as a contribution from the poor or micro-entrepreneur to the institutions. In this aspect, the poor will be contributor to the

⁷⁰ Chapter 5, section 24(2) (h) of “Micro Credit Regulatory Authority Act 2006.”

⁷¹ Chapter 5, section 24(2) (e) of “Micro Credit Regulatory Authority Act 2006.”

⁷² Chapter 5, section 24(2) (g) of “Micro Credit Regulatory Authority Act 2006.”

⁷³ Qur’an, *al-Baqarah* 2: 280.

⁷⁴ Qur’an, *al-Baqarah* 2: 280.

zakah fund as a charity while the institutions will be ‘*amilina ‘alaiha* (the members of the *zakah* management or trustee of the *zakah*).⁷⁵ In this circumstance, the poor or micro-entrepreneur is the *waqif* (endower) while the institution is the *mawquf lahu* or *alayhi* (beneficiary of the *waqf*) which can also donate the charity as a *waqf*.

Chapter 5 of the MRA provides that every microfinance institution shall have a reserved which shall be used in a reasonable manner. No amount shall be utilised from it without the prior approval from the MRA.⁷⁶ Meanwhile, the MRA may frame rules which may become applicable to all microfinance matters, particularly, in relation to reserved fund, microfinance programmes or activities, interest rate, internal auditing, accounting policies and standards.⁷⁷ The MRA also has the right to frame rules on matters related to qualifications, appointment, inspection, investigation and audition of any microfinance institution.⁷⁸ However, those rules shall be framed with prior approval of the Bangladeshi government and through a notification published in the Gazette.⁷⁹ The microfinance institution might be registered under any of the following regulations: the Societies Registration Act 1860, the Trust Act 1882,⁸⁰ the Voluntary Social Welfare Agencies (Registration and Control) Ordinance 1961,⁸¹ the Cooperative Societies Act (Act no. 47 of 2001) and under the Company Act (Act 18 of 1994).⁸²

⁷⁵ Qur’an, at-Tawbah 9: 60.

⁷⁶ Chapter 5, section 30(1) & (2) of “Micro Credit Regulatory Authority Act 2006.”

⁷⁷ Chapter 7, section 51(1) & (2) (a) to (q) of “Micro Credit Regulatory Authority Act 2006.”

⁷⁸ Chapter 7, section 51(1) & (2) (a) to (q) of “Micro Credit Regulatory Authority Act 2006.”

⁷⁹ Chapter 7, section 51(1) of “Micro Credit Regulatory Authority Act 2006.”

⁸⁰ Chapter 1, section 2(a) & (b) of “Micro Credit Regulatory Authority Act 2006.”

⁸¹ Chapter 1, section 2 (c) of “Micro Credit Regulatory Authority Act 2006.”

⁸² Chapter 1, section 2(d) & (e) of “Micro Credit Regulatory Authority Act 2006.”

The MRA has promulgated some guidelines to regulate the smooth running of microfinance operations in Bangladesh. Among the important provisions of the MRA are as follows: the maximum interest to be charged on loans should not exceed twenty-seven percent.⁸³ Every microfinance institution that provides microfinance service must pay at least six percent interests on mandatory weekly savings of the borrowers. Nongovernmental microfinance institution shall be charged BDT15 for loan application forms, client admission fee and passbooks. There must not be any form of deduction of money from loans during the issuance of the loans or savings or insurance. Further, there must be at least fifteen days interval between the date of issuing the loan and first repayment of the loan on an instalment basis. There must be at least fifty weeks in receiving the total amounts of general loans which are issued for one year period. Every microfinance provider must provide a specific amount of payment and send to the authorities.⁸⁴

It is viewed that the guideline for charges on the loans by the MRA is not in line with the *Shari'ah* principle. Charging interest over the loans is unlawful under the *Shari'ah*, particularly when it is a fixed amount. This may even force the borrower to borrow money from a different person or source to settle the interest charges. As the profit from the loan borrowed is not certain, the borrower may loss or gain benefit. So, it is impermissible to charge fixed amount over the loan before the time of repayment, this is against the teachings of *Shari'ah*. It is not in the favour of the borrower since he or she is going to use the loan for his/her personal or business purposes. It is also recommended that, the borrower should be allowed to decide the suitable time to settle the loans. This is in accordance with the main objective of the lending from the *Shari'ah* perspective.

