



Islamic Construction Contract (*Istisna'*): An Alternative to the Nigerian Infrastructure Transformation

Bilyaminu Muhammad^{a*}, Abubakar Sani^a

^a Umaru Musa Yar'adua University, Katsina

ARTICLE INFO

Article history:

Received: 25 September 2024

Revised: 30 October 2024

Accepted: 15 November 2024

Available online: 20 December 2024

Keywords:

Islamic finance; *Istisna'*;
infrastructure; Nigeria;
transformation.

ABSTRACT

Islamic finance is a financial system revived to co-exist alongside the conventional system, which is found to have a lot of cultural and principle mismatches to the order of the Muslim world, divinely directed to run on the analyzed principles of Islam. The system established principles to manage the constructional contract suitably to ensure justice and equitable benefit of both parties of the contract. The study observed limited application of the instrument in Nigeria despite the potential of the tool in most of the Nigerian infrastructure sectors of Education, Transportation, Health, Agriculture, Mining, Mineral resources, and a host of others meant to ensure the well-being of the citizens. Furthermore, limited awareness and misconception are found among most citizens, which hinder ample investment and smooth operation of the model despite its legality in Nigeria's financial system. These and other problems trigger the work designed on the qualitative research method to shed light and highlight its opportunities in the country. The study demonstrated the significant impact of the *Istisna'* on infrastructural transformation in the educational, agricultural, and commercial sectors of Nigeria. However, some challenges limit the smooth development of this model in the country. Hence, the paper recommends that a mass awareness campaign should be advanced on the application of the tool to attract the interest of both domestic and international investors. Furthermore, federal, state, and municipal government agencies should actively promote the use of alternative tools in their infrastructure projects. Additionally, both cooperate and individual entities should be encouraged to leverage this tool to enhance their economic standing and streamline project execution

1. Introduction

Islamic finance is an alternative financial system (that renders banking services, insurance, and capital market products and services) designed on the Islamic law of mutual interaction (*Muamalat*) that appears as a substitute to the conventional financial system initiated on the artificial principles that mainly focus on interest generation, which swerved the directives and guidelines of Islam. This made contemporary scholars criticize the system and struggle for its substitute in the world financial

*Corresponding author. Email: phdis1190050@students.umyu.edu.ng

industry. Numerous countries, such as Nigeria, confronted substantial infrastructural challenges that hindered their economic development, necessitating specific policy interventions to stimulate growth. In line with that, *Istisna'* (constructional contract) was initiated to solve some of such problems under the infrastructure construction, which Nigeria adopted through the support of the Islamic Development Bank (IDB) to finance various projects that will systematically enhance the country's economic transformation (Kano State Agro-Pastoral Development Project (KSADP, 2022).

1.1. Conceptual framework of *Istisna'*

The concept of *Istisna'* centers on a constructional contract, assembly, packaging, or manufacturing where an artisan or skilled craftsperson (*Ṣāni'*) is requested to use raw materials or equipment in preparing a commodity (*Masnū'*) or designated project of a specified nature and description at an agreed price to be paid at completion or within a given time frame in advance (Borhan, 2002:103).

The contract must be concluded by the parties involved on a legitimate commodity approved by *Shariah*. The manufacturer is expected to construct or manufacture it in exchange for the monetary benefit from the person to have directed its making (*Mustani'*). It shall be delivered to a designated place on completion (AAOIFI, 2017).

