

12<sup>TH</sup> EMERITUS PROF. AHMAD IBRAHIM MEMORIAL LECTURE  
Wednesday 7<sup>th</sup> December 2011

MALAYSIA AS AN ISLAMIC FINANCE HUB: MALAYSIAN LAW AS THE LAW  
OF REFERENCE AND MALAYSIAN COURTS AS THE FORUM FOR  
SETTLEMENT OF DISPUTES

By

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I thank the International Islamic University Malaysia for inviting me to deliver this lecture.

Looking back, last year, today, I was lying on my back on the hospital bed, unable to turn to the left or right, being fed through the nose, had to be lifted in order to sit, unable to speak because of loss of voice and so on. Today, one year later, I am standing here and delivering this lecture. What can I say, except *Alhamdulillah* and thank you for your prayers?

I have chosen this topic because this is what I have been entrusted to do two months before my hospitalization, this is what I am doing now and this is what I would like to spend my “injury time” doing and I hope to score the winning goal before the final whistle blows.

I know that this lecture is in memory of Emeritus Professor Ahmad Ibrahim and not about him. However, let me share with you an incident that had happened between the two of us.

When I was in my third year at the Law Faculty of the University of Singapore, Ahmad Ibrahim, then the Attorney General of Singapore, became my lecturer, teaching revenue law. You know that tax law is a very technical and boring subject. The judgments, especially of the English Courts, were lengthy. To make it worse, at every lecture, he would give us at least twenty judgments to read.

About fifteen years later, I met him at a function in Kuala Lumpur. He asked me, “Where are you now?” I replied, “I am now a Senior Federal Counsel at the Department of Inland Revenue.” “Good,” he said. Then I said, “But Prof, I am sorry that, in spite of you, I still don’t understand tax law.” He smiled and replied, “Don’t worry. I don’t understand it myself”. That statement says a lot about the man, especially how humble he was.

For the sake of brevity, in this lecture I am using the term “Islamic finance” to cover Islamic banking, Islamic capital market and *takaful*.

Before proceeding any further, I would like to make one point. I am not an academician. So, this is not going to be an academic lecture. It is about work, the work that should be done by all of us. After all, Emeritus Prof. Ahmad Ibrahim is remembered not so much for what he taught but for what he did. What he taught could be found in the books but what he did in spear-heading the drafting of the Enactments and Laws now used in the Shari'ah Courts in this country, is his legacy.

The birth of Islamic finance in its modern form is associated with the need of pious Muslims who want to avoid committing a sin in their financial transactions. However, over the last few decades it has grown beyond anybody's imagination. Today, the industry, with over 600 financial institutions in 75 countries, is worth approximately USD1 trillion worldwide and is expected to grow to USD1.6 trillion in 2012.<sup>1</sup>

In Malaysia, Islamic finance began as an industry in 1983 with the enactment of Islamic Banking Act 1983 and followed one year later by the *Takaful* Act 1984, both of which form the foundations of Islamic finance industry in Malaysia that we see it today. These Acts paved the way for the licensing of the first Islamic bank and *takaful* operator. Subsequently, in 1993, the Securities Commission Malaysia was established. The development of Islamic capital market was one of the Commission's developmental agenda.

From just one bank and one *takaful* operator back then, Malaysia now has 16 Islamic banks, 5 International Islamic banks and 11 *takaful* operators with another *takaful* operator underway. In addition, there are 16 licensed Islamic fund management companies licensed under the Capital Market and Services Act 2007.

As at June 2011, the Islamic banking assets have grown to almost RM393 billion accounting for 21.6% of the total banking assets of the country. Deposits stand at RM296.8 billion or 22.79% of the total deposits in the country. Islamic financing amounts to RM240.6 billion or 23.8% of total financing in Malaysia.<sup>2</sup>

As for *takaful*, the industry assets amounts to RM16.3 billion or 8.66 % of *takaful* and insurance total assets. Market penetration has increased to 12.1%.

