

## **ECONOMIC VIABILITY AND COMPLIANCE WITH NIGERIAN LAWS OF ISLAMIC BANKING IN NIGERIA AMIDST MISCONCEPTIONS**

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### ***Abstract***

*Islamic banking, a non-interest financial system rooted in Sharia principles, has gained significant traction in Nigeria over the past two decades. Emerging as a viable alternative to conventional banking, it aims to promote ethical finance, financial inclusion, and socio-economic development. However, its growth has been met with widespread misconceptions, ranging from its perceived exclusivity to Muslims to doubts about its economic viability, compliance with Nigerian laws, and operational transparency. These misconceptions have not only shaped public perception but also hindered the broader adoption of Islamic banking products and services. This article using qualitative legal analysis method examines misconceptions surrounding Islamic banking, evaluates legal frameworks, and assesses operational models through literature review and case studies. By analyzing legal frameworks, such as the Central Bank of Nigeria's guidelines and the Banks and Other Financial Institutions Act (BOFIA), the study establishes the legitimacy and regulatory compliance of Islamic banking. Furthermore, it evaluates operational models, including profit-and-loss sharing (Mudarabah) and asset-backed financing (Murabaha), to demonstrate their economic viability and alignment with global best practices. The socio-economic impacts of Islamic banking are also assessed, highlighting its role in fostering financial inclusion, supporting small and medium enterprises (SMEs), and promoting ethical investment. The study reveals that Islamic banking is not only inclusive and accessible to all, regardless of religious affiliation, but also contributes significantly to Nigeria's financial inclusion goals and economic development. To address persistent misconceptions, the article concludes with actionable recommendations, including public education campaigns, enhanced regulatory clarity, and proactive stakeholder engagement.*

**Keywords:** Islamic Banking; Nigeria; Misconceptions; Ethical Finance; Financial Inclusion; Shari'ah Compliance

## I INTRODUCTION

Islamic banking is a practice of operating a banking system or engaging in financial transactions according to the tenets of *Shariah* (Islamic law) and putting those principles into practice in the framework of Islamic economics.<sup>1</sup> These values, centered on moral and ethical standards, have broad appeal on a global scale. An Islamic bank is a financial organization that adheres to *Shari'ah* principles and provides and makes use of financial products and goods whose use complies with Islamic religious customs and legal regulations.<sup>2</sup> It should be noted that these covers refraining from interest-based transactions (*Riba*) in both lending and borrowing. Islamic banking deviates practically from traditional banking procedures.<sup>3</sup> Islamic banks use fee-based services, the buying and selling of products and services for resale, and PLS (profit and loss share) agreements as alternatives to loans.<sup>4</sup>

*The Shariah* forbids the payment or acceptance of interest charges in money issuance and borrowing, and it prohibits engaging in dealings or conduct deemed contrary to its principles.<sup>5</sup> Islamic banks only became a viable option for Muslims looking for financial services in the late 20th century, even though these principles have historically supported thriving economies. The fact that Islamic financial services are available to everyone and are not limited to Muslims should be noted.<sup>6</sup> Despite performing a similar function to traditional banking, it follows the *Shari'ah*-mandated *fiqh al-Muamalat* (Islamic rules on transactions) when conducting business. Instead of just a few, many of the fundamental ideas that underlie Islamic banking are widely accepted and

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<sup>1</sup> Aishat Abdul-Qadir Zubair, 'An Analysis of Dispute Resolution Mechanisms in the Islamic Banking and Finance Industry in Malaysia' *Jurnal Hukum Novelty* (2020) 11(2).

<sup>2</sup> Ibid

<sup>3</sup> In terms of the operations and practices there is a major difference even though there could be some semblance in the area of some products.

<sup>4</sup> Kamali, M. H. . 'A shari 'ah analysis of issues in Islamic leasing'. *Journal of King Abdulaziz University: Islamic Economics*, (2007) 20(1).

<sup>5</sup> Qur'an 2: 275

<sup>6</sup> El-Gamal, M. A. . *Islamic finance: Law, economics, and practice*. (Cambridge University Press, 2006)

have been practiced for many years.<sup>7</sup> Although it could be argued that their original form has changed over time, these concepts are not new.<sup>8</sup>

However, as it would have been accepted that this transition was going to be hitch-free, the reception of Islamic Banking in Nigeria was greeted with controversy so much so that the then CBN Governor was sued in a Lawsuit for the ‘illegality’ of his action of granting banking license for the operation of Islamic Bank in Nigeria.<sup>9</sup> This was to be a major landmark in the history of Islamic banking in any part of the world, especially Nigeria, which is presumably a Muslim-majority country. This does not mean that in other jurisdictions there were no challenges at the early stages of their formation of the Islamic banking sector.<sup>10</sup> It is premised on this that this paper shall be looking at the various misconceptions about Islamic banking in Nigeria by first tracing its origin and historical development from the shari’ah perspective, as well as tracing its evolution in Nigeria.

This article therefore highlights the ethical and inclusive nature of Islamic banking, which aims to promote financial inclusion and socio-economic development. The article investigates prevalent misconceptions, their origins, and their impact on public trust and adoption of Islamic banking products. By analyzing legal frameworks and operational models, the study establishes the legitimacy of Islamic banking and its alignment with global best practices. The socio-economic contributions of Islamic banking are also assessed, demonstrating its potential to support small and medium enterprises and enhance financial inclusion. The document concludes with recommendations for public education, regulatory clarity, and stakeholder engagement to dispel misconceptions and foster acceptance.

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<sup>7</sup> Ibid.

<sup>8</sup> Mahmoud A. El-Gamal, *An Economic Explication of the Prohibition of Riba in Classical Islamic Jurisprudence*, (Rice University, 2001), at 8.