⁸³ Chowdhury, "Regulated Microfinance in Bangladesh-Prosper and Challenges," 34; M Wakilur Rahman et al., "The Synthesis of Grameen Bank, BRAC and ASA Microfinance Approaches in Bangladesh," *World Applied Sciences Journal* 20, no. 7 (2012): 1055–62

⁸⁴ Rahman et al., "The Synthesis of Grameen Bank, BRAC and ASA Microfinance Approaches in Bangladesh," 1060; Chowdhury, "Regulated Microfinance in Bangladesh-Prosper and Challenges," 442.

Under the *Shari'ah*, the objective of the loan provision is to help or alleviate the difficulties faced by the poor borrower.⁸⁵

Another enacted law for the microfinance institutions in Bangladesh is Microcredit Regulatory Authority Rules (MRARs) which was approved in 2010 by the Bangladeshi government. The operations of the microfinance institutions shall be in accordance with the time framed by the MRARs.⁸⁶ Every microfinance institution shall publish the terms and policies of its internal audit in abstract form.⁸⁷ It shall publish related procedures of its activities and deposit management in a summary form.⁸⁸ Its clients shall be entitled to microcredit, micro enterprise loan, disaster management loan and insurance service.⁸⁹ The clients have the right to participate in any training or awareness programmes organized by the microfinance institution.⁹⁰ The clients are duty-bound to make timely payments of loan instalments and insurance premium based on specified terms and conditions.⁹¹ The clients should be made aware of the terms and conditions before the provision of any service rendered by the microfinance institutions.⁹²

The sources of funds for any microfinance institution shall be collected from grants received from the members of microfinance institution under a legal contract.⁹³ Funds may also

⁸⁵ Qur'an, *al-Baqarah*, 2: 280.

⁸⁶ Rule 13(5) of "Microcredit Regulatory Authority Rules 2010, Bangladesh," 2011, http://www.mra.gov.bd/images/mra_files/Regulations/mra_regulations_unofficial_translation_final.pdf.

⁸⁷ Rule 13(6) of "Microcredit Regulatory Authority Rules 2010, Bangladesh."

⁸⁸ Rule 13(7) of "Microcredit Regulatory Authority Rules 2010, Bangladesh."

⁸⁹ Rule 16(a) of "Microcredit Regulatory Authority Rules 2010, Bangladesh."

⁹⁰ Rule 16(d) of "Microcredit Regulatory Authority Rules 2010, Bangladesh."

⁹¹ Rule 17(b) "Microcredit Regulatory Authority Rules 2010, Bangladesh."

⁹² Rule 17(d) of "Microcredit Regulatory Authority Rules 2010, Bangladesh."

⁹³ Rule 18 1(a) of "Microcredit Regulatory Authority Rules 2010, Bangladesh."

be generated from approved national or international grant institution with clear documentary proof.⁹⁴ Furthermore, the sources can be obtained from deposits collected from the clients or from loans received legally through official contracts under local authorised financial institutions.⁹⁵ The sources of funds can also be generated from loans received legally from foreign sources as well as from funds received legally from recognised financial institutions.⁹⁶ Meanwhile, the microfinance institution shall be allowed to raise funds from the capital market.⁹⁷ The sources might be generated from loans that are received from a person other than the client under a legal contract.⁹⁸

4. LESSONS FROM REGULATORY FRAMEWORK ON ISLAMIC MICROFINANCE IN BANGLADESH FOR LIBERIA

The regulation of the Islamic microfinance in Bangladesh is based on numerous regulatory organs. These include the Central Bank of Bangladesh and MRA.⁹⁹ Other regulatory organs of the Islamic microfinance include the Microcredit Regulatory Authority Rules (MRARs) 2010, the Societies Registration Act 1860 (Act XXI of 1860), the Trusts Act 1882 (Act II of 1882), the Voluntary Social Welfare Agencies (Registration and Control) Ordinance 1961 (Ordinance No. XLVI of 1961), the Samabaya Samity Ain (Cooperative Societies Act) (Act no. 47 of 2001) and the Company Ain (Company Act) (Act 18 of 1994)

⁹⁴ Rule 18 1(b) of “Microcredit Regulatory Authority Rules 2010, Bangladesh.”

⁹⁵ Rule 18 1(c) & (d) of “Microcredit Regulatory Authority Rules 2010, Bangladesh.”

