



SUSTAINABLE ISLAMIC BANKING: A CONCEPTUAL FRAMEWORK FOR NON-INTEREST BANKS IN NIGERIA

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ABSTRACT

This research proposes the use of structure, functions, capacities, Islamic moral economic mode, banking business and accountability as consolidated framework for Islamic banking sustainability in Nigeria. The study introduces the framework and assesses its suitability in Nigeria using content analysis of thematic coding units. Qualitative analyses of the six documents were carried out in the research, out of which five of them were issued by the Central Bank of Nigeria (CBN) and the Nigeria Deposit Insurance Corporation (NDIC) drafted the remainder document. The paper also uses exhortations from the noble *Qur'ān and Hadīth* on good practice of morality, justice and equity relating to business and monetary issues. The findings reveal that all themes had met the criterion of acceptability and supported the framework applicability and suitability in Nigeria. It is suggested for the existing Islamic bank (Jaiz) to adopt this proposed framework for its sustenance in the system. Finally, the paper recommends for method and data triangulation in further research.

JEL Classification: C18, G34, G21, O16, O55

Key words: Qualitative analyses, Corporate governance, Islamic banking, Banking distress, Nigeria

1. INTRODUCTION

Banking industry in Nigeria has experienced several reforms from indigenization policy of 1970's to Structural Adjustment Program (SAP) of 1986-1993 couple with the consolidation exercise of 2006 and now back to the former concept through Asset Management Corporation of Nigeria (AMCON). These reforms were emerged due

to high rate of distress banks in the country. Several studies have shown that capital inadequacy, lack of transparency, poor institutional capacities, huge non-performing loan, contagion risk, regulatory arbitrage and managerial conflict interest are the major reasons for the banking failure in Nigeria (Adeyemi, 2011; Central Bank of Nigeria 2013; Emefiele, 2003; Kama, 2003; Nwoha, 2003).

Central Bank of Nigeria (CBN) has developed frameworks and guidelines for regulation and supervision of financial institutions in the country. These guidelines had mandated the insolvent banks to either merge or to be taken over by other financial institutions. In addition, a new banking model has been introduced in 2010 with flexible modalities that pave way for the existence of non-interest financial institutions under specialized banks. A full-fledged non-interest deposit money bank (Jaiz) has been licensed in 2012. Non-interest banks have a distinctive dichotomy differences in operations with conventional banks. Therefore, in case of insolvency of the non-interest banks, it would be difficult to sustain the moral principles establishing the banks under acquisition by any other conventional financial institution. The need for sustainable Islamic banking framework for efficient and effective operations under the guidelines and principles of *Sharf'lah* is of paramount importance.

The main objective of this study is to present a harmonised propose Islamic banking sustainability framework and to assess its suitability and applicability in Nigeria. This research proposes the use of structure, functions, capacities, Islamic moral economic mode, banking business and accountability as consolidated framework for Islamic banking sustainability in Nigeria. The proposed framework is an integrated concept that incorporated virtues of morality, justice, fairness and equity. This would serve as an alternative to the existing conventional practices that is physically blemish as a result of poor corporate governance, ethical deviation, absence of divine injunctions and regulations. The framework has six thematic issues and each theme has three sub-theme components attached.

The paper is divided into five sections and begins with introduction. Section two focuses on conceptual framework of sustainable Islamic banking, comparative banking practice and discussions on interest from divine and legal framework in Nigeria. Section three stresses on the data and methodology. Results and discussion was presented in section four of the paper and finally section five contains conclusion and recommendations.

2. CONCEPTUAL FRAMEWORK

This section presents the need for Islamic banking sustainable framework in Nigeria, comparative banking practice and finally discussed the divine and legal framework of interest in Nigeria.

2.1 NEED FOR ISLAMIC BANKING SUSTAINABILITY FRAMEWORK IN NIGERIA

Noor (2008:16) cited the Organization of Islamic Cooperation's (OIC) definition of Islamic Bank as "... financial institution whose status, rules, and procedures expressly states its commitment to the principles of Islamic *Shari'ah* and to the banning of the receipt and payment of Interest on any of its operations." It is explicitly clear that, Islamic banking is one of the models of non-interest banking which provides financial services under the principles and guidance of *Shari'ah* compliance through Islamic commercial jurisprudence. Thus, has prohibited some transactions as documented in the context of CBN (2011) guidelines: some transactions are not permissible under this operation which include; gambling, uncertainty or ambiguity relating to subject matter, terms or conditions, speculation, unjust enrichment, exploitation/unfair trade practices, dealing with pork, alcohol, arms and ammunition, pornography and any other transactions, products, goods and services which are not compliant with the rules and principles of Islamic commercial jurisprudence. These would protect both the financier and the customers from indulging in riskiest transactions and advocate for the healthiest business towards contributing to real economic growth of the country.