Istisna' contract is to hold on to certain principles that ensure its validity in the domain of business transactions. Firstly, parties to the contract must be people with ample capacity to engage in a legal contract with *Istisna'* (Bank Negara Malaysia, 2015). Secondly, the object of the contract needs specification in terms of its nature, essence, quality, quantity, and other characteristics, and both parties must know and agree upon this to avoid any dispute that might arise (Borhan, 2002). Thirdly, time of delivery; (Borhan, 2002) time identification for the period of completion and delivery of the project had to be agreed upon on the spot of holding the contract to avoid unnecessary delay from the constructor and prevent the purchaser from being eager to come before the time. Fourthly, the raw material of the construction had to be procured or provided by the contractor to avoid the stance of *Ijārah*. Fifthly, price of the contract (Borhan, 2002) to avoid uncertainty and deception in the contract, the contract had to be agreed upon on the spot of holding it. It was not subject to change at average increases or decreases in the commodity's Price or labor cost. It could be paid to the constructor on the spot, differed, or made in installments before the agreed delivery period (Bank Negara Malaysia, 2015). Lastly, the object of the contract (Bank Negara Malaysia, 2015) must be lawful and customarily used by the people, as things that are not lawful are not allowed to be constructed; such as idols and other things that are harmful to society. The object of the contract must be the thing that could be manufactured or constructed (Al-Jarhi et al., 2022), as against the natural objects; hence, agricultural products and other natural beings could not be subjected to the *Istisna'* contract.

These analyzed principles and conditions concerning the general contracts of *Istisna'* are bonded on the parties and the contract (Borhan, 2002).

Istisna' has definite objectives that need to be achieved at the end of the contract that promote the ethical development of both parties and society. The person who ordered the construction or contract is to have the project or product of his wish that would satisfy his demand from the contractor. Likewise, the contractor is at the best point of earning from the virtue of his effort or expertise and rendering the agreed specification of the contract (Al-Jarhi et al., 2022).

The contract transforms market size for the purchase of the necessary materials needed for the execution of the desired project, which served as a channel for the flow of income to the market that would significantly add to the development of the economy.

The economic transformation of society and the country, in general, is because of the alternative

الَّذِينَ يَأْكُلُونَ الرِّبَا لَا يَقُومُونَ إِلَّا كَمَا يَقُومُ الَّذِي يَتَخَبَّطُهُ الشَّيْطَانُ مِنَ الْمَسِّ ذَلِكَ بِأَنَّهُمْ قَالُوا إِنَّمَا
الْبَيْعُ مِثْلُ الرِّبَا وَأَحَلَّ اللَّهُ الْبَيْعَ وَحَرَّمَ الرِّبَا فَمَنْ جَاءَهُ مَوْعِظَةٌ مِنْ رَبِّهِ فَانْتَهَى فَلَهُ مَا سَلَفَ
وَأَمْرُهُ إِلَى اللَّهِ وَمَنْ عَادَ فَأُولَئِكَ أَصْحَابُ النَّارِ هُمْ فِيهَا خَالِدُونَ ٢٧٥

"... but Allah 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 Allah (to judge); but those who repeat (The offense) are companions of the Fire: They will abide therein (forever) (Al-Qur'an, 2:275).

The contract was validated on the permissibility of the trade for being a mutual interaction between parties concerned with financial affairs, obliged to be fulfilled on the directives of Allah (S.W.T.). Likewise, mutual agreement on a covenant of financial settlement and contract completion in the future made it under the shadow of the covenant obliged to be fulfilled in any affairs, as Allah (S.W.T.) said:

يَا أَيُّهَا الَّذِينَ ءَامَنُوا أَوْفُوا بِالْعُقُودِ أُحِلَّتْ لَكُمْ بَهِيمَةُ الْأَنْعَامِ إِلَّا مَا يُتْلَى عَلَيْكُمْ غَيْرَ مُحِلِّي الصَّيْدِ وَأَنْتُمْ
حُرْمٌ إِنَّ اللَّهَ يَحْكُمُ مَا يُرِيدُ ١

"O you who have believed, fulfill [all] contracts. Lawful for you are the animals of grazing livestock except for that which is recited to you [in this Qur'an] - hunting not being permitted while you are in the state of ihram. Indeed, Allah ordains what He intends." (Qur'an 5:1)

From the dimension of the *Sunnah*, the Prophet (S.A.W.) was reported to have acted on the contract when he directed the construction of a pulpit that he mounted in his mosque for the delivery of sermons (as quoted earlier).