⁹⁶ Rule 18 1(e) & (f) of “Microcredit Regulatory Authority Rules 2010, Bangladesh.”

⁹⁷ Rule 18 1(g) of “Microcredit Regulatory Authority Rules 2010, Bangladesh.”

⁹⁸ Rule 18 1(h) of “Microcredit Regulatory Authority Rules 2010, Bangladesh.”

⁹⁹ The creation of MRA has led to the enacted of “Microcredit Regulatory Authority Act, 2006 (Law 32 of the year 2006)” through the effort of the Government of Bangladesh. Meanwhile, the Central Bank of Bangladesh and MRA are the main regulators for microfinance sector in Bangladesh, including the Islamic microfinance institutions.

or the Company Act 1994 (Act XVIII of 1994). This indicates that, the law in Bangladesh gives freedom and flexibility to microfinance sector like Islamic microfinance to be established under any of the above-mentioned acts.¹⁰⁰ Liberia might learn numerous lessons from the above regulatory organs as models for the introduction of regulatory framework for Islamic microfinance in Liberia. These include setting up a regulatory body or regulatory authority for Islamic microfinance in Liberia. The body is expected to be in charge of licensing and registration of Islamic microfinance institutions under one independent regulatory body, creating diversified sources of funds for Islamic microfinance in Liberia, formulating regulatory and reform unit for Islamic microfinance in Liberia. In addition, the body is to have a *Shari'ah* Council as a mediator between the Central Bank of Liberia (CBL) and the Islamic microfinance institutions in Liberia.

Setting up Regulatory Authority for the Islamic Microfinance in Liberia

MRA is one of the regulatory organs for the microfinance sector in Bangladesh. It was established to supervise the microfinance sector and their operations in Bangladesh. It has resulted to the enactment of Microcredit Regulatory Act, 2006 (Law 32 of the year 2006).¹⁰¹ In this aspect, the Government of Liberia might create its own Regulatory Authority for the proposed Islamic Microfinance in Liberia like that of “MRA” in Bangladesh. The said regulatory authority in the Liberian context shall be named as “Regulatory Authority for the Islamic Microfinance in Liberia (RAIMFL).” The RAIMFL shall create a system that allows for the smooth running of the Islamic microfinance system. This RAIMFL shall provide guidelines to regulate Islamic microfinance activities in Liberia. It shall have the responsibility of supervising Islamic microfinance in Liberia. It

¹⁰⁰ Chapter 1, section 2 21(a), (b), (c), (d) and (e) of “Micro Credit Regulatory Authority Act 2006.”

¹⁰¹ The most relevant provisions of “Micro Credit Regulatory Authority Act 2006” to Liberia are Chapter 1, section 2 21(a), (b), (c), (d) and (e), Chapter 4, section 15(1) and Chapter 4, Section 16(5).

shall oversight the activities of the Islamic microfinance institutions and issue licenses or certificates to the institutions as part of its main functions. The RAIMFL shall ensure that all operations and activities of the Islamic microfinance institutions are in conformity with the *Shari'ah* principles. The RAIMFL might also issue special guidelines for Islamic microfinance institutions.

The RAIMFL shall charge the applicant or the Islamic microfinance institution for the issuance of the certificate, as it is practiced by the MRA in Bangladesh. The RAIMFL has the right to accept or reject the application of any Islamic microfinance institution if it is dissatisfied with the compliance of the application with the prescribed guidelines, or rules and regulations. Thus, in the case of rejection, the RAIMFL shall provide and state the reason for its rejection within specified period. The applicant also has the right and opportunity to appeal the rejection or represent the application.¹⁰² For example, the applicant should prove that he or she has fully complied with the principles of the RAIMFL. The applicant shall be given reasonable period to appeal or within as it is prescribed under Micro Credit Regulatory Authority Act 2006.¹⁰³ If granted, the applicant shall proceed to pursue the objectives of the issuance of the license or certificate, which is to support the poor and empower them economically in order for them to be self-reliant in the society. The applicant shall also create more facilities for the poor, such as, health care and education as well as organising capacity and skill building activities to enable the poor benefit from the microfinance financial services.