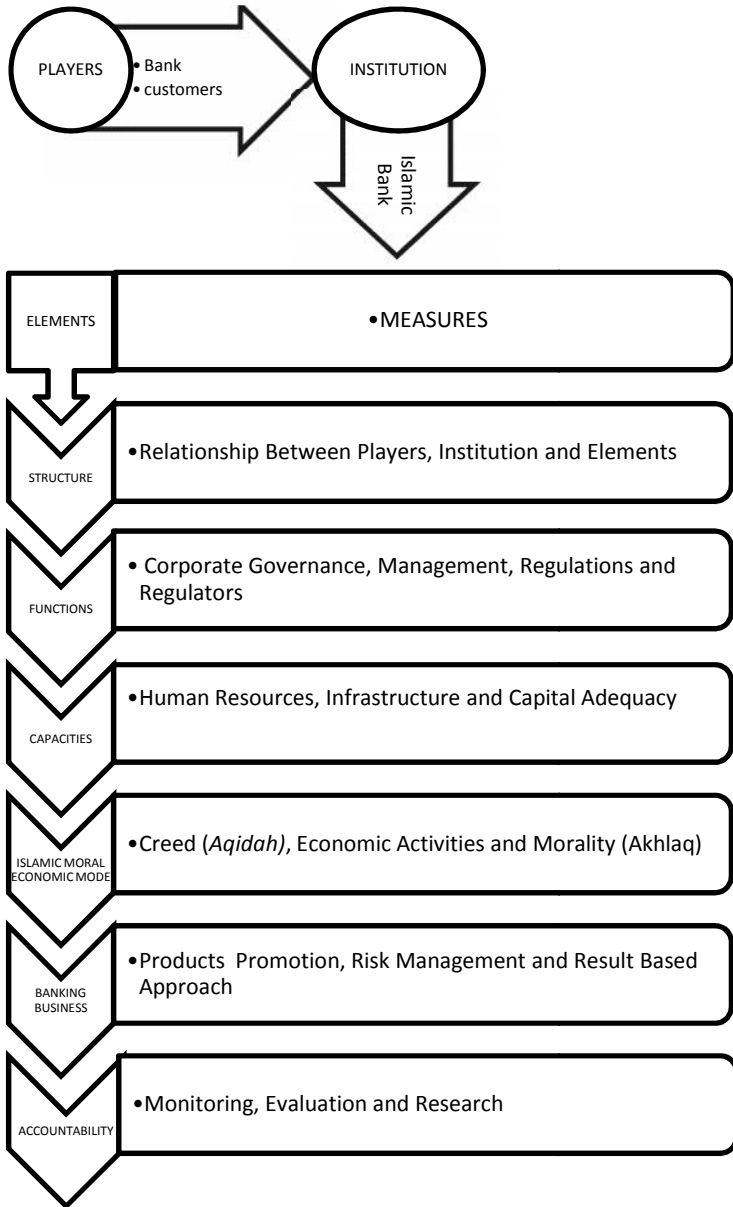
Central Bank of Nigeria (2011:1) developed a framework for supervision and regulation to non-interest financial institution due to "increasing number of requests from persons, banks and other financial institutions"; rather it does not cover the whole aspects of non-interest financial institutions' operations. More specifically in the area of Islamic moral economic mode, result based approach, capacities, accountability and banking business. Some of the issues in corporate governance, management and regulations are not directly focusing the Islamic concept of operations.

Furthermore, considering the distinctive nature of non-interest banks' operations with conventional banks, the research deems it necessary for the non-interest banks to adopt the sustainability framework for successful operations in Nigeria. At the same time,

Islamic bank has other objectives beyond the ordinary conventional banks in fulfilling the Allah's obligation and promoting socio-economic well-being of the society. The concept is simple to comprehend and has accommodated the principle of transparency through corporate governance and accountability coupled with response to global changes and shocks via research and development. Islamic banking is more of investment banking, where priority would be given to productive response which has direct bearing to employment generation and to improve savings in turn.

Implementation of the framework would benefit non-interest financial institutions in particular and the financial system in general in the area of enhancing return on investment and financial stability in the country. In view of the category reliability within the conceptual framework, thorough definition of each concept has been provided for clear understanding of its meaning and components there in (Kassarjian 1977:14; Sekaran and Bougie, 2010). Figure 1 below shows the proposed schematic Islamic banking sustainability framework (IBSF). The framework has six major elements as building blocks which comprised structure, functions, capacities, Islamic moral economic mode, banking business and accountability. The relationship between the elements within the framework is just like a building of which each part supports the other. However, the paper explicitly explained each category of the framework and begins with structure.

FIGURE 1
Islamic Banking Sustainability Framework



2.1.1 STRUCTURE

The structure in the above conceptual framework (see Figure 1) entails the relationship between players, institution and elements. Conventionally, the overall goal of maintaining good relationship with customers is to attract new clients and to retain the existing ones in business. Banking transactions in Islam are settled out of contracts/transactions which are allowed by the *Sharf'illah* principles as evidenced in the *Qur'Ēn*, the *Sunnah* and other sources of Islamic jurisprudence. Thus, banker-customer relationship in this concept is beyond the simple "debtor-creditor" relationship that ends on particular worldly transactions alone, rather "partnership/investor-entrepreneur" relationship between the two or more parties which have double benefits. It has to be in accordance with the guiding principles of Islamic practices with the aim of achieving the goal of present world as well as hereafter (Q28:77). This could be through the key Islamic economics principles of justice, equity, and fairness without taking undue advantage on those who are in difficulty (Dakhallah and Miniaoui, 2011). Similarly, mutual respect and loyalty to clients, honesty, integrity and moral value reservations are other virtues of Islamic mode of transactions. In Nigeria, Banks and other financial institutions are warned not to conduct any business with persons/entities who fail to properly identify themselves as contained in the "Know Your Customer (KYC)" CBN-Anti-Money Laundering and Combating the Financing of Terrorism (AML/CFT) Manual of 2009. Other players (investors, regulators and community members) apart from customers should have fair functional relationship from the management of the Islamic bank without any segregation.

2.1.2 FUNCTIONS

Islamic bank functionally serves as custodian, entrepreneur, capital provider and financier. In broader length to clients, the bank serves as partner to their businesses, a trader and/or investor to particular business. Well-functioning structure in this regard must pay particular attention to spiritual, social and economic goals attainment coupled with sustainability measures. These are realized through maintaining good governance and resource management via compliance with the regulations and proper supervision by regulators. Francis (2010:36) advocates that, CBN actions towards fulfilling its mandate to ethical practices are sound while "label the behaviours of the bank operators as unethical". However, corporate

governance in banking perspectives involves the manner in which banking businesses are governed by the board of directors and senior management. Thus, accountability, safe and sound manner operations in compliance with laws and regulations are aligning with corporate activities via recognizing interest of the depositors as well as those of shareholders. In Nigeria, poor corporate governance was one of the rudiment issues identified as a cause to financial institutions' distress in the past. To this effect, CBN in 2006 issued code of corporate governance for all banks in the country. The apex bank, in the prudential guideline makes it compulsory for commercial banks in Nigeria to comply with it (CBN, 2010). Hasan (2008:8 and 2012:4) makes the pronouncement on corporate governance in Islam by adding other unique features not captured in the western concept. The western corporate governance model centred either on the "neo-liberal approach" that embraces the shareholders' value or that of "continental model" which adopts the stakeholders' value. In contrast, the author viewed Islamic corporate governance as the one which encompasses episteme (*Tawfīd*), *Sharfīlah* board as apex governance, general participation (of shareholders), vicegerency (concept of *Khalīfah*), consultation (*Shūr*), *Sharfīlah* ethical issues, community participation (for minimum regulations) and protecting social wellbeing/welfare (*Maqā'id al-Sharfīlah*) through interactive, integrative and evolutionary process to complement corporate and social goals. Management policy of Islamic banks should be basically on profit maximization of both shareholders and depositors (Kahf, 2004) in consonance with *Sharfīlah* values reservation.