Sahl reported that the Prophet (peace be upon him) sent for a woman from the immigrants who enslaved a person who was a carpenter. The Prophet (peace be upon him) told her, "Order your slave to prepare wood (pieces) for a pulpit." So she ordered her slave, who went and cut wood from a tamarisk tree and prepared a pulpit for the Prophet (peace be upon him). When he finished the pulpit, the woman informed the Prophet (peace be upon him) that it had been finished. The Prophet (peace be upon him) asked her to send that pulpit to him, so they brought it. Sahl said, "The Prophet lifted it and placed it where you see it now." (Bukhari 1973)

Based on the above verses and the practical tradition of the Prophet (S.A.W.), scholars unanimously agreed that it is legal in the domain of Islamic finance (Muhammad, 1998). Hanafi scholars objected that its legality should be based on the concept of *Istihsan* because of the pressing societal need for it (Borhan, 2002). While Maliki, Shafi'e, and Hanbali schools considered the *Istisna'* contract as valid based on *Salam* (Al-Jarhi et al., 2022) to escape the trap of falling into selling what is not in existence due to the inexistence of the object of the contract at the spot of the holding deal. Whatever might be, the contract was validated in Islamic finance and, hence, was included among the valid contracts agreed to be operated when modern Islamic finance was formally institutionalized at the spot of the conference organized by International Fiqh Academy in 1988 at Jeddah (Al-Jarhi et al., 2022). This gave chances for its implementation in financial institutions and various operational guidelines (Central Bank of Nigeria, 2016) were released to ensure the smooth running of the instrument, which will benefit the people and economies of the countries that have legalized its operation.

1.4. Differences between *Istisna'* and conventional construction contract

People often considered *Istisna'* as a mere construction contract despite the great barriers that have existed between them concerning the underlying principles and binding regulations governing the contracts on different dimensions.

Table 1. Differences between *Istisna'* and conventional construction contract

| S/N | <i>Istisna'</i> | Conventional construction contract |
|-----|--|---|
| 1. | Relationships between the parties are governed by contract and partnership laws supplemented by <i>Shariah</i> . | Contract and partnership laws alone govern the relationship between the contracting parties. |
| 2. | Governed by <i>Shariah</i> principles that have supremacy above any law. | Governed by conventional principles |
| 3. | Interest can never be expected at any cause. | Interest could be generated when the purchaser fails to settle the contract at the agreed time. |
| 4. | It has an open boundary to incorporate both Muslims and non-Muslims on the <i>Shariah</i> -guided contracts. | Muslims could only interact with the product out of the directives of <i>Shariah</i> , which prohibits anything that contradicts any of its principles. (Khalid, 2015) |

2. Application of *Istisna'* in Nigeria

The formal application of *Istisna'* in Nigeria started in 2022 when the Federal Government of Nigeria received US\$98 million grants from the Islamic Development Bank (IDB) (Universal Basic Education Commission (UBEC), 2022). Subsequently, the Universal Basic Education Commission (UBEC) utilized a portion of these funds to invite bids for the joint construction of 30 Bilingual Secondary Schools in the nine participatory states (Adamawa, Borno, Gombe, Kaduna, Kano, Kwara, Nasarawa, Niger and Osun). Each state was tasked with constructing either three or four schools at various localities. Kano State, representative of other states, is slated to receive four bilingual secondary schools, as outlined in the Universal Basic Education Commission's (UBEC) 2022 plan. These schools are scheduled for completion within seventeen months at the following locations: Sabongarin Doguwa (Ref No.: F.G.N./IsDB/BEP/CW/KN/Lot 1), Ganduje village (Ref No.: F.G.N./IsDB/BEP/CW/KN/Lot 2), Bagwai (Ref No.: F.G.N./IsDB/BEP/CW/KN/Lot 3), and Zainawa village (Ref No.: F.G.N./IsDB/BEP/CW/KN/Lot 4).