The RAIMFL shall also issue rules and regulations related to the qualification, appointment, inspection, investigation and auditing of any Islamic microfinance institution. It shall further advocate some guidelines to improve and upgrade Islamic microfinance programmes and operations in the country on a regular basis. However, it is recommended that, the RAIMFL be

¹⁰² Chapter 4, Section 16(5) of “Micro Credit Regulatory Authority Act 2006”

¹⁰³ Chapter 4, Section 16(5) of “Micro Credit Regulatory Authority Act 2006”

totally separated from the CBL. It should have its independent power to lead the Islamic microfinance institutions in Liberia. Unlike Bangladesh where the Central Bank of Bangladesh and MRA are considered the main regulators for microfinance activities. This is to avoid the conflict of law between the two legal bodies, the CBL and RAIMFL. This is because the CBL is regulated based on the conventional laws, while the proposed RAIMFL shall be based on the *Shari'ah* compliant principles for Islamic microfinance institutions. Based on this, both the CBL and the RAIMFL shall operate independently.

Establishment and Registration of Islamic Microfinance Institutions under Special Independent Regulatory Body

The microfinance institutions in Bangladesh are established and registered under different Acts. However, it is stipulated that such registration and establishment shall be approved by the MRA.¹⁰⁴ These Acts include the Societies Registration Act, 1860 (Act XXI of 1860), the Trusts Act, 1882 (Act II of 1882), the Voluntary Social Welfare Agencies (Registration and Control) Ordinance 1961 (Ordinance No. XLVI of 1961), the Samabaya Samity Ain (Cooperative Societies Act) (Act no. 47 of 2001) and the Company Ain (Company Act) (Act 18 of 1994) or the Company Act 1994 (Act XVIII of 1994) and the Grameen Bank Ordinance 1983.¹⁰⁵ The same scenario has been implemented in Liberia. For example, in Liberia, the microfinance institutions can be registered under the CBL as commercial microfinance institutions to provide financial services to the poor and low-income earners. It might also be registered as credit unions under the supervision of Cooperative Development Agency, but with the approval of the CBL, it is considered as the apex legal and regulatory body for all banks

¹⁰⁴ Chapter 4, section 15(1) of “Micro Credit Regulatory Authority Act 2006”

¹⁰⁵ Chapter 1, section 2 21(a), (b), (c), (d) and (e) of “Micro Credit Regulatory Authority Act 2006.”; Rahman and Luo, “Regulation of Microfinance Service Provider in China and Bangladesh: An Approach to Strengthening the Regulatory Environment,” 1023-1028.

and non-bank financial institutions in Liberia,¹⁰⁶ which includes the microfinance institutions.¹⁰⁷ Moreover, the microfinance institutions might also be registered as credit-only institutions under the authorisation of the CBL.¹⁰⁸

However, it is recommended that the registration or establishment of Islamic microfinance institutions shall be done under one independent regulatory body governed by a specially enacted Act. The Act shall be inconclusive to monitor Islamic microfinance operations. Such legal initiative will promote the linkage between various Islamic microfinance institutions and their providers. It will also ease the supervision of the Islamic microfinance institutions. Under the Act, the legal body for the registration and establishment of the Islamic microfinance should have legal departments which shall provide general guidelines for the Islamic microfinance activities in respective areas under the Act. This is to ensure that, every Islamic microfinance institution is governed according to the applicable and relevant rules and regulations that are consistent with the *Shari'ah*. In other words, the rules and regulations within the Act, which govern Islamic the microfinance institutions, shall be in details and in line with the *Shari'ah*.

For example, the detailed application of the rules and regulations of the Islamic microfinance institutions shall be governed in accordance with *Shari'ah* principles. This is to avoid the violation of *Shari'ah* in the transaction between Islamic microfinance institutions and their clients. For instance, the issue of charging interest is prohibited by the *Shari'ah*, therefore Islamic microfinance institutions shall avoid charging interest in on transactions. Another focal point to be observed by the Islamic microfinance institutions is the issue of cash loan provision. From the Islamic perspective, cash loan is not encouraged, except if it is provided to the poor as a benevolent

¹⁰⁶ Part 2, Section 3(1) of “The New Financial Institutions Act of 1999;” Part 1, Section 5(1) of “The Central Bank of Liberia Act of 1999.”

¹⁰⁷ Part 2, Section 3(1) of “The New Financial Institutions Act of 1999;” Part 1, Section 5(1) of “The Central Bank of Liberia Act of 1999.”