In pursuance and maintenance ethics and standards in the sector; CBN has been empowered by section 30-32 of BOFIA Act of 1991 (as amended) to supervise and examine the banking businesses, while section 55 of the Act gives the apex Bank power to set out rules and regulations for the operations and control of all financial institutions in the country (banks inclusive). In the same vein, non-interest banks are not exceptional to these bounded provisions of the Act. The spectrum of Islamic banking supervision has to be in accordance with *Sharfīlah* principles. Therefore, CBN issued guidelines on *Sharfīlah* governance for non-interest financial Institutions, guidelines for the regulation and supervision of institutions offering non-interest financial services in Nigeria as well as framework for the regulation and supervision of non-interest financial institutions (NIFI) in 2010 and 2011 respectively.

In respect to the management functions, the Qur'an says: (43:32) "...We raise some of them above others in ranks, so that some may employ others in their work" The verse revealed the "natural wisdom" of human resource management function. The human resource management functions was broadly classified into Management (via: planning, directing, organizing and controlling) and Operative (this relates to other operational activities of personnel) functions. In essence, the hierarchical division of responsibilities, authorities and accountability is subject to individual designations, capabilities and resourcefulness. Javaid (2008), viewed Islamic institutional frame of management as one that ordain the principle of obedience and respecting those in authority (4:59), equal opportunities to every human without gender and race discrimination (49:13), and management staff should be lenient, compassionate, sympathetic to colleagues (co-workers) and consult them for minimum managerial affairs/decisions (3:159) in order to attain organisational goals (both economic and social) via equilibrating interest of the share and other stake holders. In essence, managers of Islamic banks are expected to be ordinarily fair in terms of capacities and human resource development especially in the area of staff recruitment, selections and privileges (training, promotion and welfare).

2.1.3 CAPACITIES

Capacities in terms of sound human resources and infrastructural facilities are enormous and essential to Islamic banking operations. Due to its peculiarities in concepts and different ideologies from that of well-known conventional banking, Daud, Yussof and Abideen (2011) and Sanusi (2011) foresee the manpower development through training and retraining as prerequisite for proper operations of Islamic banks. In this regards, knowledge of *UḷĒl al-fiqh*, *Fiqh al-MuḷĒmalĒt*, wealth management in Islam are essential to the major segment of Islamic bank staff.

Capacity building through multi-media campaign awareness to general populace is required to reduce financial exclusion in the country. Some portion of the unbanked population in Nigeria exempted themselves based on the religious conceptualization on the prohibition of interest. Financial inclusion through Islamic banks can be achieved when they aggressively compete with other conventional banks through their legal means of operations and ensuring integrity by providing access to financial services for all. This can be achieved when all requisite infrastructural facilities are substantively available

for “customer centric” attainment by the Islamic banks. Thus, infrastructure such as; cheque facilities including electronic ones, Automatic Teller Machine (ATM) points, Provision for replacement of damaged card, internet and mobile banking facilities, Network security, data storage, data backup and disaster recovery, point of sale (POS) at terminal points, e-banks statement, pass book, smart card (e-pass book), compliance with e-payment, e-collection, payroll and biometric assessment, and other Enterprises Resource Planning (ERP) software. Information technology compliance with modern sophisticated software designed for Islamic banking operations, constant power supply (24/7 power) with standby backup, central cooling equipment, fire protection and suppression among others are essential in easing Islamic banks businesses, cost reductionism and to compete into contemporary world practice.

Capital adequacy is another enormous requirement in smoothing the banking operations. Basically, source of funds to banks emerges through banks’ capital, banks’ reserves or retained earnings and deposits. The non interest banks’ capital requirements are determined by the nature and scope of its operations within the country. Nigerian non-interest banks are required to have capital requirement base of ₦5 billion for regional operations while for national operations is ₦10 billion (CBN, 2012). Section 3(2) of BOFIA requires the shareholders of the proposed bank to deposit a sum equal to the minimum paid up share capital as may be applicable under section 9 of the act. It is advisable for Islamic banks to keep adequate capital reserve (at least, minimum capital adequacy ratio) against settlement of any liquidity risk. Islamic banks generate income via deposits from the customers “capital provider” in the form of *Mul’Érabah* and *Mush’Érakah* participation, and shareholders in “equity contribution”. Therefore, Banks acts as the “entrepreneurs”. Both parties would agree to share return (in form of profit/loss or dividend) on the stipulated ratio distribution. The parties (capital provider and the entrepreneur) can only discharge their responsibilities when they have sufficient conscience of Islamic moral economic mode.

2.1.4 ISLAMIC MORAL ECONOMIC MODE

Sustainable economic development through future societal values would transform the forthcoming generations to better (Aliyu, 2012). Ahmad, Kashif-ur-Rehman and Humayoun (2011:1767) suggest that, “Islamic banking is desirable because it promotes cooperation and mutual benefit oriented behaviour among different stakeholders with

the assurance of a welfare oriented society”. Islamic moral economy mode (justice, fairness and equity) is emphasizing on the moral virtues that are spiritually guided in economic activities through faith (*Īmaqāḍah*) and moral ethical values of Islam (Nor and Asutay, 2011). Rational morality would not sustain to virtues and “... is rudderless without faith” (Hassan, 2011:49). Submission to the uniqueness of Allah by acting in accordance to His guidance and regulations is the main aim of creating us (51:56). Allah permits us not to do anything that is not observable right as mentioned in the Quran, “O ye who believe! Observe your duty to Allah with right observance, and die not save as those who have surrendered (unto Him)” (3:102). This involved economic, social and spiritual activities. Islamic banks are on the *Qur’Ēn* and *Sunnah* morals and ethical values through being fair, righteous, transparent, goodness, benevolence and social justice. The real economic activities would be in consonance with moral ethics and values guided with fair practice. Contrary to the account of “window dressing” and using female staff to mobilize deposit (Solodu, 2004). Therefore, morality in transactions is one of the missing values in the banking businesses today (Asutay, 2007). Banking business with moral decadence and moving contrary to the teachings and values of Islam would not suffice sustainability.

