# The Obstacles Of Libyan Banks In Transition To Islamic Banks

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#### **Abstract**

Following the issuance of Law (No. 1 of 2013) by the General National Congress at a crucial time when the country was undergoing administrative, political, and economic upheaval, banks operating in Libya are now called Islamic banks. It made the transition from traditional to Islamic banking in Libya is challenging. This study intends to identify the obstacles faced by Libyan banks in transition to Islamic banks. A content analysis is a method used for analyzing data gathered from past studies, articles, publications, and legislation published by the Libyan government. The findings revealed that the most important of which is that one of the challenges in Libya's shift from traditional banks to Islamic banks has been the ineffectiveness of Islamic bank legal and legislative regulation, the country's legislative and executive authority being divided and fragmented, control the armed group on the most Libyan Central Bank operation, the political split, the lack of propaganda operation proceed the process of transformation are the prevailing obstacles that encounter Libyan transformation from traditional banking into Islamic banking.

**Keywords**: Islamic banking, traditional banking, General National Congress Law No.1, 2013, Libyan Banks.

#### Introduction

Allah subhanahu wa ta'ala (SWT), has blessed this Islamic nation by perfecting the religion of Islam for it and completing the blessing upon it by making the Islamic religion a law for it to follow. Allah (SWT) said in Holy Quran,

This day I (Allah) have completed your religion perfectly for you and bestowed My favor to you. I have approved Islam to be your religion. (Al Maida, 3)

For this nation to benefit fully from Allah Almighty's mercies, He (SWT) created this religion as a platform for it through which this world's existence might be straightened, and the

hereafter may be fixed. In order for the nation to be happy in both worlds, one of the conditions of His law (SWT) is that its provisions be adhered to and applied without the use of other man-made laws. Allah (SWT) said in Holy Quran,

"Then We put You (prophet Mohammed, peace be upon him on the right way of Religion: so, follow that way, and follow not the desires of those who know not" (Al Jathia, 18)

Unquestionably, the state's economy relies heavily on banks, especially the Islamic banking system which has become a global phenomenon as a result of the great demand for it from both Muslims and non-Muslims. In the regard of Islamic banking, it can be defined as: "a banking institution that does not deal in interest (usury), give or take, and abides in its various aspects of its activities and transactions by the rules of Islamic Sharia (Samiran, 2011). It was also recognized as a commercial bank that was licensed to conduct banking operations under Islamic Sharia law (Samiran, 2011).

In the 1970s, the Islamic banking industry started and grew quickly. Islamic banks have been able to provide funding and investment channels that the banking industry has never seen before since their creation. Islamic banks do not operate on the premise of banking interest as in the regular banking system, but rather on the principle of profit and loss sharing.

Despite the fact that modernity is characterized by transformation and experience, several countries have passed laws, regulations, and legislation to convert their traditional banking systems into Islamic banking systems based on the tolerant Islamic Sharia precepts of not dealing with usurious interests. For example, after the issuing of (CircularNo.9, 2010), the Islamic banking system has been implemented in Libya, which has only recently begun the process of transitioning to the Islamic banking system. Following the passage of Law No. 1 of 2013, which prohibits usurious transactions in Libyan banks, existing banks in the country were authorized to develop channels for Islamic banking and the provision of Islamic services, dubbed "alternative banking" at the time. Libyan banks were required to adapt to the Islamic banking system following the passage of this law.