¹⁰⁸ Section 2.4.1.3 Liberia, “Microfinance Policy and Regulatory & Supervisory Framework For Liberia.”

loan without charging any interest above the principal. In this context, the loan is given to the poor in the name of Allah The Most Merciful who will reward the loan provider.¹⁰⁹

Moreover, the transactions of Islamic institutions shall ideally be focused on asset-based microfinance system. Whereas, the Islamic microfinance institutions use asset as a financing tools in providing Islamic microfinance services to the poor and low income people.¹¹⁰ Another integral area that should be observed by the Islamic microfinance institutions is the issue of target group for the Islamic microfinance institutions which is expected to be based on family empowerment. In other words, on the institutions must restrict its activities to only women, like it is in the case of existing conventional microfinance system which target only women groups. It is expected that this approach will enhance family institutions and avoid finance induced family conflict.¹¹¹

Creating Diversified Sources of Funds for Islamic Microfinance Institutions in Liberia

The sources of funds prescribed by the MRARs 2010¹¹² for the microfinance sector in Bangladesh include, grants received from the members of the general body of microfinance institutions¹¹³ or from approved grants national or international institution.¹¹⁴ The sources of funds also include deposits collected from clients or loans received legally through official contracts under locally

¹⁰⁹ Qur'an, *al-Baqarah*, 2: 245.

¹¹⁰ Ines Ben Abdelkader and Asma Ben Salem, "Islamic vs Conventional Microfinance Institutions: Performance Analysis in MENA Countries," *International Journal of Business and Social Research* 3, no. 5 (2013): 221-222.

¹¹¹ Abdelkader and Salem, 221-222.

¹¹² The most relevant rules of the "Microcredit Regulatory Authority Rules, 2010, Bangladesh," to Liberia are Rule 18 1(a) to 18 1(h).

¹¹³ Rule 18 1(a) of "Microcredit Regulatory Authority Rules 2010, Bangladesh."

¹¹⁴ Rule 18 1(b) of "Microcredit Regulatory Authority Rules 2010, Bangladesh."

authorised financial institutions.¹¹⁵ Another source of fund prescribed by the MRARs, 2010 is the loans received legally from foreign sources as well as funds received legally from recognised financial institutions and¹¹⁶ from the capital market.¹¹⁷ The sources of fund might also be generated from loans to be collected from a person other than the client under legal contract.¹¹⁸

Meanwhile, the above sources of funds might be different from that of Liberia. In the Liberian context, the sources of funds for microfinance sector include funds offered by the CBL to microfinance institutions in the form of loans for supporting microfinance expansion in the country.¹¹⁹ The sources of fund also include subsidised funds provided by donor agencies and grants for the development of microfinance sector in the country. These agencies represent bilateral and multilateral institutions including international NGOs.¹²⁰ However, Liberia might learn lessons from the sources of funds provided by the MRARs 2010 for the Islamic microfinance institutions in Bangladesh. For instance, the sources of funds generated from the grants of the members of the general body of microfinance institutions or funds from recognised financial institutions might be applicable to Liberia for the Islamic microfinance institutions.

Liberia might utilise some viable sources of funds which are complaint with Islamic principles. These sources include *zakah*, *sadaqah* and *waqf* funds. These funds can be used as divine tools for poverty alleviation through Islamic microfinance

¹¹⁵ Rule 18 1(c) & (d) of “Microcredit Regulatory Authority Rules 2010, Bangladesh.”

¹¹⁶ Rule 18 1(e) & (f) of “Microcredit Regulatory Authority Rules 2010, Bangladesh.”

¹¹⁷ Rule 18 1(g) “Microcredit Regulatory Authority Rules 2010, Bangladesh.”

¹¹⁸ Rule 18 1(h) of “Microcredit Regulatory Authority Rules 2010, Bangladesh.”

¹¹⁹ Section 3.11.2 of Liberia, “Microfinance Policy and Regulatory & Supervisory Framework For Liberia.”

¹²⁰ Section 2.5.4 of “Microfinance Policy and Regulatory & Supervisory Framework For Liberia.”

institutions in Liberia. Funds that might be generated from *zakah*, *sadaqah* and *waqf* can be invested into any productive activity to generate enough capital for Islamic microfinance activities towards assisting the poor. For instance, the *zakah* fund can be used for commercial purposes to generate enough funds. The specific financial products to be used are depends on the type of commercial activities. For example, the *zakah* fund can be used through sale and profits sharing concepts to raise adequate fund to help the poor. It can also be used to enhance lease-financing, where the fund is used to purchase asset which is to be hired it to the second party. The fund can also be used to establish a financial institution to run *zakah* funded business. The fund might be used for business venture based on partnership mode of financing. In this sense, the *zakah* fund and its partners contribute certain amount of capital to engage in productive activities, such trading commodity, exporting goods, building real estate and livestock.