2.1.5 BANKING BUSINESS

Banking business under the teachings of Islam has been misinterpreted ignorantly in the less-educated communities. Sanusi (2011:21) viewed that, “There is a lot of misperception about Islamic banking in Nigeria, and with the ethno-religious diversity of Nigeria, it makes it imperative to create mass awareness and acceptance. This is in view of the fact that religion has become a volatile issue over the years. Misinterpretation of the concept might jeopardize its success”. It is the responsibility of neither the CBN nor any other financial institution apart from Islamic Banks to promote its products and services via marketing campaign in Nigeria. The Islamic bank in Nigeria has to offer a wide range of products and services commensurate with other Islamic financial institutions in the world. Islamic mode of financing is able to provide source of finance to the needs of major real productive sectors of the economy. These includes; “*MurĒbaĀlah*, *MuĀĒrabah*, *MushĒrakah*, *IjĒrah*, Diminishing *MushĒrakah*, *Salam*, *IstithnĒ’*, *WakĒlah* and Islamic Export Refinance” (State Bank of Pakistan, 2008:5). On the liability

side, the banks can offer *Sharfīlah* acquiescent deposit scheme products. These cover; “Current Accounts, Basic Banking Account, Savings Accounts, Term Deposits of various maturities, and Certificates of Investment” among others (State Bank of Pakistan-SBP, 2008:5). International Trade Centre (2009:10) proclaims that financing instruments in Islamic banks are generally categorized into three. These are divided into exchange, mixture and benevolence contract. Firstly, involved the sale and lease contracts (*Mul'Ērabah, Salam, IstithnĒ', IjarĒh* etc.) and exchange of money with asset. In this class, returns on debt is arising from sale and lease, while for exchange, price are determine to quantify the rate of return to the bank. The second mode has three segments; pooling of expertise *Shirkat AĒmĒl*, pooling fund *Shirkat ĒlnĒn* and trustee profit/or loss sharing *Mul'Ērabah*. Thus, no guarantee on principal and predetermine rate of returns in this category. The returns depend on the actual business performance. The last is more of support and facilities financing which is based on exchange of money with money (benevolent loan). The principal is guarantee and no extra amount or profit is expected under this financing (e.g. *TabarruĒl*). These could yield economic and social benefit with the support of quality assurance in providing services.

Quality of banking services depends on improving three elements: banking professionalism, knowledge of clients and establishing personal rappsorts with them (Kahf, 2004). Conducive atmosphere/environment for employees to work, compensation and motivation would certainly improve qualitative services in the system. Ross and Hudgins (2008:518) admits that, quality of loans is only one dimension of lender's performance that is being rated “... based on examiner judgment about capital adequacy, asset quality, management quality, earning record, liquidity position and sensitivity to market risk exposure (CAMELS)”.

Islamic banks are generally governed by the conventional regulatory frameworks as well as *Sharfīlah* and Islamic accounting standard in operations (Izhar and Asutay, 2010). Despite that, CBN (2011), draw the attention of Institutions offering Islamic financial services (IIFS) to strategies in providing appropriate policies, systems and procedures to identify, measure, monitor and control in managing, mitigating, transferring, retaining, reducing, or avoiding their risk exposures. Similarly, due to unique risks encounter by IIFS (in commercial, fiduciary, transparency, reputational, equity investment and rate of return risks), the apex bank sermons IIFS to be adherently compliant with CBN prudential guidelines, risk

management guidelines issued by the Basel committee on banking supervision, and Islamic Financial Services Board (IFSB) guiding principles of risk management for institution offering only Islamic financial services. At the same time the Banks should set targeted results/goals to achieve their transactions.

It is intuitively clear that Islamic banks are on a partnership relationship with their customers and investment orientated in transactions. Commitment from both parties has to be in place to achieve targeted results. Result based approach to investment is a tool which set to enhance management efficiency, success and competency for proper accountability measures to achieve credible anticipated results (see United Nations Development Group-UNDG, 2010 and Honorati, Rawlings, and Domelen, 2011). Thus, trading and participation in profitable contracts via pleasing the creator (Allah) is one of the goals of establishing Islamic Banks. These can be fulfilled by setting indicators and targets to ascertain the identified investment outcome as well as the other parties' participation involved. Accountability in quantifying the cost-benefit analysis and monitor every step in investment financing (by reviewing financial report, follow up and evaluating the degree of success/failure using performance information) would have a certain magnitude in which performance of the business can be measured.

2.1.6 ACCOUNTABILITY

Accountability refers to the operational strategy to ensure that goals are achieved within an organization. In this regard, monitoring, evaluation and research are of paramount importance for sustaining Islamic banking operations in Nigeria. Shordt (2000:5) considers monitoring and evaluation as "... checking, collection and analysis of information (either current or past) about project development for decision making and improving performance". The former in this regard is the process of assessing information about the current investment opportunities and analysing such data in order to improve implementation, performance and results. That is to say, by comparing the actual situation with the expected situation in a given financial position. Evaluation can be considered as a step in appraising past investment information in order to make decisions on the continuations of a particular financing and improve its performance. These information include; financial, environmental, political, social, market, economic and technical among others.