However, as with any other process of transitioning from an existing system to a new one over a long period of time, various barriers and challenges arose, posing a stumbling block to the transformation of traditional Libyan banks to Islamic banking. In light of the adoption of Law No. 1 of 2013, this study intends to demonstrate the most significant barriers or challenges that

Libyan banks confront in transitioning to Islamic banking by elucidating the most critical needs and roadblocks encountered throughout the shift to Islamic banking, specifically, the challenges faced by banks in adopting Law No. 1 of 2013, and the remedies proposed to solve them. The significance of this study derives from the fact that, following the issuing of Resolution No. (1) of 2013, the process of transforming regular banks in Libya to Islamic banks has become a necessity since it was issued by the country's legislative body at the time, and it is mandatory to follow from the date of publication in the newspaper. This study is also significant because of the scarcity of specialized studies in the topic of Islamic banking in Libya, owing to the country's recent transformation. Furthermore, the findings of this study will assist Libyan bank administrations, regulatory and legislative authorities, and regulatory and legislative bodies in overcoming hurdles in the transformation process. Given that the General National Congress passed Law No. (1) of 2013 at the time, prohibiting all usurious transactions, it is seen as a watershed moment in Libyan Islamic banking history. Following the passage of this law, all banks operating in Libya were classified as Islamic banks, putting pressure on all banks to convert to Islamic banking. In truth, switching from a system that has existed for decades to a new system overnight is illogical, which has resulted in various difficulties and roadblocks in the transformation process. Reviewing a number of prior studies on the topic of traditional banks becoming Islamic banks, particularly in the context of Libya. Given the difficulties and hurdles that this process encountered, particularly at the start of the transformation process, some of them converted totally to Islamic banking, while others were partially transformed by building branches and an Islamic channel within the bank. Practical problems and other organizational administrative challenges, some of which were legal problems, were grouped into these problems

and impediments. Thus, this matter is considered a research problem that requires more investigation, from here the following question can be formulated as a research problem "What are the obstacles that face the process of the transition of Libyan banks from traditional banking to Islamic banking after the issuance of the General National Congress Law No. 1 of 2013?

Several past studies have studied into the constraints, challenges, and difficulties that traditional banks face in transitioning to Islamic banking. Each study was unique in terms of its nature and objectives. There is no doubt that studying it has aided in gaining a better understanding and obtaining results that will aid scientific study and provide a better understanding to individuals interested in the most pressing issues and challenges facing the transformation process.

Al-Ani & Al-Qandoli (2019) conducted a study on the possibility of converting traditional banks into Islamic banks in Libya by reviewing Libyan traditional banks' experience of providing Islamic banking products and identifying the most significant obstacles that traditional banks face in converting to Islamic banking in Libya. The researchers employed a descriptive-analytical technique and concluded that the choice of Libya's legislative authority was one of the most crucial causes for the country's transition. In addition to the general desire of Libyan community for banks to provide products that are acceptable with Islamic Sharia laws. The study suggested developing comprehensive a framework for traditional banks desiring to transition to Islamic banking under the guidance and supervision of the Central Bank of Libya.

Fouad-Hussein (2018) conducted a study on the Libyan Sahara Bank in the context of traditional banks transitioning to Islamic banks. The study came to address an important component of the subject of traditional banks being transformed to

work in conformity with Islamic Sharia law via analyzing some historical studies in the theoretical portion, conducting personal interviews, and studying the bank's financial accounts in the practical part. The study came to various conclusions, the most notable of which is that the legal regulation of Islamic banks is insufficient. Furthermore, it showed the absence of authorization by the bank's general assembly to reform, as well as the country's legislative divided, resulting in a authority being disagreement in the application of Islamic banking regulations. On the other hand, Ali Saleh-Al-Naas (2017) sought to identify the most significant obstacles to the conversion of Libyan commercial banks to Islamic banks. The Libyan Republic Bank was the subject of a practical study. In their investigation, the researchers used a descriptive analytical technique. The desire of the bank's workers to adopt Islamic Sharia requirements was shown as the most crucial result. Furthermore, a considerable percentage of the study group (about 56%) was unclear regarding the Sharia judgement as it relates to regular banks' activity and operations. participants with the most practical experience and the highest scientific qualifications in the bank made up this percentage. The study proposed that the Sharia rulings connected to traditional banks' operations be clarified for their decision makers, primarily specialists in Islamic jurisprudence and Islamic banks, in order to remove any uncertainty or concern about the legitimacy of continuing to practice traditional banking.