In the area of Islamic capital market, Malaysia is the largest *sukuk* market in the world with USD112.3 billion or 62% of outstanding global *sukuk* as of the second quarter of 2011.<sup>3</sup>

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<sup>1</sup> "JEF 2011 Debates The Future Needs of Islamic Finance", Global Islamic Finance Magazine (2011).

<sup>2</sup> Bank Negara Malaysia.

<sup>3</sup> Total outstanding global *sukuk* as of 2<sup>nd</sup> quarter of 2011 was USD179 billion – Bloomberg/MIFC Promotions Unit, Bank Negara Malaysia.

As of June 2011, 89% of the securities listed on Bursa Malaysia were Shari'ah compliant and there are 160 approved Islamic unit trust funds currently in the market.<sup>4</sup>

In terms of product offerings, Malaysia offers a comprehensive range of Islamic financial products, from a plain *wadiah* savings account for the man on the street, to more complex financing structures for multi-national companies such as Islamic structured products and *sukuk*. There are also ranges of family and general *takaful* products as well as investment products such as Islamic real estate investment trust.

Malaysia has attracted international institutions to set-up their operations here. Al-Rajhi, Kuwait Finance House, Qatar Islamic Bank, HSBC Amanah, Standard Chartered Saadiq and Deutsche Bank are among the well-known international institutions that have set-up their Islamic banking business in Malaysia. Renowned international fund managers like Franklin Templeton, Amundi, Nomura and BNP Paribas have also established their Islamic fund management companies in Kuala Lumpur.

In the *takaful* industry, leading international companies such as Prudential, American International Assurance, Friends Provident Group UK and Great Eastern Life Assurance Limited have taken steps by partnering with local institutions to establish their *takaful* operations in Malaysia.

The Government, together with Bank Negara Malaysia and Securities Commission Malaysia are also facilitating the development of Islamic finance. One of PEMANDU's Entry Point Project under the Financial Services is to "*position Malaysia as the indisputable global hub for Islamic finance*" and to create approximately 12,000 jobs under the sector.

Malaysia currently hosts two leading international Islamic financial organizations, namely the Islamic Financial Services Board (IFSB), a standard setting organization, and the International Islamic Liquidity Management Corporation (IILMC), a corporation established to facilitate global Islamic financial institutions in managing its financial liquidity.

To support the growth of the industry, it is essential to have human capital development. Towards this end, substantial resources have been spent by Malaysia to develop talents for the Islamic financial industry. The biggest commitment by Bank Negara Malaysia is the establishment of the International Center for Education in Islamic Finance (INCEIF). INCEIF, a university recognized by the Ministry of Higher Learning, has the objective of developing

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<sup>4</sup> Malaysian ICM, 2<sup>nd</sup> Quarter 2011, Vol 6 No. 2 (Quarterly Bulletin of Malaysia Islamic Capital Market by Securities Commission Malaysia.)

talent not only for Malaysia's Islamic finance industry but also globally. It now has *"approximately 2,000 students from over 75 countries."*<sup>5</sup>

In addition, International Shari'ah Research Academy for Islamic Finance (ISRA) is spearheading the global research initiatives for Islamic finance. The effort by Bank Negara Malaysia is complemented by the effort of the Securities Commission of Malaysia through its training arm, the Securities Industry Development Corporation, to undertake programs catering for the development of talent for the Islamic capital market. These initiatives are to complement the already existing efforts by leading universities such as International Islamic University Malaysia in developing the much needed talents for the industry. Malaysia's focus is not limited to developing the business aspect of the industry but its human capital developments as well.