In addition, the *waqf* fund is another important source which can be utilised in Liberia. Under the *waqf* fund, the *waqf* assets such as cash, land and real estate can be used for charitable purposes. The *waqf* fund is suitable for long term income generation and wealth creation. The fund can be used through various *Shari'ah* compliant products to generate income for microfinance activities. Similarly, it can be used along with other Islamic finance modes such as *mudarabah*, *murabahah* and *ijarah*. Under the *mudarabah* mode, the *waqf* fund can be invested into a project, after entering into risk and profit-sharing agreement with the entrepreneur. In more cases, the risk is born by the investor unless there is negligence or misconduct on the part of the entrepreneur. Under the *murabahah* mode, the fund can be used to purchase any asset that is marketable to the interested clients at mark-up price. It could be machinery, vehicles, commodity or goods. Concerning the *ijarah* mode, the fund might be utilised to purchase any valuable asset like equipment and use it for rental basis. The rental fee is agreed upon in advance before engaging in the lease contract.

Profits earned from the above diverse activities and financing mentioned can be utilised to support Islamic microfinance activities or programmes. For instance, the profits can be used to settle unpaid debts and mitigate other risks endured by the Islamic microfinance institutions. It can also be used for charitable purposes for which *zakah* and *waqf* funds were created. In other words, it can be used to fulfil the basic needs of the poor, which include food, clothing, house financing, transportation, education and healthcare. It can further be used to cover the administrative costs for Islamic microfinance institutions. Another portion of the profits can be added to the original funds to protect real value of the funds from any unexpected floatation or inflation or risk towards the Islamic microfinance institutions.

Formulating Regulatory and Reform Unit for the Islamic Microfinance in Liberia

In Bangladesh, the Government created the MRRU as a regulatory body for the microfinance sector under the Central Bank of Bangladesh. The MRRU has the main objective to govern microfinance activities in Bangladesh. Another objective of the MRRU is to develop microfinance system through research and reform programmes.¹²¹ Liberia does not have such unit for its microfinance sector. Liberia might learn from the experience of the MRRU. It might create its own regulatory and reform unit for the Islamic microfinance which may be known as “Islamic Microfinance Regulatory and Reform Unit for Liberia (IMRRUL).” The IMRRUL might adopt the above objectives of the MRRU of Bangladesh.

By extension, IMRRUL’s main objectives shall include promoting regulatory framework for the Islamic microfinance institutions in Liberia. This involves harmonisation and reformation of rules and regulations relating to the Islamic microfinance in Liberia, particularly if there are divergent opinions of Muslims jurists on certain *Shari’ah* products. The

¹²¹ Chowdhury, “Regulated Microfinance in Bangladesh-Prosper and Challenges,” 442.

IMRRUL shall promote legal awareness for the Islamic microfinance institutions and their client as well as the Islamic microfinance stakeholders in the country. It shall promote legal research for microfinance regulation and to accommodate all microfinance stakeholders and target groups. The IMRRUL shall also be responsible for organising conferences, seminars, workshops and trainings for promoting Islamic microfinance activities. It shall further promote Islamic microfinance law reform activities in order to accommodate new laws and ideas that are significant and relevant for the development of Islamic microfinance in Liberia.

Setting up a Shari’ah Advisory Council for the Islamic Microfinance Institutions in Liberia

In Bangladesh, the IBBL *Shari’ah* Council works as mediator between the IBBL and the Central Bank of Bangladesh, which is authorised to regulate all banking institutions in Bangladesh including the Islamic banks like IBBL. The Central Bank of Bangladesh inspects and supervises the IBBL through the IBBL *Shari’ah* Council.¹²² Liberia deserves to have such kind of council if Islamic microfinance or banking is to be embraced. Liberia might learn from the experience of the IBBL *Shari’ah* Council and apply the same experience to the Islamic microfinance institutions with some modifications.