Meanwhile, Omar (2016) conducted a field research on a branch of Al Jumhouria Bank in the city of Tobruk in eastern Libya to understand the needs of the process of transforming traditional banks in Libya into Islamic banks. By defining and analyzing the phenomenon of prerequisites for the transformation of traditional banks into Islamic banks, the study took a qualitative approach. The dedication to the principles of the

tolerant Islamic Sharia is one of the most important core factors that caused the Jumhouria Bank, Tobruk branch to transition to Islamic banking, according to the study. Additionally, the bank's ambition to follow in the footsteps of banks that have succeeded in the transformation process in several Islamic nations, as well as the rest of the globe. In the same line of transition from traditional bank into Islamic bank.

Maali and Napier (2010) conducted a study to investigate the process of developing and structuring Islamic banking services in Jordan, concentrating on the case study of the Jordan Islamic Bank, which was founded in 1979. It is considered Jordan's first Islamic bank and one of the world's oldest Islamic banks. The researchers addressed concerns about how to arrange the functioning of Islamic banks and how to calculate specific transactions made in accordance with Islamic Sharia laws in their study. The findings found that the political climate in Jordan at the time was not suitable to the establishment of Islamic banking services. However, the bank's founder used the media and reached out to public figures to gain support for his ideas. In truth, Jordan Islamic Bank was founded through a special statute that included accounting standards that were compliant with Islamic Sharia principles, and that took both religious and secular issues into account when drafting the law. The founder's experience with conventional banking informed his search for an Islamic model that could compete with it in terms of how the bank's core transaction structure was built. As a result, many of them were comparable to those of conventional banks, and developing an Islamic banking model and regulation was particularly difficult.

The existence of numerous schools of thought within Islam posed a unique issue in constructing an Islamic banking model and managing an institution. The founder has established an organizational structure that has aided in the development of his concepts (which reflected an eclectic approach to Islamic Thought Schools). In light of Libyan society's desire to move away from usurious transactions carried out by traditional banks, (Ahmad Al AJali Al Hamruni, 2013) tries to determine the future of the call to Islamize the banking sector in Libya. The findings revealed an unbridled desire and strong support for the implementation of the Islamic banking system in Libya, as well as the removal of the conventional system based on usurious transactions. A review of these previous studies and the goals and outcomes revealed that some partially and others totally varied from the current study's subject. The current study differs from prior studies in that it will focus on three key areas of the transition process to examine the most significant hurdles to traditional banks' transition in Libya. That is, the practical, administrative, and legal aspects of the study that have not been examined in earlier studies.

Furthermore, this research will attempt to identify and propose effective solutions to the most pressing issues and roadblocks that face the transition from traditional banking to Islamic banking in a way that is appropriate for the Libyan work environment, while also ensuring that these solutions are applicable and serve the public interest.

## **Method**

This study used content analysis to analyze articles, books, and materials connected to the transition from traditional banking to Islamic banking. In addition to the Libyan government's laws, we addressed the notion of Islamic banking in a concise manner, with a greater emphasis on the most essential requirements and hurdles that traditional banks in Libya faced in transitioning to Islamic banking. In attempting to cover all areas of the study as required, this study analyzed the library sources, past studies, documents, historical data, Internet sites, and legislation connected to the study's subject, the most

important of which is Law No. (1) of 2013, were reviewed.

### Results

Demand was quite high for Islamic finance in Libya. It seems that this demand is larger than in other Arab countries. In surveys, Libyans are substantially greater in scale compare with Tunisia in terms of transforming into Islamic banking. (World Bank report 2020, 54). Following the issue of the National General Congress Law No. 1/2013, the transformation from traditional banking to Islamic banking has become a binding procedure for Libyan banks. Because this approach requires that banks adhere to Islamic banking concept and behavior, the transformation process will definitely confront several requirements and hurdles. That makes it essential that while establishing a transformation plan, banks take these requirements and impediments into account. So. when implementing the transformation plan, the Libyan banks confronted a number of criteria and obstacles, Islamic, legal, administrative and financial obstacles are among the most critical. A review of these needs or obstacles are discussed in the following sections.