In the words of Tan Sri Zeti Akhtar Aziz, the Governor of Bank Negara, Malaysia *"is currently supplying world class talent for the fast-growing Islamic finance"*.<sup>6</sup>

In addition, to borrow the words of Dato' Muhammad Ibrahim, the Deputy Governor of Bank Negara. *"..... the market has been supported by a robust regulatory and supervisory framework, reinforced by the legal and Shari'ah framework."*<sup>7</sup>

The Global Islamic Finance Report (GIFR 2011), in the chapter on The Malaysian Model under the heading *"Strength and Advantages of the Malaysian Model"* at page 165 to 166 has this to say:

*"The strength and advantages of the Malaysian model are numerous and deserve an analysis on their own. However, in summary, amongst the obvious advantages of the Malaysian model are the following:*

- (i) Sound and clear Sharia-compliance and governance framework;*
- (ii) Tax accommodations;*
- (iii) Certainly and predictability of dispute resolution outcomes;*
- (iv) Talent enrichment and thought leadership infrastructures;*
- (v) Depth and width of its capital market;*
- (vi) Deposit insurance protection."*

We have also taken measures to ensure that our products comply strictly with Shari'ah requirements. New products are only issued with the approval of either

<sup>5</sup> Handbook on the visit by Tun Abdul Hamid Mohamad to INCEIF on 2 November 2011.

<sup>6</sup> Malaysian National News Agency (BERNAMA), 15 October 2011 – 3<sup>rd</sup> Convocation of INCEIF.

<sup>7</sup> Dato' Muhammad Ibrahim, Deputy Governor, Bank Negara Malaysia, Luncheon Address 21<sup>st</sup> Conference of Presidents of Law Associations in Asia: "Islamic Finance and Malaysia's Role" 27 July 2010. Kuala Lumpur Convention Centre

the Shari'ah Advisory Council ("SAC") of Bank Negara or of the Securities Commission, respectively, the two highest authorities on Shari'ah issues in Islamic finance in the country. Besides, every Islamic financial institution and *takaful* company is required to have its own Shari'ah committee whose members have to be approved by the SAC of the Central Bank.

Since November 2009, we have gone further by making it compulsory for the court and the arbitrators to refer Shari'ah issues arising before them to the respective SACs and that the rulings of the SACs are binding on them.

Why do we do that?

Having been a Judge in all the courts in the country, from the Magistrate's Court to the Federal Court and the Special Court as well as in the Shari'ah Court of Appeal, over a period of nearly forty years and also sitting in the Shari'ah Advisory Council of Bank Negara since 2004 and of the Securities Commission since 2006, I can see clearly the advantages of giving the SACs the power to decide on Shari'ah issues in Islamic finance. So, whatever happens to the fate of SACs, I am not repentant for suggesting that Shari'ah issues on Islamic finance arising in court be referred to the SACs. The advantages are:

- (i) It enables a product to be thoroughly screened to spot the Shari'ah issues, if any. This is the most difficult part. The SACs have a Secretariat each manned by officers who, not only have Shari'ah background but are exposed to Islamic finance. (From my own observation, the Shari'ah officers at Bank Negara and the Securities Commission are among the best in the country, if not the best, for the job.) The officers in the Secretariats are assisted by their colleagues from other departments, Islamic or conventional, when the need arises. Other institutions under Bank Negara, like ISRA and INCEIF are also there to assist. The Secretariats have access to the industry. The officers are in a position to call on the people in the industry for consultation and feedback. Bank Negara and the Securities Commission have regulatory and supervisory powers over the banking institutions, insurance companies, *takaful* operators and capital market institutions under their respective jurisdictions. Bank Negara and the Securities Commission are in a position to ensure that the rulings are complied with. No other religious department, religious council or fatwa committee has all such power and expertise. With such expertise and facilities, the Secretariats are able to present very comprehensive papers for consideration of the respective SACs. Whenever there is a common issue, the two SACs hold a joint meeting.
- (ii) Having the SACs at national level enables speedy ruling on an issue. The Secretariat has to prepare and present the case for deliberation and ruling to one council only. Otherwise, it would have to do it, at least

fourteen times, at fourteen different Fatwa Committees. That would take time and the rulings may differ from one state to another. (This is not taking into account the issue of jurisdiction).