<sup>9</sup> Godwin Sunday Ogboji V CBN Governor 2012 (UNREPORTED)

<sup>10</sup> Malaysia had its fair share of challenges in the early period of Islamic Banking

## II THE ORIGINS OF ISLAMIC BANK FROM THE *QUR'AN* AND THE *SUNNAH*

The economic system of Islam draws its principles from the *Qur'an* and the *Sunnah* (Prophet Muhammad's sayings).<sup>11</sup> Although the *Qur'an* doesn't provide specific instructions on how to run a bank, it does contain some general guidelines. In the *Qur'an*, for instance, Allah forbids interest and commands fair dealing between people (Q2:275–279).<sup>12</sup> Another example of how a partnership in the banking industry and other forms of commerce should be based is found in the Prophet Muhammad's actions and proclamations while serving as a trader during the reign of Khadijah. He displayed fairness, transparency, and honesty during this time. In pre-Islamic Arabia, his virtues earned him the title *Al-Amin* (the trustworthy). Prophet Muhammad, Abu Bakr, and Umar (R.A.A.) all worked as workers in the deposit-taking industry.<sup>13</sup>

This has served as the industry's starting point. Baytul-maal (the public treasury) performed fewer tasks than contemporary banks.<sup>14</sup> The reason for this is that economic and commercial activities back then were less sophisticated and complex than they are now. In addition to funding public projects, the *baytul-maal* also manages and distributes *Zakah*, *Jizyyah*, *Kharaj*, ransom payments made on behalf of war prisoners, as well as other high-value assets like silver, gold, agricultural products, etc.<sup>15</sup> *Baytul Maal* distributed allowances to the orphaned, the widowed, the poor, and the kin of those who lost their lives during the holy wars.

As soon as Umar bin Khaab assumed the role of caliph, he instituted *sakk* (Plural of Sukuk, Islamic Bonds), which he reportedly issued and signed. The terms "*sakk*" and "legal instrument" are used interchangeably in the works of *Shari'ah*, the Islamic Law by *Abdur Rahman I. Doi* and A Dictionary of Modern Written Arabic by Hans Wehr. That was the first time a cheque had ever been written in the history of banking. The practice persisted without interest during the Abbasid caliphate (750–900 CE). For their services in managing current accounts and issuing *sakk* to the

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<sup>11</sup> For example, the first transaction of Murabahah is drawn from the practice of the Prophet with one of his companions.

<sup>12</sup> Suratul Al-Baqarah [Q2 vs 275-279]

<sup>13</sup> Ahmed, H. 'Islamic banking and Shari'ah compliance: a product development perspective'. *Journal of Islamic finance.*, (2014) 3(2), 15-29

<sup>14</sup> Ibid.

<sup>15</sup> Ibid.

clients, the bankers only demanded a fee of roughly one dirham per dinar. Some registers used in the modern banking system have their roots in the traditional Islamic banking methods, including, but not limited to, trade or trafficking from *tafriq*, purchase from the bay, purchase from *ishtara*, and tariff from *ta'rifah*.<sup>16</sup>

### III HISTORY AND EVOLUTION OF ISLAMIC BANK

#### A) GLOBALLY

Numerous studies have been conducted on the emergence and growth of Islamic banking worldwide, particularly in Nigeria. The majority of the studies focus on topics that are important to them, such as the development of Islamic banking in sub-Saharan Africa, awareness of Islamic banking, perceptions of and use for Islamic banking products, aspects that affect the uptake of Islamic banking, difficulties faced by Islamic banks, and the effectiveness of Islamic banks.

Both in Muslim-majority and non-Muslim nations, Islamic banking has experienced widespread acceptance and a significant number of successes. Following the liberation of Islamic nations from European colonial masters, a quest for Shari'ah-compliant financial institutions and products has enhanced this trend.<sup>17</sup> As reported by the Islamic Financial Services Board (IFSB), as of 2015, the IFSB's total assets were worth \$1.88 trillion in USD.<sup>18</sup> Given this, it's no secret that Islamic banks exist in numerous nations that are not Muslim, and this was achieved due to the creation of opportunities for the banks' services (Islamic banks) in these countries. In the study conducted by Nasib,<sup>19</sup> he submitted that Islamic banking has developed to the point where it is currently practiced across several Muslim and non-Muslim nations, including the countries that follow: Bahamas, Algeria, Albania, Bahrain, Bangladesh, Brunei, Dubai, Djibouti, Egypt, Iran, Iraq, Pakistan, Guinea, Malaysia, Mauritania, Morocco, Niger, North Cyprus, Oman, Tobago, Palestine,

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<sup>16</sup> Abdul Mannan, Muhammad, *Islamic Economics: Theory and Practice*. (Britania: The Islamic Academy, Cambridge, 1986)

<sup>17</sup> Haniffa, R. and Hudaib, M. 'Islamic finance: From sacred intentions to secular goals', *Journal of Islamic Accounting and Business Research*, (2010), Vol. 1 No. 2, pp. 85-91.

<sup>18</sup> Islamic Financial Services Board (IFSB) 'Islamic financial services industry stability report', (2016), available at: [http://www.ifsb.org/docs/IFSI%20Stability%20Report%202016%20\(final\).pdf](http://www.ifsb.org/docs/IFSI%20Stability%20Report%202016%20(final).pdf) (accessed 23 December 2017).

<sup>19</sup> Nasib, H. 'Islamic Finance – A Global Proposition'. *Capco Institute Bulletin*, (2008) 26 June

Qatar, Senegal, Saudi Arabia, Sri Lanka, Sudan, Trinidad and Tobago, Turkey UAE, Abu Dhabi. Also, in the work of Ariff,<sup>20</sup> he reported that in 1978, the Islamic Finance House, or Islamic Banking System, was founded in Luxembourg. In addition, Islamic Bank International of Denmark has locations in Melbourne, Australia, and Copenhagen, Denmark, both of which have a significant Muslim population.<sup>21</sup> In essence, Islamic banks have grown significantly, mostly in Islamic nations, and non-Muslims in these nations are still prohibited from using or accessing Islamic banks' services. Benamraoui<sup>22</sup> noted in his research that the financial liberalization of Algeria had aided in the development of Islamic banking as well as the financial liberalization of the country as a whole.

Similarly, Laldin <sup>23</sup>asserted that the government supported the growth of Islamic finance in Malaysia by using open sources such as books, data, reports, presentations, and conference papers. He made this claim in his other studies regarding the growth of Islamic banking in Malaysia. The positions and procedures of the Egyptian government regarding Islamic banks were examined by Mouawad. He explained how the government's use of its power prevented the sector from moving forward. As a result, the Egyptian government has doubts about the characteristics of Islamic banking products, their connections to Islamic organizations, and their potential economic effects. In Turkey in the 1980s and 1990s, Islamic banking did not develop due to similar issues with government support.<sup>24</sup> Wilson also assessed the state of Islamic banking in the Gulf Cooperation Council (GCC) member states. Wilson claims that the GCC countries' stance on Islamic banks was contradictory. While Saudi Arabia and Oman's governments provided only modest support, the governments of Kuwait, Bahrain, the United Arab Emirates, and Qatar significantly contributed to the growth of Islamic banking.<sup>25</sup>

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<sup>20</sup> Ariff, M. 'Islamic banking'. *Asian -Pacific Economic Literature*, (1988) 2(2), 46-62.