In this regard, the *Shari’ah* Council might be created for all Islamic microfinance institutions operating in Liberia. The Council might be known as the “*Shari’ah* Advisory Council for the Islamic Microfinance Institutions in Liberia (SCAIMFIL).” The Council’s main function is to ensure that the financing modes of Islamic microfinance institutions are truly *Shari’ah* compliant. It shall also promote linkage among regulatory bodies of the Islamic microfinance institutions operating in Liberia. It shall conduct meetings from time to time between

¹²² Mohammad Masud Perves, “Legal and Regulatory Framework in Islamic Banking System: Bangladesh Perspective,” *European Journal of Business and Management* 7, no. ISSN 2222-1905 (Paper) ISSN 2222-2839 (2015): 182-184., file:///C:/Users/admin/Downloads/24400-26979-1-PB.pdf.

these regulatory bodies to create sound regulatory framework for the Islamic microfinance institutions in the country. It might harmonise the jurisprudential views of regulatory bodies of the Islamic microfinance institutions, particularly, in the areas where there are divergent opinions or views of Muslim jurists or scholars over certain Islamic financing products. The SCAIMFIL shall harmonise such views and come out with unanimous decision or ruling on the issue.

Setting up an Apex Regulatory Body for the Islamic Microfinance in Liberia

The Central Bank of Bangladesh remains the apex regulatory body of the microfinance sector in Bangladesh.¹²³ The same case is happening in Liberia, where the CBL remains the central legal and regulatory body for all financial institutions in Liberia, inclusive of the microfinance sector.¹²⁴ However, the proposed Islamic microfinance in Liberia needs its own apex regulatory body to oversee or supervise all activities of the Islamic microfinance. This apex regulatory body shall be fully responsible for the supervision of other regulatory bodies of the Islamic microfinance institutions like the proposed RAIMFL, and the SCAIMFIL for the Islamic microfinance institutions. Meanwhile, such regulatory body shall work hand-in-hand with other regulatory bodies to create the necessary environment for the regulation of the Islamic microfinance institutions in the country. The apex regulatory body shall facilitate the enactment of a special law on Islamic microfinance to oversee its activities. It shall provide guidelines and details on regulatory framework of the Islamic microfinance. It shall provide rules and regulations to monitor microfinance operations in the country. This will ease the ways for the Islamic microfinance and the smooth running for its rapid expansion across the country. It will also boost or promote the sustainability of microfinance activities within the country. The Table below gives the

¹²³ Rahman and Luo, “Regulation of Microfinance Service Provider in China and Bangladesh: An Approach to Strengthening the Regulatory Environment,” 1023-1028.

¹²⁴ Part 2, Section 3(1) of “The New Financial Institutions Act of 1999.”; Part 1, Section 5(1) of “The Central Bank of Liberia Act of 1999.”

summary of the lessons derived from the regulatory framework of the Islamic microfinance in Bangladesh for the introduction of regulatory framework of Islamic microfinance in Liberia.

5. CONCLUSION

It can be understood from the above discussion that, there is no specific Act for the microfinance sector in the country. The microfinance sector needs special Act which can govern, regulate and supervise microfinance activities in Liberia. However, the main regulatory tools for microfinance activities in the country are the “Central Bank of Liberia Act of 1999,” the “New Financial Institutions Act of 1999,” and the MPRSFL.” These three regulatory arms constitute the main regulators for the microfinance sector in the country. The findings concluded that there is a need for reform and a diversified regulatory framework for microfinance sector which can accommodate all Liberians regardless of their cultural and religious differences. Subsequently, the introduction of regulatory framework of Islamic microfinance may be a viable mode and diversified system for microfinance sector in Liberia based on the lessons learned from the regulatory framework of Islamic microfinance in Bangladesh. It is capable of accommodating all citizens of the country regardless of their religious affiliations.¹²⁵ Bangladesh is chosen as role model, since it is one of the leading and successful microfinance providers in the world, particularly, in the Muslim world.¹²⁶ Bangladesh is famous for its diversified

¹²⁵ Here are some provisions which authorises the introduction of “Legal and Regulatory Framework of Islamic Microfinance in Liberia”: Chapter 3, Article 14 of “Constitution of the Republic of Liberia (1986),” Part 2, Section 4 (6) & Part 2, Section 3 (2) (d) of “The Central Bank of Liberia Act of 1999,” accessed June 14, 2016, https://cbl.org.lr/doc/cbl_act_1.pdf, and Liberia, “Microfinance Policy and Regulatory & Supervisory Framework For Liberia,” at 8 & 13.