- (iii) It promotes consistency of rulings on Shari'ah issues. Imagine putting those issues to be determined by fourteen Fatwa Committees, fourteen Shari'ah Courts of Appeals or leaving them to the respective Shari'ah Committees of the financial institution. We are concerned about uncertainty in contracts, but uncertainty in Shari'ah rulings is even worse.

Why not the civil courts?

Civil courts do not have the expertise to decide Shari'ah issues. Indeed from my observation, we have reached a stage now that even an *ulama'* or a *Mufti* alone is not in a position to make a proper ruling on a Shari'ah issue in Islamic finance anymore. In their case, it is not for the lack of knowledge of the Shari'ah or Islamic jurisprudence, but it is due to the difficulty to understand the complexity of the products. Judges, sitting alone or even in three's are in no better position. They lack the knowledge of the Shari'ah and Islamic jurisprudence.

In the case of common law, civil court judges are in a position to look for the law. They may even find that the submissions of both counsels are wrong. But, they are unable to do the same in the case of a Shari'ah issue. In the end, they would just listen to the submissions of the two opposing, partisan and, with respect, equally "un-learned" lawyers, and choose which submission to accept.

Do you want Shari'ah issues to be decided that way? What more, where both the lawyers and the judges are not even Muslims! Can you accept their rulings which would bind everybody, institution, government, corporation or individual alike?

Some may say that the court will be assisted by expert witnesses. Let me tell you this. In my forty years experience in and around the court, I have not come across an expert witness (I am speaking generally) who gives evidence detrimental to the party calling him as witness. Otherwise he would not be called by the party and pay him for it. It is as simple as that. So, they too are partisan.

Why not the Shari'ah courts?

Shari'ah courts do not have jurisdiction over finance, banking and insurance, nor over limited companies and banks, they not being "*persons professing the religion of Islam*". Companies law, bankruptcy law, contracts law, land law and a host of other laws relevant and applicable to Islamic finance are outside the jurisdictions of Shari'ah courts. Neither Shari'ah judges nor Shari'ah lawyers, unless they are also members of the Bar, have expertise in those laws.

Legal documents are in English and common law lawyers who draft those documents could not appear in the Shari'ah courts. The law is in English. The witness, local and more so foreigners, give evidence in English.

There are fourteen Shari'ah Courts of Appeals as against one Federal Court. That could lead to inconsistency in the rulings on a particular issue.

Shari'ah issue is a very rare issue in court. In 2009 the Mua'malat Division of the High Court in Kuala Lumpur alone disposed of 940 cases as against 691 registered in that year. In 2010, 1270 cases were disposed of as against 1260 registered. Up to September 2011, 1033 cases were disposed of as against 1020 registered. (First, please note that the courts are disposing more cases than registered during the year, cutting down the old backlog). So far only one Shari'ah issue has been referred to the SAC of Bank Negara Malaysia i.e. this year. Those thousands of other cases had been decided on issues of land law, law of contract, companies law and others in which the Shari'ah courts have no jurisdiction on and Shari'ah judges do not have the expertise in. Shari'ah courts do not even have rules to cover those actions.

Lastly, Reciprocal Enforcement of Judgments Act 1958<sup>8</sup> does not extend to judgments of the Shari'ah courts.

So, do not think that by transferring the jurisdiction to the Shari'ah courts, even if possible, everything would be fine.

Actually, what we have done had received very favorable report from other countries. I will only quote two passages. The first is from the book *"The Art of Islamic Banking and Finance"* by Yahia Abdul Rahman at page 79:

*"This approach (the Malaysian approach - added) saves a lot of confusion and conflicts within different Shari'aa Boards. The involvement of the Central Bank adds credence and weight to the rulings. In addition, because the Shari'aa Board is operated and supervised by the Central Bank, there is no potential for conflict of interest, because the individual banks are not paying their own hand-picked scholars for their services."*

The second is from GIFR Report 2011, at page 165:

*"The existence of a structured and powerful National Supervisory Advisory Council (NSAC) (SAC – my addition) was*

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<sup>8</sup> First enacted in 1958 (Ordinance No. 65 of 1958) and revised in 1972 (Act 99 w.e.f.15December 1972.)