<sup>21</sup> Ibid.

<sup>22</sup> Abdelhafid Benamraoui, 'Islamic banking: the case of Algeria' *International Journal of Islamic and Middle Eastern Finance and Management*: (June 2008) 1 :113-131

<sup>23</sup> Mohamad Akram Laldin 'Islamic Finance in the UK: Regulation and Challenges'

<sup>24</sup> Sherin Galal Abdullah Mouawad, 'The development of Islamic finance: Egypt as a case study' *Journal of Money Laundering Control* (January 2009) 12(1):74-87

<sup>25</sup> Wilson, R. 'Challenges and opportunities for Islamic banking and finance in the west: The United Kingdom experience'. *Islamic Economic Studies*, (2000) 7(1).

The basis for modern Islamic banking is that commercial banks are essential, but due to the inherent difficulties brought on by human intervention, a different type of banking system had to be developed. This system relies on the idea of *Mudarabah*, which includes sharing profits and losses.<sup>26</sup> Based on this idea, Uzair supported a banking system without interest in some of his writings.<sup>27</sup> Significant turning points in Islamic banking's development were facilitated by institutional involvement, as evidenced by illustrious conferences and initiatives. The Conference of the Finance Ministers of the Islamic Countries in Karachi in 1970, the First International Conference on Islamic Economics in Mecca in 1976, and the International Economic Conference in London in 1977 all had a big influence. These occasions made it easier to put theoretical ideas into practice, which led to the founding of the first bank that did not charge interest.<sup>28</sup>

Notably, the experiences of Myt Gamit in Egypt in 1963 led to the first modern Islamic banking experiments, which were then carried out in Dubai in 1975.<sup>29</sup> An innovative savings bank with profit-sharing was the result of Ahmad Elnaggar's pioneering work in Egypt. Five fully Islamic banks are present in London, demonstrating the success of Islamic banking outside of Arab countries. Additionally, more than 250 Islamic banks (including 90 institutions in the Middle East) conduct business globally, from China to the United States, through their Islamic subsidiaries located in the United Kingdom, Germany, Switzerland, and Luxembourg.<sup>30</sup> The Islamic Banker's conservative estimates from October 2008 indicated that the overall value of all Islamic financial assets worldwide had surpassed \$500 billion. In its four years of operation, the Islamic Bank of Britain has drawn in more than 40,000 clients, whereas HSBC Amanah, the Islamic finance arm, has been providing institutional clients with business finance services in London for ten years.<sup>31</sup> Unlike traditional financial institutions, none of the Islamic financial institutions collapsed and needed government recapitalization, according to Wilson, because the process of a government

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<sup>26</sup> Uzair, M, *An outline of interest less banking*. (Raihan Publications, 1955).

<sup>27</sup> Ibid .

<sup>28</sup> Haniffa, R., & Hudaib, M. 'Islamic finance: from sacred intentions to secular goals?' *Journal of Islamic Accounting and Business Research*. (2010).

<sup>29</sup> Ahmad Alharbi, 'Development of the Islamic Banking System' *Journal of Islamic Banking and Finance* (June 2015), Vol. 3, No. 1, pp. 12-25

<sup>30</sup> Eze, I. and Chiejina, A. 'Furore over Islamic Banking in Nigeria'. (2011) In file:/24733- furore over- Islamic banking- in-nigeria.htm

<sup>31</sup> Karbhari, Y., Naser, K., & Shahin, Z. 'Problems and challenges facing the Islamic banking system in the west: The case of the UK'. *Thunderbird International Business Review*, (2004). 46(5), 521-543.

bailout ultimately proved to be a burden on already overburdened taxpayers. According to reports, the Islamic banks adopted a traditional banking model, relying on deposits for funding rather than borrowing from wholesale markets.<sup>32</sup>

## **B) NIGERIA**

Islamic finance first became popular in Nigeria in the 19th century, just before Sheikh Usman Dan Fodio's uprising and the subsequent rise to power of the Sokoto Caliphate. During that time, financial practices resembling modern Islamic finance were practiced.<sup>33</sup> In 1903, the caliphate was destroyed after colonial forces intervened and took control of the region. Nigeria attempted to set up an Islamic banking system in 1961, along with other Muslim nations, after gaining independence from Britain in 1960. In Lagos, a bank known as the Muslim Bank of West Africa was established in the 1970s.<sup>34</sup>

However, Islamic banking became problematic during the 1980s, at which point wealthy Nigerians who were members of Muslim groups sought financing that was in keeping with their faith<sup>35</sup> This is consistent with Wilson's observation that the growth of Islamic banking in the Gulf Cooperation Council (GCC) states was aided by those who came from the bottom up. An Islamic banking network was started by this group of actors. Inter-segment devices such as campaigns, sermons, Islamic conferences, and media publications were used to pique the interest of other actors in the network they were building.<sup>36</sup> One of the most well-known conferences was the 1985 International Conference on Islamic Economics, which was organized by Usman Danfodio University in Sokoto in collaboration with other universities. Islamic banking was made known to the attendees of the event. The network included numerous Muslim organizations in Nigeria as well as academics and

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<sup>32</sup> Wilson, R. 'The development of Islamic finance in the GCC'. Working Paper, Kuwait Programme on Development, Governance and Globalisation in the Gulf States,(2013) 19.

<sup>33</sup> Mustafa, D. A., & Idris, M. 'The contributions of Islamic economic institutions to modern Nigeria'. *Journal of Islam in Nigeria*, (2015). 1(1), 36-58.

<sup>34</sup> Orisankoko, A. S. 'The Propagation Of Non-Interest Banking In Nigeria: An Appraisal Of The Ideological Risk'. *Journal of Islamic Banking & Finance*, (2012) 29(1).

<sup>35</sup> Faye, I., Triki, T., & Kangoye, T. 'The Islamic finance promises: evidence from Africa'. *Review of Development Finance*, (2013). 3(3), 136-151.