¹²⁶ Nimrah Karim, Michael Tarazi, and Xavier Reille, “Islamic Microfinance: An Emerging Market Niche.,” 2008, 1; A K Mohammad and A R Mohammed, “Impact of Microfinance on Living Standards: Empowerment and Poverty Alleviation of Poor People: A Case Study of Microfinance in the Chittagong District of Bangladesh,” *Umeå School of Business (USBE)*, 2007, 2; “Micro Credit Regulatory Authority Act, 2006,” accessed June 12, 2016,

microfinance schemes which are based on conventional and Islamic microfinance systems.¹²⁷

The major lesson learned from the regulatory frameworks of Islamic microfinance in Bangladesh is the creation of regulatory authority for the Islamic microfinance which can be established in Liberia. In this regard, Liberia might create a separate regulatory authority (body) to regulate Islamic microfinance sector in Liberia on behalf of the CBL. The regulatory authority shall supervise all Islamic microfinance activities. It might be named as “Regulatory Authority for Islamic Microfinance in Liberia.” It shall also be responsible for the supervision of Islamic microfinance activities in Liberia. It shall also oversight and ensures that all operations and activities of the Islamic microfinance institutions are in line with the *Shari’ah* principles.

Other lessons to be learned from the regulatory framework of Islamic Microfinance in Bangladesh, cover the establishment and registration of the Islamic microfinance institutions under one independent regulatory authority body. The Authority shall be independent from the CBL in carrying out its operations. Meanwhile, the establishment registration and licensing of Islamic microfinance institutions in Liberia shall be done under one the Authority and shall be governed by a special and inclusive Act under the. The Act shall be comprehensive to monitor Islamic microfinance operations and provide general guidelines for Islamic microfinance activities. This is to ensure

http://www.mra.gov.bd/images/mra_files/mra_act_2006_english.pdf; Habib Ahmed, “Financing Microenterprises: An Analytical Study of Islamic Microfinance Institutions,” *Islamic Economic Studies* 9, no. 2 (2002): 42–43 & 45; Mohammed Obaidullah, *Introduction to Islamic Microfinance* (India: IBF Net (P) Limited, 2008), 56; K Muhammad and N S Shirazi, “Islamic Microfinance—An Inclusive Approach with Special Reference to Pakistan,” in *Second European Research Conference on Microfinance June, 2011*, 26; Elwardi Dhaoui, “The Role of Islamic Microfinance in Poverty Alleviation: Lessons from Bangladesh Experience” (University Library of Munich, Germany, 2015), 11; Dian Masyita and Habib Ahmed, “Why Is Growth of Islamic Microfinance Lower than Its Conventional Counterparts in Indonesia?,” *Islamic Economic Studies* 21, no. 1 (2013): 35–62.

¹²⁷ Masyita and Ahmed, “Why Is Growth of Islamic Microfinance Lower than Its Conventional Counterparts in Indonesia?,” 42.

that, each Islamic microfinance institution is governed according to the applicable and relevant rules and regulations that are consistent with the *Shari'ah*.

Furthermore, the lessons include the creation of diversified sources of funding and non-interest financing models for the Islamic microfinance in Liberia. In this sense, Liberia might also create diversified sources of funds for Islamic microfinance which extends beyond conventional financing models. For example, Liberia might adopt the sources of funds generated from the grants of the members of the general body of microfinance institutions or funds from recognised financial institutions. However, the Islamic microfinance sources of funds, which include *zakah* or *sadaqah* and *waqf* funds might be viable sources of funds for the Islamic microfinance institutions in Liberia. The funds to be collected from *zakah* or *sadaqah* and *waqf* might be used in productive business venture activities to generate funds to support and settle financial needs of the Islamic microfinance institutions.

Similarly, Liberia might set up a regulatory and reform unit for the Islamic microfinance and a *Shari'ah* Advisory Council in Liberia. Under the regulatory reform unit, Liberia might create its special regulatory and reformed unit for Islamic microfinance. The unit might be named as “Islamic Microfinance Regulatory and Reformed Unit for Liberia (IMRRUL)”. The IMRRUL shall improve Islamic microfinance development activities through research and reforming programmes, like promoting regulatory framework activities. Liberia might also establish *Shari'ah* Council as a mediator between the CBL and Islamic microfinance institutions. The Council might be called as “*Shari'ah* Council for Microfinance Sector in Liberia (SCAIMFIL).” It shall be the apex regulatory body for the Islamic microfinance in Liberia.