*originally intended to ensure clarity in terms of fiqh muamalat practices, but today it also has the power of final arbiter on Shari'a issues in any IBF dispute. By having legal authority, there will be coherence and assurance of validity of pronouncements by Shari'a scholars. In most other jurisdictions, the status of Shari'a pronouncements for IBF contracts remains vague and ambiguous when it comes to enforcement under the law."*

I am reminded of the *Hadith* narrated by Abu Hurairah in which the Prophet (p.b.u.h.), inter alia, said, "*When the power or authority comes in the hands of unfit persons, then wait for the Hour (doomsday.)*"<sup>9</sup>. That *Hadith* shows how serious the matter is.

Producing the highest standard of Shari'ah compliant products is not the end of the matter. It is equally important that the implementation and the settlement of disputes, if they arise later, be done in a Shari'ah compliant environment. Our laws, in so far as they are applicable to Islamic finance, should be Shari'ah compliant. Towards this end, some work had been done by the Law Review Committee established by Bank Negara in 2003 but that was insofar as removing any impediments that may exist in the law then.

But, that is not all. We are, in fact, going one step further: we want to give legal effect to Shari'ah principles which are applied in the practices, services and products of Islamic finance in the market. A good example is *wa'ad*. This is to ensure legal certainty of those principles.

On 27th July last year (2010) Bank Negara announced the establishment of the Law Harmonisation Committee (LHC) and I have been entrusted to chair it. The Committee consists of representatives from Bank Negara, Securities Commission, Attorney General's Chambers, practicing lawyers, ISRA and the Association of Islamic Banking Institutions Malaysia (AIBIM). It is supported by a full-time Secretariat at Bank Negara.

The objectives are:

1. To create a conducive legal system that facilitates and supports the development of Islamic finance industry;
2. To achieve certainty and enforceability in the Malaysian laws in regard to Islamic finance contracts;
3. To position Malaysia as the reference law for international Islamic finance transactions; and
4. For Malaysian laws to be the law of choice and the forum for settlement of disputes for cross border Islamic financial transactions.

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<sup>9</sup> Book No.3 *Hadith* No 56 *Sahih Bukhari* [www.searchtruth.com/SearchHadith.php](http://www.searchtruth.com/SearchHadith.php)



From the beginning, the Committee adopts a practical approach and works within the system. We would identify the laws or provisions that are not consistent with the Shari'ah or which are not conducive to Islamic finance, ascertain the Shari'ah position, draft the Shari'ah alternative and send it to the relevant authorities for legislation. We would not debate about the Federal and State jurisdictions or Civil and Shari'ah Court jurisdictions. We would accept the constitutional provisions as they are. If there are legal or Shari'ah issues, we would refer, respectively, to the Attorney General's Chambers for advice or to the relevant SACs for rulings.

In identifying the Shari'ah non-compliant provisions we adopted the approach: *any law that is not un-Islamic is Islamic*. In case you are shocked by that statement, please remember that, that was exactly what Emeritus Professor Ahmad Ibrahim did when he and his team were drafting the procedural laws for the Shari'ah Courts

We have, so far, identified a number of issues, including *wa'ad* and *ibra'* and a number of provisions that need to be harmonized and are working on them. We have also formed a Land Laws Sub-Committee to look at the land laws. The Committee has identified a number of areas e.g. regarding charges, liens and others and is working on them.

The question that keeps coming to my mind is this:

*“Are these the only areas where our laws are not Shari'ah compliant or that need be addressed to facilitate the development of Islamic finance in Malaysia?”*

Since there are many academicians in this hall, I would like to take this opportunity to appeal to all of you that if, in the course of your research or teaching, you had come across any area in our law applicable to Islamic finance which are not Shari'ah compliant or which are not conducive to the development of Islamic finance, please let us have them, preferably with the Shari'ah position and your recommendation. We will even invite you to present your findings and suggestions at our meeting.