<sup>36</sup> Sa'id, H. 'Exploring the development of Islamic banking in Nigeria using an actor-network theory perspective'. *Journal of Islamic Accounting and Business Research*, (2020) 11(5), 1083-1099.

Muslim religious organizations. However, Islamic banking was not yet covered by Nigerian government or banking legislation, which thus hampered its expansion and success.

Nigeria is an oil-producing nation that has the biggest crude oil reserves in Africa and one of the biggest economies in Africa, but the real economy has been growing slowly, and about 53.5% of Nigerians live below the poverty line.<sup>37</sup> Islamic banking started to be seen by the Nigerian government as a means of eradicating poverty. As a result, the government finally acknowledged the legitimacy of Islamic banking in 1991 shortly after it passed the BOFI Decree.<sup>38</sup> The Structural Adjustment Program's liberalization and regulatory measures to boost the economy led to a rise in the number of banks and other financial institutions, which in turn prompted the passing of the Decree.<sup>39</sup> The Decree's goal was to make the financial industry stronger. It makes it possible for profit-and-loss-sharing banks to be established, which opened the door for the development of Islamic financial institutions.

As a result, Nigeria is now able to participate in Islamic banking, strengthening the network. According to the BOFI Decree, a profit-and-loss sharing bank conducts investment or commercial banking business while maintaining profit and loss sharing accounts.<sup>40</sup> After the banking regulations were changed, banks as well as other financial companies in Nigeria had to be registered and mobilized into the actor-network. Islamic banking had already been made available by Habib Bank. In 1992, the CBN approved the bank's application for a license, and in 1996, Habib Bank started offering non-interest banking services. Numerous Muslims opened accounts with the bank. The expansion of Islamic banking can be viewed as a network of relationships between various human and non-human actors. Consequently, both living and non-living, including the CBN, Jaiz International Bank, Nigeria's Muslims, and other religious faiths, Nigeria's banking

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<sup>37</sup> World Bank. *Nigeria Bi-Annual Economic Update, April 2017: Fragile Recovery*. (World Bank, 2017). .

<sup>38</sup> CBN, *Shariah Governance of Islamic Financial Institutions (IFIS): An Analysis of the Central Bank of Nigeria (CBN) Regulatory Guidelines* (CBN: Nigeria,2017),

<sup>39</sup> Ibid.

<sup>40</sup> BANKS AND OTHER FINANCIAL INSTITUTIONS ACT, 1991

legislation, and Nigeria's government, were immersed in the development of the Islamic banking network in Nigeria.<sup>41</sup>

To launch an all-encompassing Islamic bank, several wealthy and educated Muslims founded Jaiz International Bank Plc.<sup>42</sup> The company applied to the Nigerian Stock Exchange (NSE) and raised NGN2.5 billion through an IPO in order to satisfy the Central Bank of Nigeria's (CBN) minimum capital base requirement of NGN2 billion. In 2004, Jaiz International Bank submitted an application to the CBN for a banking license following the initial public offering.<sup>43</sup> In 2005, the license was essentially approved. The CBN started to reform the banking industry, and all Nigerian banks were given the option of increasing the amount of their capital to NGN25 billion by the end of 2005 or merging with other financial institutions in order to comply with the new capital requirements, which put a halt to the establishment of the bank.<sup>44</sup>

The sole Islamic bank's approval was consequently subject to it satisfying the new capital requirement. There were no banks to come to Jaiz International Bank's aid at that time. The Zamfara State government, on the other hand, provided some assistance to Jaiz Bank. The first Nigerian state to officially enshrine *Shari'ah* was Zamfara in 1999. Halal Islamic Bank was established by the Zamfara state government in accordance with *Shari'ah*. The Zamfara state government joined the network as a result of the merger of Halal Islamic Bank and Jaiz International Bank, which raised the required capital and strengthened the bank. The task of raising NGN25 billion in capital, however, remained difficult.<sup>45</sup>

Our analysis indicates that after the year 2000, the Nigerian government assumed the primary role in forming the Islamic finance network. In order to strengthen the model, the government took

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<sup>41</sup> Orisankoko, A. S. 'The Propagation Of Non-Interest Banking In Nigeria: An Appraisal Of The Ideological Risk'. *Journal of Islamic Banking & Finance*, (2012) 29(1).

<sup>42</sup> Mustafa, D. A., & Idris, M. 'The contributions of Islamic economic institutions to modern Nigeria'. *Journal of Islam in Nigeria*, (2015)1(1), 36-58.

<sup>43</sup> Jaiz Bank. 'Jaiz Bank 5 Years Milestone'. Available at: <https://www.jaizbankplc.com/wire/jaiz-bank-5-years-milestone/> Accessed 9 September 2020.

<sup>44</sup> Ibid.

<sup>45</sup> Unegbu, V. E., & Onuoha, U. D. 'Awareness and use of Islamic banking in Nigeria'. *Oman Chapter of Arabian Journal of Business and Management Review*, (2013) 34(981), 1-20. Sa'id, H. 'Exploring the development of Islamic banking in Nigeria using an actor-network theory perspective'. *Journal of Islamic Accounting and Business Research*, (2020) 11(5), 1083-1099

several actions. For instance, the CBN sent a delegation to Malaysia in 2004 to observe the country's Islamic banking system in operation. The CBN deputy governor served as the delegation's leader. Nigeria's 2005 admission into the Islamic Development Bank (IDB), which made the IDB an actor, strengthened the government's commitment to the expansion of the Islamic finance network. The non-interest Finance Working Group was established in 2009 with the assistance of several new participants, including Enhancing Financial Innovation and Access (EFInA, 2009).<sup>46</sup> The EFInA initiative may be attributed to the widespread acceptance of financial inclusion as a tool for advancing economic development because Islamic finance was recognized as a tactic that would help to increase financial inclusion.<sup>47</sup> Due to its interest in promoting financial inclusion and Islamic finance's ability to provide credit to people with lower and middle incomes, which would support the growth of Nigeria's real economy, the International Finance Corporation (IFC), a second foreign actor, joined the network. Furthermore, it was thought that Islamic finance could assist the country in luring the crucial foreign direct investment needed to develop its infrastructure.