Brinkerhoff, (2004:373) considers financial accountability as “tracking and reporting on allocation, disbursement, and utilization of financial resources, using the tools of auditing, budgeting and accounting”. Ross and Hudgins (2008:522) asserts that, customers are being identified through evaluation techniques of six Cs “character, capacity, capital, collateral, conditions, and control” to hedge against “credit risk” which may result to “non-performing loans”. In another study by Turveyet al. (2011:101) they include “credit” and make them 7Cs and they consider it as “credit environment in which loans are demanded and credit supplied”. In Islamic finance, commitments of both parties are essential, coupled with “utmost good faith principle”, trustfulness in deeds, words and actions as ordained by Allah (9:119). Allah commands us to fulfil our commitments, covenant, promises, agreement, responsibilities and obligations (5:1; 17:34; 2:177; 23:8; 70:32). In Islamic mode of finance, every transaction must be recorded with witnesses (referees) as distinctively mentioned in the Quran (2:282-283). Therefore, Islamic principles of finance has comprehensively analysed the customers identification principles, book keeping and account, referees/witnesses requirement, justice and transparency, poor/needy consideration, as well as those who are exempted from identification “.... then if one of you entrust the other, let the one who is entrusted discharge his trust (faithfully)...” (2:283). Verifications and proper documentations would not end on the customers alone rather products and the scene of the business have to be researching on.

Research and development is a transformational means to innovations, creativity and productivity in an organization. Thus, complexities of the recent world order through globalization and technological advancement instincts the need of research on every organization. Research to Islamic banking is necessary in order to hedge against any systematic and unsystematic risk within the operational environment. These could be undertaking with respect to politics, economy, products, markets, degree of concentration in the markets, strengths and weaknesses, opportunities and threats. Similarly, it helps in identifying and prioritizing needs, so as to improve the financial services of the industry. Research would provide necessary measures in protecting the system from any external shocks. It is a known fact that financial analysis measures the strength, threat, opportunities and weaknesses of an entity.

Islamic banks would use the framework in coordinating the entire structure of financing through identifying investment opportunities, hedging against risk and eliminating misuse of banking fund. In

essence, the framework's structure, functions, capacities and accountability are the basic pillars of the SIBF which support the entire banking businesses through Islamic moral economic mode. Islamic banking business has modalities that are different from conventional banking apart from *Shari'ah* compliance which include; "Profit- and loss-sharing partnership methods or transactions with unpredictable rate of return." (International Trade Centre, 2009:11). Islamic banking was built based on the moral teachings of Islam which differ comparatively from the conventional framework in ideology and practice.

2.2 COMPARATIVE BANKING PRACTICE

Conventional banks mobilize deposit from the surplus agents of the economy and lend it out to people in need of finance. Thus, these banks make money from the differences between the compounded interest rate receives on loaned out funds and the meagre interest rate pays to depositors. Islamic modes of transactions prohibited paying or receiving interest (*Sunan Abi Dawud*: Book 22, no. 3327). *Shari'ah*-based banks use other modes of financing a part from benevolence loan (*Qar'ul-Hasan*) such as; "... sale, lease and partnership are *Shari'ah* based instruments to make profit" (International Trade Centre, 2009:5). These unique modes of financing (*Shari'ah* based) have appeared in retail, private and commercial banking for debt means of financing as well as capital market and mutual funds among others. In contrast with the secular system, Hassan (2009:89) asserts that, "... under the existing conventional banking system, the liquidity (which is debt-based money) is injected into the economy via banks. This bank money (fiat money created out of nothing), comes into existence in the form of debit/credit (a debt, but credited to borrowers account) when someone borrows". Islamic banks prohibit interest and its bearing transactions.

Furthermore, in the western part of the world, "... global economic downturn" has almost impoverished the conventional banks due to financial crisis caused by "interest based institutions". This phenomenon leads to "global recession" as being witnessed since 2008. The effect of the crisis in the west caused "... Federal Reserve Bank, United Kingdom, Treasury and European Central Bank to strengthen the banks by (printing money as capital to the banks in return for equity in the banks (Hassan, 2009:90)." In this respect, central banks bypassed the conventional banks' major means

of creating money via “interest”. Usually state can create money in circulation through increase in the expenditure as Keynes (1936) proclaimed. If the economy can accept bank to create money with “interest”, central banks “bail out” would not be an issue to any country. Nigeria is not an exception to this situation in recent time, Central Bank of Nigeria (CBN) pumped money (₦620 Billion) directly to support banks from collapsing as “bail out” in 2009. Therefore, commercial banks are expected to adopt same to loan defaulters as religion, culture and social value advocates for benevolence.

Nigeria is a multicultural country with differences in language, religion and social norms. Despite these differences, globalization has influenced different aspects of our life in economic, social, and politics which has led us to adopt the positive side of these changes. Islam emphasizes on ethical, moral, social, and religious factors to promote equality and fairness for the good of the society and the world at large. As well, Marktanner (2010:173) proclaims same to the Christian context “equal opportunity justice, as opposed to socialist distributive justice and neo-liberal efficiency justice, mirrors the principles of individuality, solidarity, and subsidiary, which in turn have strong roots in the social ethics and teachings of the Catholic Church”. This is contrary to the Nigerian banking practice as pronounced by Adegaju and Olokoyo (2008), and Ernest (2012). The banking reform agenda was done due to the unethical and unprofessional practices by some banks in the country. These include forcing their female staff into malevolent acts to attain certain target in deposit accumulation, high cost of funds and falsification of financial statement. Consequently, Lewis (2007:71) expatiates on the Christian sanction on usurers as they are influencing social disorder in a sinless land “they were fit only to associate with Jews, robbers, rapists and prostitutes, but were worse than all of them”. These have portrayed the moral decadence of the interest-based system which leads to the spread of other vices in the society. Despite the fact that, interest-based loan requires excessive return on principal at the time of repayment (AbĒ Sa’id, 2002), other divine and legal injunctions prohibit interest in its all ramifications.