Between all of you, you must have done centuries of research. I am sure that you have come across something that would be useful to us. Let us have them. Let us put the results of your research to practical use. To me, to do a research without putting the findings to practical use is like conceiving without delivering.

If we succeed in this project, I am sure that we will put Malaysia in a very favorable position in our quest to make Malaysia the hub for Islamic finance. Investors will know that not only our products are Shari'ah compliant but the laws applicable to them after the issuance and in the settlement of disputes, are also Shari'ah compliant.

There is another area that needs to be focused if we really want to make Malaysia a holistic hub for Islamic finance i.e. the area of settlement of disputes. In this respect we will have to focus on the lawyers, the Judges, the court and the arbitrators.

In our system, indeed in any system in the world now, lawyers play a very important role in finance, conventional or Islamic. They are the ones who advise the financial institutions when issuing a product, they are the ones who advise the customers on the legal aspects of the product, they are the ones who draw up the contracts, they are the ones who advise the parties when there is a dispute, they are the ones who appear in court when there is a case, they are the ones who make the submissions on the facts and the law for the Judge to decide, in reality, trying to persuade the Judge to decide in their clients' favor. So, they have to know Islamic finance to be able to do all those things. Otherwise they would be misleading everybody who seeks their advice, including the court that hears the case.

However, even here, I think, we have an advantage. Most of our lawyers who specialize in Islamic finance, are Muslims. The faith factor is there. Secondly, we have many institutions of higher learning which offer courses in Islamic finance, full-time or part-time. The lawyers may enroll themselves in such institutions. In fact, many have done so. This argument could be extended to Judges and arbitrators.

We now come to the courts. First, our court system is based on the common law system. Let me remind you that we have adopted the same system for our Shari'ah courts. The system has the advantage of oral and documentary evidence, oral and written submissions by counsels, full written and reasoned judgments instead of mere orders. All these lead to transparency and reduce the incidence of corruption. What is important is that the judgments and the reasons thereto are open to scrutiny by everybody, forever. Next, following the common law system, the courts abide by the doctrine of precedent which leads to consistency and certainty of the law. In this respect, we have an edge over countries with Muslim majority population which practise the continental system.

In this regard, another point in our favour is that our lawyers and judges speak English, proceedings in the superior courts (where these cases go) are in English and judgments are written in English, the language of modern *mua'malat*, in practice, if I may say so, with respect to Arabic.

Our courts now stand among the best in the world in terms of speedy disposal, after a fair trial. In the *Mua'malat* Division of the High Court in Kuala Lumpur (where most of the Islamic finance cases go), for writ actions, most of the cases that go for trial, are disposed of within six months. For summary judgment and Originating Summons, it is three months. The World Bank in its Progress Report entitled "*Malaysia: Court Backlog and Delay Reduction System*" published in

August this year has given a very favorable report on the achievement of the Malaysian Judiciary in its reform to reduce backlog and delays in court. What is left is for our lawyers and Judges, at least some of them, to specialize in Islamic finance. That would put them ahead of their counterparts in other common law countries.

A word about arbitration. Most of what I have said about the court applies to arbitrators. This is what GIFR Report says:

*“.....the Kuala Lumpur Regional Centre for Arbitration (KLRCA) provides a convenient alternative resolution platform by having a specific rule to govern disputes including IBF matters. The Rules for Arbitration (Islamic Banking and Financial Services) 2007 was specially drafted and introduced to provide a customized platform and mechanism for the resolution of disputes in the Islamic financial services sector.”*

I agree, in theory. But, let us look at the reality. In September 2009, when preparing my paper for the Islamic Financial Services Industry Legal Forum 2009, I checked with KLRCA to find out how many cases had been registered and heard since the making of the Rules. The answer was: NONE. I gave the reasons why it was so in that paper. While preparing this lecture I checked again. The answer is: ONE. I think the reasons that I gave in 2009 are still valid. However, a beginning has been made. It is interesting to note that in that case a Shari'ah issue was referred to the SAC of Bank Negara Malaysia, it was duly answered and effect was given to it. Another first. At least we have seen the system working.