EFInA's enrollment and mobilization into the network is explained by the fact that, according to a 2008 survey on financial inclusion in Nigeria, 53% of Nigerian adults do not use financial services. Among the parties that EFInA brought together were the Nigeria Deposit Insurance Corporation (NDIC), National Insurance Commission (NAICOM), Pension Commission (PENCOM), Federal Inland Revenue, Security and Exchange Commission (SEC), Debt Management Office (DMO), Central Bank of Nigeria (CBN), and other market players interested in providing Islamic financial products. These participants helped identify and address market and regulatory obstacles that prevented non-interest banking from succeeding. The group was successful because it had established several rules.<sup>48</sup>

Analysis revealed that after the CBN became a full member of the IFSB in January 2009, more advancements were made. In March of the same year, the CBN Banking Supervision Department published a draft framework for the control and oversight of non-interest banking and requested

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<sup>46</sup> EFInA (Enhancing Financial Innovation and Access). Access to financial services in Nigeria 2008 survey: key findings. (2009)

<sup>47</sup> Ibid.

<sup>48</sup> Ibid.

input from interested parties.<sup>49</sup> 2010 saw enormous success for Islamic banking networks. The CBN established a non-interest banking division at the start of the year and unveiled a new banking framework that permitted non-interest banks to operate with capital bases of NGN10 billion for national banks and NGN5 billion for regional banks under special licences. This discovery corresponds to the discoveries made by Al Nasser and Muhammad in that it shows that the Malaysian government gave Islamic banking in that country strong support.<sup>50</sup> After the CBN made changes to the regulations governing specialized banks, Jaiz International Bank obtained the extra funding necessary from institutional and individual investors before applying for a regional license as Jaiz Bank Plc. In December 2011, the CBN authorized Jaiz Bank Plc to function in the region as an officially recognized non-interest bank. The simultaneous provision of non-interest banking services was authorized for Stanbic IBTC Bank Plc.<sup>51</sup>

Nigeria, a nation with a diverse population with respect to religion and ethnicity, is seeing growth in the Islamic financial services network. However, a number of organizations, particularly Christians and their associations, are fighting back against the network by questioning the CBN's decision to permit Islamic banking. Due to the CBN Governor's Muslim faith, a number of organizations pointed to a religious divide. One argument against the CBN was that it lacked the authority to alter banking regulations because only the Nigerian National Assembly had that authority.<sup>52</sup> Some people challenged the CBN in court.

Despite all the criticism, the Islamic banking network grew stronger, and more inter-segment devices were encouraged for both Muslims and non-Muslims through articles published in numerous newspapers, advertisements in the local media, and posts on social media outlining the benefits of Islamic banking and enlisting them in the network. Islamic banking is an interest-free banking system that adheres to Islamic economic and legal concepts, for instance, and was made

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<sup>49</sup> CBN, Shariah Governance of Islamic Financial Institutions (IFIS): An Analysis of the Central Bank of Nigeria (CBN) Regulatory Guidelines (2017).

<sup>50</sup> Abdullah Saif Al Nasser, S., Datin, & Muhammed, J. 'Introduction to history of Islamic banking in Malaysia'. *Humanomics*, (2013). 29(2), 80-87

<sup>51</sup> Dauda, M. 'Legal framework for Islamic banking and finance in Nigeria'. *Electronic Journal of Islamic and Middle Eastern Law (EJIMEL)*, (2013). 1(7), 160-170.

<sup>52</sup> Sa'id, H. 'Exploring the development of Islamic banking in Nigeria using an actor-network theory perspective'. *Journal of Islamic Accounting and Business Research*, (2020). 11(5), 1083-1099.

known to Nigerians in one article as being accessible to anyone not interested in paying interest; it was not just for Muslims.<sup>53</sup> Other articles emphasized how common Islamic banking is in other nations, including the United Kingdom.<sup>54</sup> On January 6, 2012, Jaiz Bank Plc opened three branches: two in Nigeria's northern states of Kano and Kaduna, and one in Abuja, the country's capital. Jaiz Bank Plc offers non-interest banking in accordance with the teachings of Islam, and on the advice of the Islamic Bank of Bangladeshi Limited (IDB), a bank shareholder, it collaborates with that institution for technical and managerial support.<sup>55</sup>

In the years that followed, Jaiz Bank Plc raised additional funds, and eventually it received a national license that allowed it to conduct business throughout Nigeria. Islamic banking is now widespread in Nigeria thanks to the availability of Islamic financial instruments from a large number of banks and other financial institutions, as well as participation from the public and the government.<sup>56</sup> According to the Jaiz Bank Plc website, there are more than 26,000 shareholders who own the bank, both Muslims and non-Muslims. From NGN12 billion in 2012 to approximately NGN62 billion in 2017, financing assets made up the majority of the bank's balance sheet, which also increased.<sup>57</sup>

#### **IV MISCONCEPTIONS**

A recent research investigated the claim of discrimination against Islamic Banks in Nigeria and the result shows that the introduction of the Islamic banking system in Nigeria as an alternative to the known conventional banks witnessed myriads of controversies, criticism and condemnation especially from the non-Muslims in Nigeria on the ground that it was just a means to Islamize

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<sup>53</sup> The Daily Trust Newspaper. Islamic banking open to all, not only Muslims – Jaiz Bank. (2018, January 12). Available at: <https://www.pressreader.com/nigeria/daily-trust/20180112/281496459237263> Accessed 9 September 2020.

<sup>54</sup> Muneeza, A., Nurul Atiqah Nik Yusuf, N., & Hassan, R. 'The possibility of application of salam in Malaysian Islamic banking system'. *Humanomics*, (2011). 27(2), 138-147.

<sup>55</sup> Sa'id, H. 'Exploring the development of Islamic banking in Nigeria using an actor-network theory perspective'. *Journal of Islamic Accounting and Business Research*, (2020). 11(5), 1083-1099

<sup>56</sup> Muniesa, F., Millo, Y., & Callon, M. 'An introduction to market devices'. *The sociological review*, (2007). 55(2 suppl), 1-12.

<sup>57</sup> Jaiz Bank. 'Jaiz Bank 5 Years Milestone'. (2017). Available at: <https://www.jaizbankplc.com/wire/jaiz-bank-5-years-milestone/> Accessed 9 September 2020.

Nigeria and perpetrate terrorism.<sup>58</sup> Below are some other misconceptions about the system in Nigeria.

