

**AN APPRAISAL OF THE PERFORMANCE OF ISLAMIC BANKS WITHIN THE
FRAMEWORK OF ADL AND RIBA PROHIBITION IN NIGERIA**

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Abstract

Islamic banking is consistent with the principle of sharia which prohibits acceptance of interest on loans. Islamic finance has significantly spread to all parts of the world, even to United Kingdom, U.S, Denmark despite the regularly obstacles presented by operation in a non-Muslim financial environment. The Nigeria state has also join the other nations to establish (JAIZ) Islamic banking against all hurdles, misconstrued and initial misconception of what Islamic banks stand for. Thus as alternative to conventional banks that practice on interest which is considered unjust and is therefore, prohibited in Islam. Islamic banks are expected to operate on non-interest basis. By implication, Islamic Banks might guarantee Adl (Justice) and ensure that riba (Interest) which is prohibited in nass does not feature in their operations. This paper attempts to appraise the performance of Islamic banks within the framework of adl and riba prohibition. The study employed secondary source of data collection that is Quran, Hadith, journal publications etc our findings shows that lack of awareness and customers preference for conventional banks are the major challenges facing the development of Islamic banking in Nigeria, also some mix-up were observed in their operations, because most of them still adopt instrument use by conventional banks. The study therefore recommended that there is need for public enlightenment on radio, television, newspaper etc about the operation of Islamic banking and benefits derivable from it, more research, seminars, workshop need to be organized towards evolving financial instrument for Islamic banks.

Keyword: Islamic Banking, Adl, Riba

Introduction

Talking strictly, there is a difference between Islamic banking and interest free banking. Islamic banking system is supposed to operate completely with the sharia in all its activities both in sourcing of funds and disbursement of the funds. It not only avoids interest in all its ramifications, but also it avoids all other islamically prohibited activities. Interest-free banking system on the other hand does not engaged in interest, but there is no reason to suppose that all its other activities will be done strictly according to Shariah. For example there are conventional banks like Ilorin microfinance bank, Bank PHB etc opening 'Islamic window' in which they give islamically acceptable services along with its normal conventional interest-based services (Aliyu, 2010).

The development of Islamic interest free banks and financial institution is a recent development that has occupied the minds of Islamic economists and their conventional counterparts across the globe. Recently, issues on Islamic banking and finance dominate literatures in journals and article in newspaper. This development has created more understanding of the Islamic banking system and has facilitated the practicability of Islamic banking. Tajudeen (2012) in Alexander (2017) opines that Islamic banking originated from Islamic community and is meant to cater for Muslims but has spread into non-Muslims communities thereby extending its services to non-Muslims beneficiaries. In other word non-Muslim individuals and communities that pursue honest financial solutions can be attracted to Islamic banking Kenny (2011) argues that Islamic banking is not only Islamic or specific banking but actually it is a system which provides more ethical and moral concept of financial issues as well as it is really helpful to create a peaceful, economically prosperous and healthy society. Interest is fully prohibited in Islamic law

due to its adverse effects on individual and more severely its negative impacts on overall society and the economy at large. Aghion and Murdoc (2005), Usman (2011) stated the main objectives of Islamic banking system is eradication of inequality, delivery of optional level of communal prosperity and ensuring fairness in the lives of persons and the society at large, through the ideology of unanimity, comradeship and community impartiality. It does not encourage any form of exploitation, wasteful spending and hoarding. Today, Islamic banking has gained acceptability among Non- Muslims because some major religions also forbid usury, for example Christianity and Judaism forbid usury. Some non-Muslim scholars, economists and bankers agreed that Islamic banking has made a niche for itself in the financial world of financial world of finance (Usman, 2009).

Despite the controversies surrounding the establishment of Islamic bank, it has gain acceptability in western courtiers like U.S, U.K, and Denmark. Today Islamic banks operate in countries like Egypt, Qatar, Saudi-Arabia, Bahrain, Pakistan, Sudan, Iran, Mauritania, Niger Republic, in Nigeria implementation of Islamic banking has faced a lot of challenges in recent times like legal factor, political, social and economic factor. From the legal point of view it is clear that the Nigerian banking sector has no provision that permits the establishment of any bank with a religious coloration. Some non- Muslims believe that Islamic banking is funded by some religious fundamentalists with the aim of Islamizing Nigeria. Some school of thought also believes that it should be called interest-free bank rather than Islamic bank. On the contrary the initiators of Islamic banking explain that a bank can be interest-free, but its instruments for operation are non-Islamic. A pure Islamic banking system is not only concern with interest but also the instrument used. For instance Islamic banking system prohibits investment in gambling, sales of alcoholic drinks or any business activities that is prohibited in Islam (Alexander and Meshack, 2017).