2.3 INTEREST: DIVINE AND LEGAL FRAMEWORK IN NIGERIA

The Arabic word “*RibĒ*” literally means ‘to multiply; grow, increase, augment, and/or compound’. Technically, it signifies the amount pays (by debtor) in excess of the principal at a predetermined rate set

out by the creditor. “*RibÉ*” was defined by the Organization of Islamic Cooperation (OIC) (1985) as “Any increase or profit on a loan which has matured, in return for an extension of the maturity date, in case the borrower is unable to pay, and any increase or profit on the loan at the inception of the loan agreement, are both forms of usury (*RibÉ*), which is prohibited under the *Sharfllah*.” (Noor 2008:16). This could be either of the two (i.e. *RibÉ al-Nasf’ah* or *al-FalI*), the former is receiving interest/usury on loaned money, while the latter is exchanging something of poor or less quality with superior quality of the same variety. *RibÉ* is a means of exploitation, unproductive and unfair practice as (Warde, 2000) proclaimed, while profit refers to the one which is morally and economically justified.

It is in conformity with Nigerians’ values of practice, which led us to embrace religion as the way of life. The two leading books (*Qur’En* and *Hadfth*) of Islamic religion is being use as guidance to light us the straight path for our worldly and everlasting life (hereafter). The books cautioned those “haves” not to exploit “have-nots” and enjoy the believers to treat everyone with justice and fairness. Qur’an pronounced the prohibition of “*RibÉ*” in four different chapters (i.e. 2:275, 276 and 278; 3:130; 4:161; 30:39).The Quran says: “Those who eat *RibÉ* (usury) will not stand (on the Day of Resurrection) except like the standing of a person beaten by *ShaylEn* (Satan) leading him to insanity. That is because they say: “Trading is only like *RibÉ*, whereas Allah has permitted trading and forbidden *RibÉ*. So whosoever receives an admonition from his Lord and stops eating *RibÉ* shall not be punished for the past; his case is for Allah (to judge); but whoever returns (to *RibÉ*), such are the dwellers of the Fire - they will abide therein.” (2:275) Allah removed His blessing from usury, and will keep purifying and increasing His blessing on the deeds of charity as says: “Allah will destroy *RibÉ* and will give increase for *ØadaqÉt* (deeds of charity, alms, etc.) And Allah likes not the disbelievers, sinners.” (2:276) Allah makes it clear in the conjunction verse(s) on *RibÉ* that those eating *RibÉ* are not doing the righteous deeds and to them fear and grieve would remain until they keep away from it, as mentioned: “Truly those who believe, and do deeds of righteousness, and perform *Al-ØalÉh* (*IqÉmat-al-ØalÉh*), and give *ZakÉt*, they will have their reward with their Lord. On them shall be no fear, nor shall they grieve.”(2:277)

In the same chapter of the noble Quran, Allah says: “O you who believe! Be afraid of Allah and give up what remains (due to you) from *RibÉ* (usury) (from now onward), if you are (really) believers.

And if you do not do it, then take a notice of war from Allah and His Messenger but if you repent, you shall have your capital sums. Deal not unjustly (by asking more than your capital sums), and you shall not be dealt with unjustly (by receiving less than your capital sums).” (2:278-279) In the next verse Allah provides the lasting solution to creditors on debtors that are in hardest condition and are willing to pay back the debt as: “And if the debtor is in a hard time (has no money), then grant him time till it is easy for him to repay, but if you remit it by way of charity, that is better for you if you did but know.”(2:280) Allah is the all knower of each and everything; between those who really intend to settle debt and have not, and those who decline intentionally while they have the means. Allah warned us to settle our debt here (present world) or else we shall account for what we earned hereafter: “And be afraid of the Day when you shall be brought back to Allah. Then every person shall be paid what he earned, and they shall not be dealt with unjustly.” (2:281)

In the subsequent chapter, Allah enjoys us not to eat usury doubled and multiplied (3:130): “O you who believe! Eat not *Riba* (usury) doubled and multiplied, but fear Allah that you may be successful.” In the case of *RibÉ*, the Quran does not only say it is a sin but it says: Allah and His messenger Muhammad will wage a war against the devourers of usury. Showing how grievous this sin really is. Prophet Muhammad (SAW) classified it among the seven major sins (Volume 8, Book 82, no. 840 of *ŒalÉŒ al-BukhÉrÉ*), narrated by AbÉ Huraira: The Prophet said, "Avoid the seven great destructive sins." They asked, "O Allah's Apostle! What are they?" He said, "To join partners in worship with Allah; to practice sorcery; to kill the life which Allah has forbidden except for a just cause (according to Islamic law); to eat up usury (*RibÉ*), to eat up the property of an orphan; to give one's back to the enemy and fleeing from the battle-field at the time of fighting and to accuse chaste women who never even think of anything touching chastity and are good believers." Some may argue that only the taking of interest is prohibited, but another tradition of the prophet which is “*HadÉth ŒalÉŒ*” says: “Abdullah ibn MasÉEd (Allah be pleased with him) narrates that the Messenger of Allah (Allah bless him and give him peace) cursed the one who accepted usury, the one who paid it, the witness to it, and the one who recorded it. (*Sunan AbÉ DÉwÉd*: Book 22, no. 3327). There are many other *HadÉths* which denounced transaction with interest in Islam apart from those mentioned above. Interest is an inoperative and baseless creation of an instantaneous property rights.

It is created immediately after the transaction is finalized without any tangible investment being made.

With regards to the other legal frameworks in Nigeria, which supported the operations and practice of non-interest banking system as it is being practiced in other parts of the globe. Central Bank of Nigeria CBN (2011:4) published guidelines for non-interest financial services in Nigeria and provides legal basis for their operations as follows: “These guidelines are issued in pursuant to the Non-Interest banking regime under Section 33 (1) (b) of the CBN Act 2007; Sections 23(1); 52; 55(2); 59(1)(a); and 61 of Banks and Other Financial Institutions Act (BOFIA) 1991 (as amended) and Section 4(1)(c) of the Regulation on the Scope of Banking Activities and Ancillary Matters, No. 3, 2010. It shall be read together with the provisions of other relevant sections of BOFIA 1991 (as amended), the CBN Act 2007, Companies and Allied Matters Act (CAMA) 1990 (as amended) and circulars/guidelines issued by the CBN from time to time”. Therefore, based on the above mentioned authorities, Islamic banks have legal protection for their operations in Nigeria. These positions paved way for the establishment of Jaiz Bank Plc in 2012. Islamic banks products involved sale and purchase of asset, intermediation and leasing among others for which facilities are extended to real productive sector of the economy.