### **A) ISLAMIC BANKING IS ALL ABOUT NON-INTEREST**

One typical misunderstanding with regard to Islamic banking is that it only emphasizes its absence on interest. But the ideology of Islam includes a thorough framework for both social and economic justice. It covers topics like property rights, reward structures, resource distribution, economic freedom, decision-making, and the function of the government. Some Western bankers contend that the flow of savings into investments would decrease in the absence of interest. This viewpoint results from the distinction between the "interest rate" and the "return rate," as those terms are used in the Islamic world. God allowed trade but outlawed *Riba* (interest), in accordance to Islamic principles. Therefore, rather than a rate of return that is not known, like profit, it represents the established or predetermined return associated with savings or transactions that are prohibited.

Modern economists have put forth various justifications for the inclusion of interest. One argument holds that interest compensates the debtor for the temporary loss of capital utilization by acting as a reward for saving. It is crucial to understand that Islamic banking, on the other hand, operates according to distinct principles and methods that aim to uphold fair and morally upright financial practices.<sup>59</sup>

### **B) ISLAMIC BANKING IS JUST A SCAM**

The perception among Muslims as a whole that implementing the principles of Islamic banking only benefits the wealthy and is merely another way for banks to increase profits through the growth of deposits was influenced by these kinds of accounts. Recent studies have revealed that Islamic financial institutions face numerous challenges, including a lack of experts in Islamic banking and uncertainty in accounting principles relating to revenue realization, disclosures of accounting information, accounting bases, valuation, and revenue and expense matching to Islamic

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<sup>58</sup> Zubair, A.A. & Muhammed, A.Y., 'Legal Examination of Discrimination of Islamic Banks in Nigeria: Distinguishing Between Hearsay and Admissible Evidence' *Kampala International University Law Journal (KIULJ)* [2024] Vol. 6, Issue 2, P.77

<sup>59</sup> Samir, S. 'Islamic finance and its use in Azerbaijan'. *The Caucasus & Globalization*, (2008) 2(3), 76-85.

banks.<sup>60</sup>Because of this, and as was correctly pointed out, the outcomes of Islamic banking schemes might not be sufficiently defined with regard to the precise profit and loss shares attributable to depositors.

Islamic financial institutions have also come under fire because it has been noted that the *Mudarabah* principle has not been upheld in a proper way. Sait, Siraj, Lim, and Hilary noted that while *Mudarabah* placed a strong emphasis on risk sharing, these banks were more focused on profit-sharing and generally attempted to minimize risk. Additionally, they observed that these banks were disregarding the intent of the law creating the banks in the Muslim community in favour of strictly adhering to Shari'ah. The majority of financial institutions that offer Islamic banking services are largely owned by non-Muslims, which raises questions about the reliability of these organizations and the caliber of their services. It has also been argued that Islamic banking does little for the general populace. In addition, one Malaysian bank that provided Islamic investment funds discovered that these funds were primarily invested in the gaming industry and that the managers in charge of these funds were not Muslims, according to the study by Sait, Siraj, and Lim, Hilary.<sup>61</sup>

The essential values of justice and fairness are the cornerstones of the Islamic economic system. The ban on interest and the emphasis on equitable sharing of profits and losses (PLS) are just a few examples of how these principles have specific implications. Iqbal et al. assert that these monetary agreements are consistent with the Islamic view that rights and obligations are applied broadly. By preventing the abuse of power by the rich and powerful and making sure that both parties benefit in every transaction, they seek to strike a balance between individual interests and those of society.<sup>62</sup> Islamic scholars place a strong emphasis on social justice and welfare as essential outcomes for any society. These ideas are consistent with religious teachings as well as Islamic economics, which historically upholds *Shari'ah* laws that govern all aspects of daily life,

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<sup>60</sup> Aishat Abdul-Qadir Zubair, 'An Analysis of Dispute Resolution Mechanisms in the Islamic Banking and Finance Industry in Malaysia' *Jurnal Hukum Novelty* (2020) Volume 11, Number 2.

<sup>61</sup> Lim, H., & Sait, S. 'Accidental Islamic feminism: dialogical approaches to Muslim women's inheritance rights'. In *Feminist Perspectives on Land Law* (2007) (pp. 261-286). Routledge-Cavendish.

<sup>62</sup> Iqbal, Z., & Mirakhor, A. *An introduction to Islamic finance: Theory and practice* Vol. 687 (John Wiley & Sons, 2011).

such as the economic and cultural spheres.<sup>63</sup> Muslims are bound by a comprehensive set of laws known as *Shari'ah*, which includes Islamic teachings. This code of conduct applies to every facet of Muslims' lives. Each person has a responsibility to faithfully follow these teachings and principles.<sup>64</sup> The majority of religions promote social justice by emphasizing morality and spiritual wisdom.<sup>65</sup>

In this regard, a close reading of the verses from the *Quran* leaves one in no doubt that justice is integral to the basic outlook and philosophy of Islam, within or beyond the *Shari'ah* itself and that the religion supports the idea of universal human rights, which Muslims must uphold at all times.<sup>66</sup> Similarly, the claim that unity, trusteeship, and accountability - the three central concepts of Islam - support the ethical teachings of Islam.<sup>67</sup> Prominent Islamic scholars have consistently argued that society has a duty to make sure that everyone's basic needs are met, regardless of the specifics of financial systems and their results. Efforts should be made to reduce glaring differences in income and wealth at the same time. This shared responsibility highlights the significance of addressing social and economic injustices in the context of Islamic principles.<sup>68</sup>

There is a strong emotional underpinning to the relationship between Islamic financial principles and the text of the Holy Quran. This is made clear in Chapter 67, Verse 2, where it is stated that Allah created life and death as a means of testing people, and that one of those tests is to forbid doing certain things. Quran emphasizes that the prohibition of interest, gambling, and *gharar* are three examples of financial contexts in which this testing of emotions is particularly pertinent. These behaviors are thought to be in opposition to the pursuit of social justice and equality, which are central principles in Islamic teachings.<sup>69</sup>

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<sup>63</sup> Ibid.

<sup>64</sup> Kamla, R. 'Critical insights into contemporary Islamic accounting'. *Critical perspectives on accounting*, (2009) 20(8), 921-932.

<sup>65</sup> El-Gamal, M. A. *Islamic finance: Law, economics, and practice*. (Cambridge University Press, 2006).

<sup>66</sup> Kamali, M. H. A shari 'ah analysis of issues in Islamic leasing'. *Journal of King Abdulaziz University: Islamic Economics*, (2007) 20(1).