Some non-Muslims agitated that setting up a sharia council by the CBN to oversee the sharia banking operations shows that government is trying to enforce sharia. They also accused Mallam Sanusi the then Governor of Central Bank of Nigeria of being the brain behind the selling of Nigeria to Islam. Sanusi (2010) in Alexander 2017 declare that Central Bank of Nigeria is not promoting or establishing Islamic bank, the CBN simply gave license of operation to an institution to perform Islamic banking and further explain that Sharia Council has been changed to Advisory Council to allay the tension in the air. Some still condemn the introduction of Islamic bank base on the time of its introduction, for instance, Kenny (2011) Opines that, the introduction of Islamic Banking is not timely considering the fact that the Nigeria state is bedeviled by the onslaught of insurgency. Anyansi (2011) also argues that, despite the good intention of the initiators of the banks, however they missed the timing. But against all this impediments, the first Islamic bank (Jaiz bank) was established to perform Islamic banking in Nigeria. Apart from this, some conventional banks started to operate Islamic windows in their operations, for example Bank PHB and some micro finance banks like Ilorin Microfinance Bank etc. are now operating Islamic window that is free-interest banking even though they are not operating fully on Islamic banking.

Theoretical Issues in Islamic Banking

Islamic banking refers to a system of banking or banking activities that is consistent with the principles of the Shariah (Islamic Rulings) and its practical application through the development of Islamic economics. The principle which emphasize moral and ethical values in all dealing have wide universal appeal. Shariah prohibits the payment or acceptance of interest charges (Riba) for the lending and accepting of money, as well as carrying out trade and other activities that provide goods and services considered contrary to its principles while these principle were used as the basis for a flourishing economy in earlier times, it is only in the late 20th century that a number of Islamic banks were formed to provide an alternative basis to Muslims although, Islamic banking is not restricted to Muslims (Echekoba and Ezu, 2013). Islamic banking has the same purpose as conventional banking except that it operates in accordance with the rules of Shariah, known as fiqh al-muamalat (Islamic rules in transactions). Many of these principle upon which Islamic banking based are commonly accepted all over the world, for

centuries rather than decades. These principles are not new but arguably, their original state has been altered over the centuries.

The development of Islamic bank institutions is a recent phenomenon. Though financial transactions based on Islamic principles dates back to the time of prophet Muhammed. According to Gusau (1987), Alexander and Meshack (2017), the first Islamic bank was MIT Ghamr saving bank in Egypt was established in 1963. This bank flourished and opened several branches, but it closed shop in, 1967 due to political reasons (Khan, and Ahmad 2011). This was followed by the establishment of the Nasser Social Bank in Cairo 1971, It was followed by the birth of Islamic development bank in 1974 in Saudi-Arabia. Dubai Islamic Bank in 1975, Faisal Islamic Bank, Sudan came to being in 1977. Baitul Tamuwily Kuwait in 1977, Faisal Islamic Bank, Egypt 1977, Jordanian Islamic bank for financing and investment started operation in 1978. Since the time of the first experiment bodies of theory and practicing have emerged. The Islamic finance movement has grown from strength to strength in its theory and practice. Today there are over 57 Islamic banks and other financial institutions up and down the world. There are Islamic banks in Bahrain, Bangladesh, Egypt, Turkey, Switzerland, Luxemburg, Denmark, England, South Africa, Pakistan, Sudan, Senegal etc (Usman, 2011).

Other countries like Nigeria are embarking on the establishment of Islamic banks. Recently, the central bank of Nigeria has approved the establishment of Islamic bank in Nigeria. This attracted some criticisms from non-Muslims, many critics of the system seem to lose sight over some of the exploitative tendencies inherent in the present banking system which had been the cause of the nation's economic under development over the years.

Basis for the Operation of Islamic Banks

The concept of riba (interest) and its prohibition underlines all business and financial transactions in Islam, including banking. Ruby (1989) defines interest as every sum stipulated to be received or given over and above the principal borrowed or advanced, whether the dealing is with individual or with a bank or with any other organization. Thus, interest is any excess over the principal lent. Despite the controversy among scholars as to what constitute riba (interests) Islam clearly prohibits it. 'O ye who believe fear god and give up what remains of your demand for usury. If you are indeed believers. If ye do it not, take notice of war from God and His Apostle. But if ye turn back, ye shall have your capital sums, deal not unjustly and ye shall not be dealt with unjustly (2:278- 279)' "O ye who believed; devour not usury double and multiplied, but fear God. That ye may (really) prosper (3:130)"

Also "those who devour usury will not stand except as stands on whom the evil one by his touch hath driven to madness. That is because they say 'trade is like usury'. But God hath permitted trade and forbidden usury, those who after receiving direction from their Lord, desist, shall be pardoned for the past; their case is for god (to judge), but those who repeat (the offense) are companions of the fire; they will abide therein (forever)" 2:275. According to Mikailu (1989) prohibition of interest appears in the Quran in four different revelations 30:39, 4:161, 3:131, 1-132 and 2: 275-277, see also Hadith: Muslim Tr 2995, Bukhari , Tr 2145, Abu Dawud, tr 2913 etc.