### First: practical obstacles

Any process of amendment or transformation from one system to another must without doubt be preceded by certain organizational arrangements and processes that ensure the success of the process of transformation; and some of these practical or general requirements for conventional banks in Libya are mentioned here for transformation into Islamic banking (Fouad-Hussein, 2018).

To ensure the success of the transformation process is vital in preparation for media campaigns and publicity campaigns to announce the change of the traditional bank to work according to Islamic Sharia requirements. Furthermore, seminars and lectures through various publicity channels such as visual, audio and print, and change all prior sights and logos which reflect the image of traditional banking, and replace it with sites and logos reflecting the image of the transition to Islamic banking. For example, changing the name and logo of the bank, as well as the establishment of monitoring committees working to monitor failures in the transformation process during and implementation, so that any failures immediately and accurately addressed. Additionally, the relevant accounting standards and limitations must be created to comply with the investment formulas and the legal finance contracts applied in the post-transformation activities of the bank. Furthermore, transformation process also requires designing the forms, contracts and records required by Islamic banking before embarking on the actual transition process (Ahmed, 2018). In order to expedite the changeover process and limit the incidence of accompanying problems, the contract is an automated system which is consistent with the provisions of Islamic banking in accordance with authorized Islamic standards (Fouad-Hussein, 2018).

# **Second: Administrative Obstacles**

They are the administrative system procedures at the bank. In order to prepare to tackle administrative challenges, the bank is obliged to adopt many of the administrative procedures that transformation demands. In accordance with its changing circumstances, it reconfigures and developing human resources through numerous processes, the main ones being: - (Abu Hamira & Aswisi, 2010).

The first preparation is a compilation of arrangements made by the Bank for the definition of and education of the Bank's staff in relation to all the characteristics of Islamic banking at the intellectual or scientific level before to and during the transformation phase. The bank is therefore

required by the next stages to accomplish these steps.

- ➤ Introduce the doctrinal character of Islamic banking.
- ➤ Introduction of the work allocated to them and their role in the new work.
- awareness of the importance and the importance of the services they give in their field of activity.
- ➤ Knowledge of the Bank's mission towards people, society and the State as a whole.
- Work on what would instill their trust in the bank, the work and the people.
- > To develop the spirit of belonging to the bank, to present the content and the relationships of the job to be carried out.
- ➤ Introduce the rules and policies that govern their employment and all that would help them readily and with the newest advances in the new working circumstances (Abu Hamira & Aswisi, 2010).

Management Human Resources and Development is an integrated approach involving human resource planning aspects in order to provide the necessary and suitable numbers and type of persons to perform tasks and work required to achieve the Bank's objectives, on the one hand, and to satisfy workers' requirements and needs on the other. This demands professional use of available human resources by providing all employees with the relevant education needs, in particular because the nature of the new banking company requires distinctive needs which are different from traditional banking (Haque & Harbin, 2009). Therefore, the bank's management must take into account the employees' need for information and expertise related to Islamic banking by clarifying the work systems of Islamic banking services associated with the stages of taking Islamic banking. The decision or the performance of work, and the dissemination of sufficient awareness of the importance of Sharia supervision are the intellectual and basic elements to control the correct application of Islamic work (Manan, Kamaluddin, & Puteh Salin, 2013). In addition to designing training programs to meet the shortage of knowledge and skills for employees in terms of Islamic bank activities.

