(2) Muhammad Yusuf Saleem

"Afghan Laws on Islamic Finance: Lessons from Malaysia"

The Malaysian laws and experiences in Islamic banking and finance provide important lessons for Afghanistan. The author describes the Malaysian laws on Islamic finance and the role of the regulatory authorities such as Central Bank (Bank Negara Malaysia) and its Shariah Advisory Council to supplement the laws with policy documents and resolutions. He further explains how Islamic financial institutions in Malaysia creatively employ the contracts of sale (bay') and its different types, lease (ijarah), partnership, (musharakah and mudharabah), mortgage (rahn), agency (wakalah) and safe-keeping (wadi'ah) to come up with a variety of deposit, financing, sukuk and Islamic insurance (takaful) products. Afghanistan has a comprehensive Civil Code on these contracts. However, the country can benefit from the Malaysian experience on the application of these contracts to banking and financial transactions. The author contends that the Afghan Central Bank and other regulatory bodies should supplement the Afghan Laws on contracts by regulations and resolutions in order to make them suitable instruments for banking and financing purposes. His analysis is based on legal comparative methodology.