<sup>67</sup> Nasar, R. M., Naseef, M., & Battour, M. أثر أخلاقيات التسويق على وإلا الزبون في شركات الاتصالات الخلوية الفلسطينية: إطار مفاهيمي. (2020)

<sup>68</sup> Ahmed, H. 'Islamic banking and Shari'ah compliance: a product development perspective'. *Journal of Islamic finance*, (2014) 3(2), 15-29.

<sup>69</sup> Kuran, T. *Islam and Mammon: The economic predicaments of Islamism*. (Princeton University Press, 2004).

A Muslim's life could benefit in several ways from an economic system built on Islamic principles. It provides a framework that can encourage the achievement of social-economic objectives, advance social justice and equality for all people, and aid in the eradication of poverty. Islam provides a unique alternative framework for allocating resources within society as a whole because its tenets differ significantly from those of both socialism and capitalism.<sup>70</sup> In this context, the notion that Allah is the true "owner" of the entire universe and that humans are merely beneficiaries or temporary custodians of any property they may possess is especially significant.<sup>71</sup>

Islamic economic principles have been around for a long time, which helped open the floodgates for modern Islamic financial institutions to appear in the 1970s. By banning interest and promoting lending on the basis of profit and loss sharing (PLS), financial institutions aimed to set themselves apart from traditional banks. The early successes of this industry can be attributed in part to the goals of Muslims living in minority settings, such as the United Kingdom, who wanted to save and invest money in accordance with their religious principles and ideals.<sup>72</sup>

The original concept of Islamic finance rejects the use of profit as the only criterion, viewing it as harmful to society in contrast to traditional "Western" notions of financial performance. Instead, the sector abides by normative standards that take socioeconomic factors into account and are consistent with *Shari'ah*. These measures seek to aid in the accomplishment of development objectives and act as standards for assessing performance in the context of Islamic finance.<sup>73</sup> According to mutually agreed-upon terms, the borrower and lender share investment risks as part of Islamic finance's risk-sharing structure. Without relying on promises or collateral, gains or losses are split equally between the two parties in this arrangement.<sup>74</sup>

Profit and loss sharing (PLS) agreements are regarded by some authors as Islamic banking's defining feature. As a result, discussions on Islamic finance frequently presuppose that PLS is

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<sup>70</sup> Quran 4:29

<sup>71</sup> Kamla, R., Gallhofer, S., & Haslam, J 'Islam, nature and accounting: Islamic principles and accounting for the environment'. In *Accounting forum* . (2006, September). (Vol. 30, No. 3, pp. 245-265). Taylor & Francis.

<sup>72</sup> Iqbal, Z. 'Islamic financial systems. *Finance and development*, (1997). 34, 42-45.

<sup>73</sup> Lewis, M. K., & Algaoud, L. M. 'Islamic banking'. In *Islamic Banking*. (Edward Elgar Publishing, 2001).

<sup>74</sup> Haron, S., & Ahmad, N. 'The effects of conventional interest rates and rate of profit on funds deposited with Islamic banking system in Malaysia'. *International Journal of Islamic Financial Services*, (2000) 1(4), 1-7.

theoretically superior to traditional interest-based banking. This viewpoint supports the idea that PLS arrangements are more in keeping with Islamic codes of conduct and may provide benefits when used within the framework of Islamic financing mode.<sup>75</sup> It is important to keep in mind that the traditional focus of Islamic banks on promoting societal equality and harmony could be used as the basis for the creation of a "Model Islamic Bank" when considering the emotional aspects of institutional activities. Over time, this model envisions a shift towards financing that relies on participatory share of profits and losses (PLS) arrangements taking precedence. Such an evolution would reflect the inherent principles of Islamic finance, emphasizing fairness and collective well-being.<sup>76</sup> In this context, the guiding principles necessitate banks to uphold ethical behavior and make ethical investments. Simultaneously, they are expected to treat their employees and customers with fairness, refraining from any form of discrimination based on age, culture, gender, or religion. When it comes to the reach of Islamic financial systems, it is argued that their social responsibility extends beyond the education and service of Muslims. Instead, it encompasses the entire society, recognizing the universal rights of individuals to employment and investment opportunities as essential needs.<sup>77</sup> By adhering to this philosophy, Islamic banks have the potential to attract substantial support, driven by emotions and rooted in the trust of non-Islamic and secular customers. No matter their level of religiosity, many people place a high value on moral values. Hence, by embodying these principles in their operations, Islamic banks can appeal to a wider customer base and garner their trust.<sup>78</sup>

Islamic consumers have been aggressively targeted in response to rising standards of living and disposable income, and efforts to appeal to their religious inclinations as part of marketing efforts have become more pronounced.<sup>79</sup> Several distinct factors, along with the general direction of the market, have promoted the growth of faith-based banks in the United Kingdom. The largest of

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<sup>75</sup> Safiullah, M 'Superiority of conventional banks & Islamic banks of Bangladesh: a comparative study'. *International Journal of Economics and Finance*, (2010). 2(3), 199-207.

<sup>76</sup> Siddiqi, M. N., & Banking, L. I. 'Towards a grass-roots based Islamic finance for all'. In Eighth Annual International Conference of Larisa Islamic Banking (Keynote address). Los Angeles, CA. (2001, June).

<sup>77</sup> Housby, E. *Islamic financial services in the United Kingdom*. (Edinburgh University Press, 2011).

<sup>78</sup> Suhartanto, D., Dean, D., Ismail, T. A. T., & Sundari, R. 'Mobile banking adoption in Islamic banks: Integrating TAM model and religiosity-intention model'. *Journal of Islamic Marketing*, (2020). 11(6), 1405-1418.