Thus, islam prohibit interest to encourage hard work and promote adl in the society. This prohibition of interest provides the operation basis and foundation for Islamic banks. According to Bashar (1994), there is injustice either to one party of the other in the case of productive loans that are based on interest. This is because the practice does not spread risks and gains of business as they should be equitably distributed between the lenders and the creditors. It is on this principle of justice that operations of Islamic banks are based. According to Quresh (1990), the Muslim world is presently passing through a resurgence ad is currently engaged in reorienting its financial system with a view to eliminate interest and to bring it in conformity with the Islamic principles of ad-adl-wal-ahsan.

Socio-Economic implications

According to Anyansi (2011), what most of the developing countries have continue to lose sight of is that, apart from the capitalist mode of development, there are other mode of economic development which had equally served the interest of the masses of their countries of origin. The assertion many in Nigeria seem to have for non-interest banking is not that it is not in the interest of the country, but that it comes with the word 'Islam' and that it originated from Islamic jurisprudence. The religious prism, many believe, is a means of Islamising the country. Hence, they do not mind if the baby is thrown away with the dirty water in the bath. Therefore, apart from promotion of hard work and adl, scholars have identified a number of socio-economic benefits of Islamic banking.

Firstly, it eradicates exploitation, since Islamic banking uses the non-interest banking techniques. Its intention according to Alexander and Meshack (2017) is to relief customers from high interest charged by conventional banks. Aliyu (2010) argues that Islamic banking if fully implemented will create employment owing to the mode of operation which gives more chances to investor to get direct access to financial opportunity more than conventional banks. He went further to say the introduction of Islamic banking will open door for entry of new products like Islamic assets: management companies, Takaful (Islamic insurance) companies and so on.

Khan 1988 (argue that interest-based economy has an in built tendency towards the creation of money is not linked to productive investment but in contrary, Islamic banking reduces inflation to its lowest ebb permitting money supply be proportionate to economic activities. And according to Quresh (1990) opines that Islamic banks encourage bankers to participate directly in the success of the entrepreneurship business. They reduce bad debt and the skills of investors are improved. Despite all these benefits derivable from Islamic banking, it was observed by some scholars that Islamic banking is not fully Islamic in its operation.

For instance Gusau (1987), argued that Islamic banks have shown tremendous thirst for profit. To obtain that, they advanced loan on Murabaha, leasing and other quick yielding agreements which have least risk. The tendency has been questioned as exploitative, especially considering the charges placed on those loans and facilities. Moreover, Islamic banks generate high level of profits from there, which raises the question as to what is Islamically acceptable level of profit. Ariff (1990) argued within this content that, profits are not sacrosanct and excess profits are exploitative and, therefore un-Islamic. What is even more disturbing, even though it may not be clearly seen as an issue of adl, is the fact that Islamic banks do not deposit funds in poor sister Islamic countries where the funds may be used for the development of the Muslim Ummah, probably because the Islamic banks prefer to deal with countries that have hard currencies. This then raises the questions of how un-Islamic the inspiration of Islamic banks really are.

Also, the application of some traditional and new financial instrument developed by Islamic banks have been challenged as not being Shariah based. For example, payment of bai Salam by installment is considered un-Islamic even if a bank thinks that a farmer who gets Salam financing would be better-off if he receives his dues at different intervals instead of lump-sum (Ariff, 1990). The acceptable manner of applying bai Salam is for the bank to give out the agreed sum of lump sum. It is unfair if the bank pays the farmers in installment. Furthermore, the time multiple counter loans and investment auctioning developed for Islamic banks by the council for Islamic ideology, Pakistan have been challenged as not Shariah-based. This is because the first one cover-up for interest and the second instrument breed exploitation and injustice Gusau (1987). Also, Ariff (1990) questions the permissibility of imposition of "maximum and minimum" service charges, imposed by Islamic banks instead of the actual cost of service gaining popularity in different countries of the world and their spread is quite spectacular.

Conclusion

Islamic banking system faced a lot of opposition from both Muslims and non-Muslims alike; some are of the opinion that its introduction is an attempt to Islamized Nigeria. Some accused the CBN former governor for using tax payer money to establish religious bank. However, Mallam Sanusi responded that CBN does not establish religious bank but just granted license of operation to some Islamic institution to carry out Islamic banking in Nigeria. Despite all these hoards, Islamic banking has come to stay in Nigeria and it is gaining ground gradually. But the banks operators need to abide by Shariah injunctions. Some banks are now running both conventional and Islamic banking which made them not to be fully recognized as Islamic banks. These are raised by some scholars which need to be address by the Islamic banks. Finally, the study concludes that Islamic banking if properly implemented will lead to even distribution of resources and provide job opportunities to young Nigerians.

Recommendations

This paper recommends that:

1. Researches be conducted and seminars organized towards evolving financial instrument for Islamic banks.
2. Also there is the need for public enlightenment on the radio, television, newspapers, magazine etc about the operations and benefit derivable from the establishment of Islamic banking in country like Nigeria

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