3. DATA AND METHODOLOGY

This study adopts content analysis approach using thematic coding units. Theme is considered as “a single assertion about a subject” and also the “larger and frequent useful unit” among the content analysis researchers (Kassarjian 1977:12; Sekaran and Bougie, 2010). A contextual research is analysing the body message of reports; books, laws, circulars, speeches, articles, official documents and the like (see Cooper and Schindler, 2011; Hair et al., 2007:195; Neuman, 2007:227-236; Sekaran and Bougie, 2010). In regards to the process of conducting qualitative research, Miles and Huberman (1994) express four steps in the content of qualitative research analysis which include: data collection, data reduction, data display and finally conclusion.

The paper identify the directions of the six thematic components (structure, function, capacities, Islamic moral economic mode, banking business and accountability) of sustainability framework within the six contextual documents which includes: Draft framework for non-interest deposit insurance scheme (2011);

Guideline on *Sharf'Nah* governance for non-interest financial institutions in Nigeria (2010); Framework for consolidated supervision of financial institutions in Nigeria (2013); Guideline on non-interest window and branches operations of conventional banks and other financial institutions (2010); Framework for the regulation and supervision of institutions offering non-interest financial services in Nigeria (2011); and Supervisory intervention framework for the banking industries in Nigeria (2011).

Qualitative analyses of the six documents were carried out in the research, out of which five of them were issued by the CBN and the Nigeria Deposit Insurance Corporation (NDIC) drafted the remainder document. Four of them were directly centred to non-interest financial institutions and the remaining two are applicable to all financial institutions in the country.

The data used in this structural analysis were primarily from secondary sources. The paper identifies those six themes and eighteen sub-themes from the six documents with their directions. According to Kassarian (1977:13) and Neuman, (2007:229) any directional communication could be either in “supporting or opposed”, “for, neutral or against”, of the subject matter and its findings can be useful when direction is clearly identified. Thus, coding was systematically used on basis of dummy principle; i.e. the value “1” is label to identified supportive directional statement to the subject matter while “0” is label to unidentified communication within the particular document.

The paper also uses data from the noble *Qur'Ēn* and *HadĒth* for assessing relevant authorities which prevails good practice of morality, justice and equity. Scholarly literatures were used on the subject matter in order to build concrete arguments on the best practice to non-interest banking sustainability.

4. RESULTS AND DISCUSSION

The result of this study provide clear and sufficient representation of each thematic and sub-themes category within the framework. Majority of the inter-judge/coding reliability within categories of this study has reflected high reliability. In the words of Sekaran and Bougie (2010), inter-judge reliability is commonly measured in percentage and should be 80 per cent or above. Kassarian (1977) and Neuman (2007) have the same opinion with Sekaran and Bougie (2010). But, Neuman (2007:230) is with the opinion of 70 per cent “may be acceptable for the exploratory research”.

There are two parts in the results display and discussion in this study (i.e. sub-themes and themes), and begins with the sub-themes categories which have eighteen issues as contained in Table 1 below:

TABLE 1
Summary of the Sub-themes findings

Sub-themes		Frequency	Percent	Valid Percent	Cumulative Percent	Identified Percent
Institution	Identified	6	100.0	100.0	100.0	100.0
Players	Unidentified	2	33.3	33.3	33.3	
	Identified	4	66.7	66.7	100.0	67.0
Elements	Identified	6	100.0	100.0	100.0	100.0
Corporate Governance	Identified	6	100.0	100.0	100.0	100.0
Management	Identified	6	100.0	100.0	100.0	100.0
Regulations	Identified	6	100.0	100.0	100.0	100.0
Human Resources	Unidentified	1	16.7	16.7	16.7	
	Identified	5	83.3	83.3	100.0	83.3
Infrastructure	Unidentified	1	16.7	16.7	16.7	
	Identified	5	83.3	83.3	100.0	83.3
Capital	Unidentified	1	16.7	16.7	16.7	
	Identified	5	83.3	83.3	100.0	83.3
Creed	Unidentified	2	33.3	33.3	33.3	
	Identified	4	66.7	66.7	100.0	67.0
Activities	Unidentified	2	33.3	33.3	33.3	
	Identified	4	66.7	66.7	100.0	67.0
Morality	Identified	6	100.0	100.0	100.0	100.0
Products	Identified	6	100.0	100.0	100.0	100.0
Risk	Identified	6	100.0	100.0	100.0	100.0
Result Based Approach	Unidentified	3	50.0	50.0	50.0	
	Identified	3	50.0	50.0	100.0	50.0
Monitoring	Identified	6	100.0	100.0	100.0	100.0
Evaluation	Unidentified	1	16.7	16.7	16.7	
	Identified	5	83.3	83.3	100.0	83.3
Research	Unidentified	1	16.7	16.7	16.7	
	Identified	5	83.3	83.3	100.0	83.3

Table 1 above presents the outcomes of the identified sub-themes in the content of the six documents. The results are in four segments. Analysis shows that half (nine out of eighteen) of the variables displayed are signifying perfect agreement among the coders inter-reliability coefficient of 1.0 (i.e.100 per cent). The result supported

the structural relationship between the institution and the elements. This has strongly agreed with the conclusion drawn by Emezie (2003) and it could be as a result of the efforts by the CBN to improve functions of the management through corporate governance and strengthening regulations. The result reveals the efforts of the financial regulatory authorities in promoting morality, risk management supervising and financial system surveillance via monitoring and evaluation. These outcomes also met the recommendations and findings contained in CBN (2013:2).