I will end my discussion of this part by quoting from GIFR Report 2011 again, at page 167:

*“It is observed that all these while English law has been the preferred law of reference for international Islamic finance transactions, therefore the objective of the Committee is arguably very ambitious. Considering that English law has a long tradition of being the reference law for international contracts and English courts command enormous respect in the international arena for its impartiality and independence there are many reasons for people to be skeptical. However, if we consider that Malaysia is simply offering a value proposition whereby parties to an international Islamic finance contracts are comfortable that:*

- *The jurisdiction is neutral to all parties to the contract;*
- *The Malaysian law offers absolute certainty and predictability with regard to Shariah issues as the NSAC if*

*the final arbiter on such matter – which no other jurisdiction can offer;*

- *The Malaysian courts and arbitration are competent in dealing with disputes arising from IBF contracts, and then there is no reason to reject the possibility of making Malaysian law as the reference law for IBF contracts.”*

So, even foreigners sitting in London writing the report think that it is possible for Malaysian law to be the law of reference for international Islamic finance contracts. It is up to us to make it happen and that is what we should do, together.

Let us now try to reassess our position.

**First**, Malaysia, in the eyes of the world, is an Islamic country. Internationally, it is seen as model Islamic country. It is only natural for Malaysia to want to be the hub for Islamic finance.

**Second**, Malaysia is already the leader in Islamic finance.

**Third**, no other Government in this world has done more than the Malaysian Government in developing and for the development of Islamic finance.

**Fourth**, we already have a pool of Shari’ah scholars who have specialized in Islamic finance. Some of our Shari’ah scholars are sitting in Shari’ah Committees all over the world. We also have people in their thirties (to me, the right age), who are proficient in both Arabic and English who are also trained in law and Shari'ah. They are our potentials.

**Fifth**, we have the Shari'ah Advisory Council of Bank Negara Malaysia (SAC, BNM) and the Shari’ah Advisory Council of the Securities Commission (SAC, SC) at national level, to make Shari’ah rulings on Islamic finance. Hopefully, the two could be merged into one in the near future.

**Sixth**, we already have the common law and the common law system in place and working comparatively well.

**Seventh**, Malaysian lawyers and Judges speak English, our laws and judgments of our superior courts are in English.

**Eighth**, our courts and arbitrators are efficient, competent and independent. Remember that the cases are pure civil cases based on contract involving companies and individuals. There is no politic in it. Negative perception should not be an issue unless there are Malaysians who go around the world condemning our courts and arbitrators for ulterior motives. In terms of knowledge

in Islamic finance, our Judges, Arbitrators and lawyers, taken as a whole, are at par with their counterparts in other countries, if not better.

**Ninth**, we have the infrastructure. Our court rooms are among the best in the world, our transportation and communication are good, our streets and hotels are free from suicide bombing (so far), our cost of living is comparatively cheap and we have summer throughout the year. All these factors are conducive to foreign lawyers coming to do litigation here.

So, I think we have the right ingredients to be the holistic hub for Islamic finance. But we must have confidence in ourselves, our system and our country. We must think positively. We should think of the bigger gains to share, in this present life itself, if Malaysia succeeds in this aspiration. We should work to build and not to destroy Malaysia's position in Islamic finance, for a short term gain.

We are honoring Emeritus Professor Ahmad Ibrahim by being here today. Let us continue to honor him by continuing the work that he had done. Let us think beyond our own State and national borders because the opportunity is borderless. And, let us not be "*an ummah of lost opportunity*", to borrow the words of Sheikh Nizam Yaqubi.

Thank you.