# **Third: Legal Obstacles**

All of the items and procedures that the bank must undertake in order for the transformation process to take place in compliance with legal frameworks and to avoid accountability are referred to as legal hurdles. Law No. 46 of 2012 mandated the establishment of a central legal body at the Central Bank of Libya, with a minimum of five specialists, as well as the presence of a Sharia supervisory board at each bank, with a minimum of three specialists in Sharia sciences, law, and Islamic banks with experience in transaction jurisprudence (Al-Ani, 2017). On the other hand, Law No. 9, 2010) mandated that all banks operating in Libya offer goods that are compliant with the norms of Islamic Sharia by ensuring the financial, administrative, and accounting independence of these Islamic windows. Following the enactment of Law No. 1/2013 on the prohibition of usurious transactions, banks were forced to rely on traditional investing methods that they had depended on before to the enactment of this law. The legislative authority, on the other hand, did not provide an alternate method to avoid usurious transactions, instead leaving the subject to the central bank and commercial banks, causing significant confusion in the Libyan financial industry (Al-Ani&Al-Qandoli, 2019). One of the most important reasons and obstacle on the route of transition to Islamic banking is the delay in enacting a special law regulating the work of Islamic banks and the organization of the process of transition from traditional to Islamic banking. The following are some needs that can be

specified in the points below: - (Ali Saleh-Al-Naas, 2017).

- ➤ Issuance of an official decision by the general assembly of the bank that includes approval of the transformation process.
- Presenting sufficient convictions and legal evidence for the necessity of conversion and the validity of its application.
- Discussing the requirements necessary for the transformation of amendments or changes in the bank's articles of association and articles of association and changing and amending what must be amended.
- Obtaining the approval of the competent governmental authorities on the one hand, and taking the decision of the General Assembly to transform on the other hand.
- ➤ Searching for successful solutions to administrative problems and complex regulatory procedures, especially those related to operating licenses, establishing companies and practicing Islamic banking (Omar, 2016).
- Assigning the legal department to study all legal aspects related to the bank's transformation to operate in accordance with the provisions of Islamic Sharia and the legal implications thereof in terms of settling the rights and obligations of the bank with each of the shareholders, customers or other banks, and being fully prepared to face any legal objections that may face the transformation process.
- Follow up on the implementation of any other requirements imposed by the competent authorities regarding the implementation of the transformation to work in accordance with the provisions of Islamic Sharia (Al-Attiyat, 2007). After conducting extensive research and

reviewing numerous studies that addressed this topic in various ways, the study came up with a number of conclusions and recommendations for improving the

process of transitioning traditional Libyan banks to the Islamic banking system. The following sections presents the discussion and recommendations.

#### Discussion

The present study investigated the mechanism of Islamic banks before addressing the most significant obstacles that Libyan banks faced during the transformation from traditional banking into Islamic banking, to understand whether this transition is superficial or substantive transition. The study categorized the transition requirements into practical, administrative and legal requirement. In this regard, the study revealed that there are some prevailing obstacles started with the weakness of the propaganda and advertising aspect that precedes the process of shifting to Islamic banking in some banks, which created a gap between the bank and its customers in knowing the nature of the Islamic bank's activity, assuming that the traditional bank and the Islamic bank are identical. On the other hand, the lack of and failure to arrange seminars and conferences to explain the nature of the bank's business and its transition to Islamic banking in the various media.

The failure of Islamic banks to change their prior characteristics, which indicate that they are still traditional, both in terms of the bank's name, logo, and models used in daily transactions are another challenge encountered the process of transforming. Poor preparation of the workforce in banks before and after the transformation process, on both the intellectual and practical levels. Furthermore, the lack of interest in planning and developing human resources in accordance with the nature of work and Islamic

Sharia laws, inadequate provision of necessary training for all personnel, as the nature of Islamic banking necessitates particular requirements that differ from those of traditional banking, inadequate attention to the design of training programmes to address employee knowledge and skill shortages through the establishment of short-term workshops and training programmes, as well as the development of long-term continuous training plans, lack of convictions and legal evidence for the necessity of shifting towards Islamic banking and its application are the most prevailing obstacles that encounter the operation of transitional to Islamic banking.