Secondly, five variables out of the remaining nine have sufficient requirement of more than 80 per cent acceptability. This category has explicitly expatriated its support toward capacity building in human resources, infrastructures and capital adequacy. This finding is consistent with that of CBN (2012:3) which reveals the “inadequacy of skills and death of executive capacity” have emerged as part of serious causes of banking financial crisis of recent time. Therefore, CBN developed competency framework for Nigerian banking industry which prescribed the qualifications of management positions within the industry. This may reduce the skill and knowledge gap and improve quality service delivery within the system. In regards to non-interest banks, knowledge acquisition in the field of *Fiqh al-muġmalat*, *Uġl al-fiqh* and expertise in the science of *Sharġah* and Islamic finance had been a requirement for appointing *Sharġah* advisory committee members (CBN 2010). In view of the Information and communication technology to banking infrastructural needs as contained in CBN (2003) “... guidelines on electronic banking in Nigeria” supported our result and are comparable with the findings of Olorunshola (2003) and Kama (2003). The need for capital adequacy to banking industry is of paramount importance (Nwoha 2003) in order hedge against any liquidity risk while research is not given serious attention in the industry. Though, the need of it on interval bases would help the industry’s management in forecasting the strength, weakness, threat and opportunities of any business before investing into it.

Third category accounted for only three variables (i.e. those with 67 per cent). This category is also acceptable based on Berelson (1952) criterion as cited in Kassarian (1977:14). Berelson (1952) opined that the range of acceptability should be between 66 and 95 per cent. Therefore, based on this criterion those with 67 per cent can be considered as acceptable. The findings reveal that, the principles of *Tawġd* on economic activities have not reflected much into the analysed documents. Despite that, non-interest financial documents

are supporting us to please Allah through total submission to His injunctions in all our endeavours (Zaman and Asutay, 2009). In addition, morality and integrity must be maintained as contain in CBN (2010:5) "... any person who has been dismissed for reason of gross misconduct, fraud, dishonesty, or convicted..., shall not be appointed by any other NIFI in Nigeria". To this end, Islamic bank has to put this objective as part of their priorities.

The last is the one with 50 per cent which is low, but this is not surprising because "Result Based Approach" should be the efforts of the management to have effective and sufficient returns on investment. In general, most of the outcomes supported the assigned variables.

TABLE 2
Summary of the major themes findings

Themes	Frequency	Percent	Valid Percent	Cumulative Percent	Percent of support	Remarks	
Structure	unidentified	2	11.1	11.1	11.1	89	Supported
	Identified	16	88.9	88.9	100.0		
Functions	identified	18	100.0	100.0	100.0	100	Supported
Capacities	unidentified	3	16.7	16.7	16.7	83	Supported
	Identified	15	83.3	83.3	100.0		
Islamic Moral	unidentified	4	22.2	22.2	22.2	78*	Supported
Economic Mode	Identified	14	77.8	77.8	100.0		
Banking	unidentified	3	16.7	16.7	16.7	83	Supported
Business	Identified	15	83.3	83.3	100.0		
Accountability	unidentified	2	11.1	11.1	11.1	89	Supported
	Identified	16	88.9	88.9	100.0		

*Supported based on the Neuman (2007) and Berelson (1952) criterion.

The second part of the results displayed in Table 2 above, provides the useful evidence of the framework in Nigeria. These findings are derived from the six thematic variables of which if they would be well establish, the sustainability framework would stand on its feet. Implementing this framework in a complete holistic approach is the only solution to achieve the desire objective. Absence of any segment may jeopardise its success intended to achieve.

Consistent support was received from the results in Table 2 which had met the acceptable criterion of Sekaran and Bougie (2010), Kassarian (1977:14), Berelson (1952) and Neuman (2007)

except one with 78 per cent which has met the Neuman (2007) and Berelson (1952) condition in this kind of research.

This reveals the sufficiency and suitability of the framework to be applicable in Nigeria. In addition to the outcome, the results in Table 2 allow us to identify the ranking order of those themes from the data. Functions is the highest followed by structure and accountability. The next in the ranking order are capacities and banking business while the last is the Islamic moral economy mode. It is evidently clear that; full-fledged implementation of the framework would reduce the frequent banking sectors' reforms in the country.

5. CONCLUSION AND RECOMMENDATIONS

The banking industry in Nigeria has experienced several reforms in the light of poor ethical standards that include lack of capital inadequacy, lack of transparency, huge non-performing loan, contagion risk, regulatory arbitrage and managerial conflict interest which had been claimed as the major reasons for banking failures in the country. The regulatory authority had mandated all those insolvent banks to either merge or to be taken over by other financial institutions. Thus, in the case of insolvency of the Islamic banks, they would lose the moral principles establishing them under acquisition by any other conventional financial institution. Therefore, the need for sustainable Islamic banking framework is enormous essential under the guidelines and principles of *Shari'ah* for its sustenance in the system. At the same time, the framework developed by CBN to non-interest financial institutions does not comprehensively dwell much on Islamic moral economic mode, accountability, banking business and result based approach while other Islamic virtues of corporate governance, management and regulations are not captured in the document.

The paper proposed the use of structure, functions, capacities, Islamic moral economic mode, banking business and accountability as a consolidated framework for Islamic banking sustainability in Nigeria. The framework adopted the virtues of morality, justice, fairness and equity that would serve as an alternative to the existing conventional practices which is physically blemish as a result of poor corporate governance, ethical deviation, absence of divine injunctions and regulations. With regards to the framework suitability and applicability in Nigeria, the findings reveal strong support to the eighteen sub-theme components with the exception of

‘Result Based Approach’, while all the thematic components had consistently supported the applicability of the framework in Nigeria.

Sustainable Islamic banking framework has incorporated the Islamic fundamental principles of accountability, morality, Islamic banking business, capacities and result based approach to hedge against contagion risk. In addition, adopting this framework would certainly increase confidence of the investors as well as the depositors in non-interest banking institutions. At the same time, it would reduce the cost of supervision by the regulators. The framework can be applicable to other financial institutions apart from non-interest banking with caution of not to deviate from the major frame. It is suggested for the existing Islamic bank (Jaiz) to adopt this proposed framework for its sustenance in the system. However, the paper recommends for method and data triangulation in future research.

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