<sup>79</sup> Alam, I., & Seifzadeh, P. 'Marketing Islamic financial services: A review, critique, and agenda for future research'. *Journal of Risk and Financial Management*, (2020). 13(1), 12.

these are as follows: (i) the 2.8 million Muslims who were counted as part of the most recent census (2011); (ii) approval from British authorities; (iii) the continued inflow of large sums of money from Middle Eastern nations; (iv) London's status as the nation's major international economic hub; and (v) the country's advanced educational system.<sup>80</sup> Many of the international financial institutions that are now taking advantage of these opportunities in the UK have long been active in the Middle Eastern and South Asian markets, allowing them to gain knowledge and experience in the rules and regulations of Islamic finance. The knowledge and experience in Islamic mode of financing that have been gained have been used as a base for growth outside of nations with a majority of Muslims. This expansion first became apparent through the installation of "Islamic windows" in the UK and other regions. Within traditional banks, these specialized divisions provided basic lending and savings products based on Islamic principles.<sup>81</sup> On a larger scale, the expansion of Islamic finance outside of environments that are primarily Muslim is consistent with the current belief that, in reality, it is not necessary for finance professionals and clients to fully internalize the tenets of Islam to cooperate with or use *Shari'ah*-compliant financial services. This viewpoint makes comparisons to charitable organizations where people can give and take part without necessarily sharing the same core values.<sup>82</sup>

### **C) ISLAMIZATION OF NIGERIA**

In recent times, Islamic banking in Nigeria has faced many impediments which have influenced the successful establishment and management of banks given some of the religious colorations and cultural differences. The arguments of some non-Muslims on the position that Islamic banking was introduced to Nigeria to Islamize the country are no longer news. Many non-Muslims thought that some fundamentalist religious groups had funded and financed some Islamic banks in Nigeria. Some argued that calling an Islamic bank an interest-free bank is more suitable if the aim of this bank is not to Islamize Nigeria. In addition, proponents of Islamic banking contend that a bank can

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<sup>80</sup> Adamek, J. 'Nadzór religijny nad muzułmańskimi instytucjami finansowymi'. *Bezpieczny Bank*, (2017). (2 (67), 38-51.

<sup>81</sup> Wilson, R. 'Challenges and opportunities for Islamic banking and finance in the west: The United Kingdom experience'. *Islamic Economic Studies*, (2000) 7(1).

<sup>82</sup> Yasmin, S., Ghafran, C., & Haslam, J. 'Centre-staging beneficiaries in charity accountability: Insights from an Islamic post-secular perspective'. *Critical Perspectives on Accounting*, (2021) 75, 102167.

be interest-free if it operates in accordance with Islamic law. However, a core Islamic banking concern is the mode of operation or instruments, not the only interest. For instance, investing in any business activity that is not Islamic is prohibited, such as the sale of alcoholic drinks.<sup>83</sup>

Non-Muslims think that by creating a Shari'ah Council to oversee Sharia banking activities, the CBN is attempting to impose Shari'ah on Nigerians of all faiths. Mallam Sanusi was accused of being the backbone of the conversion of Nigeria to Islam. On the contrary, Sanusi declares that the CBN is not establishing or promoting Islamic banks but rather granting licenses to the sector to conduct Islamic banking.<sup>84</sup>

Furthermore, it is a known fact that people other than Muslims have put forth multiple attempts to thwart the emergence of Islamic financial services in Nigeria, giving a few unfair justifications based on feelings that are purely emotional and sentimental.<sup>85</sup> The definition of an interest-free financial institution varies between two important pieces of legislation, the Non-Interest Financial Institutions (NIFI) Guidelines 2011 and the Banks and Other Financial Institutions Act (BOFIA) 1991. Additionally, the opposition alleged that the CBN's composition violated the federal character principle and that non-Muslims were discriminated against in using the services of Islamic banks.<sup>86</sup> Similar charges have been levelled against the growth of Islamic finance as an integral component of a plan to Islamize the world. It is impressive how many rational justifications have been offered to disprove every charge levelled by the adversaries.<sup>87</sup>

Following the appointment of the CBN governor as chairman of the International Islamic Liquidity Management Corporation (IILM), a multilateral organization created to provide *Shari'ah*-compliant liquidity-management instruments for Islamic financial institutions, the Nigerian chapter of the Christian Association of Nigeria (CAN) announced a new and improved commitment to preventing the growth of Islamic banking in the nation. According to This Day

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<sup>83</sup> This is where Shari'ah compliance comes in. There is strict adherence to this principle in terms of the businesses they venture in and finance.

<sup>84</sup> Sanusi, L.S. '16th annual CBN seminar for financial market journalists in Adamawa state' in Boh, M. (2011) Vanguard. 'Nigeria: CBN to extend Islamic banking to other financial sectors. Oct. 3.

<sup>85</sup> The case of Sunday Vs CBN Governor even though the case was struck out for lack of Locus standi.

<sup>86</sup> Olayemi, A. A. M. 'The legality of Islamic banking in Nigeria: A critical approach'. (2011). Available at SSRN 1941010.

<sup>87</sup> Ibid.

Live, CAN demanded that Nigeria remove its membership from the IILM and that the CBN governor resign from his leadership. Nevertheless, despite these desperate tactics, some non-Muslims continue to use Islamic banking. Due to some inherently advantageous factors that encourage patronage even from non-Muslims, the campaign against Islamic banking in Nigeria appears to be less effective. Examining all of the traits and factors that sway non-Muslims in Nigeria to use or adopt Islamic banking is crucial given the rising demand for Islamic banking services.<sup>88</sup>

## V CONCLUSION

Islamic finance has grown in popularity among Muslims as well as non-Muslim nations in recent decades, Islamic nations that are not Muslim have also adopted Islamic finance as a trend. Islamic banking needs the cooperation of all parties, regardless of their faith, because it is not discriminatory by nature. However, the rise of Islamic banking is seriously threatened due to the persistent opposition of a portion of the Nigerian population. Nigeria will not benefit from a boycott of such a vitally developing Islamic financial system, especially at this time when the country is working hard to become Africa's largest and most powerful International Finance Corporation (IFC). Everyone should therefore take steps to identify the phobia's root sources, weigh any adverse effects that may have followed, and suggest countermeasures. It is hereby recommended that there should be enhanced public education campaigns to ensure that people are well informed of the workings of an Islamic Bank. This will apart from building the investors' confidence also help in achieving greater financial inclusion for all. In the same vein, the need for enhanced regulatory clarity cannot be overemphasized. The Lawmakers need to further work on the possibility of coming up with a dedicated Act for the operations and regulations of this very important sector of the larger Financial landscape. Finally, but most importantly, there is the need to have a very proactive stakeholder engagement to ensure that everybody is on the same page and the misconceptions are properly cleared and dealt with once and for all.

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<sup>88</sup> The Daily Trust Newspaper. 'Islamic banking open to all, not only Muslims – Jaiz Bank'. (2018, January 12) Available at: <https://www.pressreader.com/nigeria/daily-trust/20180112/281496459237263> Accessed 9 September 2020.