Indeed, in certain banks, the legal departments' performance in analyzing all of the legal components required for the transformation process is deficient. Another serious obstacle is the insufficient preparation for legal challenges that may arise during the transition process as well as the split in the country with the presence of two governments and two parliaments and the presence of two departments of the Central Bank of Libya, one in the east of the country and the other in the west, which led to the delay in the transformation of some banks towards Islamic banking, as a result of the lack of clarity as to whom these banks will follow if they decide to switch towards Islamic banking. The lack of security and the proliferation of armed organizations, which have resulted in a state of turmoil throughout the country consequently some banks' transformation to Islamic banking has taken longer than expected. Due to armed groups' control over bank administrations' work, it has even come to control some of the Central Bank's functions. To sum up, the previous studies

#### **Recommendations**

The current study recommended some important points that the related authorities and future researchers could take into consideration. For example, paying attention to the media aspect and announcing the transformation process from

traditional to Islamic banking before initiating the transformation process by using all available and possible pain means to communicate the idea of transformation, its importance and advantages to the dealing and target parties to deal with banks. Holding seminars and conferences prior to the transformation process to clarify the idea of the bank's transformation from a traditional system to an Islamic one. Work to change all the previous features that refer to the traditional system and replace them with features that indicate the nature of work in accordance with the provisions of Islamic Sharia. Paying attention to development, skills and capabilities of the bank's workforce, both intellectually and practically, in preparation for the process of transformation towards Islamic banking. Providing all the necessary needs for the development of human resources in line with the nature of work in accordance with the provisions of Islamic Sharia. Paying attention to the design of training programs in anticipation of any shortage of employees' skills, through the establishment of workshops and training programs in the short and long term. Spreading legal awareness of the argument and proof of the necessity of moving and shifting towards Islamic banking, especially on the part of the employees and dealers with the bank.

Furthermore, paying attention to the development of legal departments and supporting them with employees and consultants who have sufficient knowledge of the aspects of work in accordance with the provisions of Islamic Sharia, and working to develop the skills and capabilities of employees in this department to work in accordance with the provisions of Islamic Sharia by informing them of all the systems and laws prevailing in Islamic banking. Work on the sufficient and necessary preparedness to confront any legal problems that banks may face due to the transformation process and the change of the existing system significantly due to the change of systems, regulations and laws. Work to instill

confidence in the bank's customers and inform them of the priority of working in accordance with the provisions of Islamic Sharia. Working to encourage people to benefit from the services of Islamic banks instead of dealing with traditional banks to gain a larger public base. Seeing all that is new in the field of Islamic banking and trying to keep pace and benefit from the experiences of the leading banks in the field of Islamic banking. Work to unify the legislative and executive baskets in the country and unify the functions of the Central Bank. The necessity of working to provide an appropriate aspect of security in the country so that these banks can operate more comfortably and get rid of the armed groups' control over some of the bank's business.

#### **Conclusion**

This study identifies some of the most significant obstacles to the conversion of Libya's conventional banks to Islamic banks. Practical, administrative, and legal issues were highlighted as important drivers or bottlenecks in the change process. This is what distinguishes this study from others when it comes to tackling the subject of obstacles from a variety of views, which considerably aids in providing a clear picture, particularly for Libyan parties and parties interested in the transition process. Then offer realistic remedies, which our research did not overlook. Whereas, it arrived at a number of practical, administrative, and legal outcomes that contributed to obstructing and impeding the transition from traditional banking to Islamic banking in Libya, the most significant and prominent of which is the country's political division, as well as other obstacles. Following that, the study recommended a number of options that were consistent with the study's findings. Some of these ideas are viable to implement in Libya; all that is required are genuine intentions and strong governments capable of implementing them. Some of the recommendations, notably in terms of the country's security and the unification of state institutions and authorities, call for a concerted effort and support from all stakeholders in the country, as well as outside aid from some third parties. Finally, we hope that our research will serve as a springboard and source of encouragement for traditional banks that have yet to complete their change. In addition, until the country is politically, administratively, and financially stable, the country's administrations and authorities must work together to promote the country's security stability. If Libya enjoys security, stability, and institutional union, it becomes one of the most advanced countries in Islamic banking, especially since it possesses the required qualities.

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