The agricultural sector of Kano State also benefited from this financial tool (*sukuk*) (Muhammad, 2021) when the federal Government received project financing fund worthy of USD 90.00 million from the Islamic Development Bank (IDB) to finance the Kano State Agro Pastoral Development Project (KSADP) (Muhammad, 2021). The project was centered on the procurement of machines and materials, and livestock resources to facilitate the development of a 3,000-hectare grazing reserve at Danshoshiya. These resources included equipment for straw transformation for improving crop residue utilization, commercial large-scale fodder production, artificial insemination equipment, pure-bred bulls, PPR and CBPP vaccines, coolers, office equipment, furniture, and vehicles (Muhammad, 2021). Further services that were added to the functional development of that 3000 hectares of land and fodder development were borehole and reticulation construction, boundary fence and access roadways construction. Additional infrastructure included a veterinary clinic, a loading ramp, a holding area, a nomadic school, a mosque; a store; and a mini market. Furthermore, a dedicated seed multiplication plot was established on a portion of the land (Muhammad, 2021).

Another effort attached to the *Istisna'* project was the procurement of a reference veterinary laboratory (construction and outfitting of the reference veterinary laboratory), the development of Dawanau market infrastructure i.e. construction of 4km drainage facilities, construction of 4km roads, provision of 55 electricity lighting posts, police outposts, mosques, offices, and conference rooms, 18 toilet facilities, and the development of a market information system, were carried out through nationwide collaboration (Muhammad, 2021).

An additional project attached to this scheme through the tool of *Istisna'* is the construction of forty Milk Banks at different locations of the Kano State (Nigerian Tenders, 2022), which were financed by the Islamic Development Bank through the Kano State Agricultural and Rural Development Authority (KNARDA) which launched an invitation for the bidders to construct the Milk Banks at Ajingi, Albasu, Garko, Wudil (Lot 1: KN/KSADP/W/B.1.1/01a), Kiru, Tudun Wada, Kura Local Government Areas (Lot 2: KN/KSADP/W/B.1.1/01b), Danbatta, Dawakin Tofa, Tofa (Lot 3: KN/KSADP/W/B.1.1/01C), Garun Malam, Gezawa (Lot 4: KN/KSADP/W/B.1.1/01) and the rest. The contract was given to the bidders for only twelve (12) months to finish the construction with the installation of all the requirements, such as construction of the main building, provision of a collection unit, store, office, convenience, fencing, solar powered water supply scheme, and other infrastructure (Nigerian tenders 2022) to ensure the qualitative project that would ensure milk availability and its further utilization to boost Nigeria's economic development.

2.1. Regulatory framework for the application of *Istisna'* in Nigeria

Istisna' as a tool of Islamic finance, was grounded in the interest of creating diversified means of boosting the Nigerian economy through the lens of the alternative sphere that had been approved by *Shariah*. This law made the authoritative agencies enact laws that could provide legal backing for the operation of the tools in the atmospheric stance of the earlier conventional system of economy. At this juncture, the Central Bank of Nigeria (CBN) released an operational guide on the operation of the product (*sukuk*) in 2016, as outlined in Circular No: FMD/DIR/GEN/CIR/07/006 that states:

Given the need to foster financial system and economic growth and development and complement the efforts of the Government at various levels, the Central Bank of Nigeria (CBN) has approved "Guidelines for Granting Liquid Asset Status to Sukuk Instruments Issued by State Governments" to enhance the diversification of sources of funding for development at the subnational levels. (Central Bank of Nigeria, 2016)

The above statement gave ample support to the operation of the *sukuk* tool in the Nigerian capital market, which facilitates alternative means of generating funds for the accomplishment of some prospective projects under the state government's jurisdiction.

Based on this authoritative directive, the Osun State Government issued the first *sukuk* tool in Nigeria in 2013 to revitalize the educational sector (Oladunjoye, 2014). Subsequently, a series of sovereign and corporate *sukuk* joined the trend from the section of the Federal Government and corporate organizations.

Istisna' was legalized under the context of this released Act (authoritative law) as they incorporated its operation under the *sukuk* tool in the Act. 569 which defined the term "*Istisna'*" as:

A purchase order contract is where a buyer requires a seller or a contractor to deliver or construct the asset to be completed in the future according to the specifications in the sale and purchase contract. Both parties in the contract can agree upon the payment terms (Securities and Exchange Commission, 2013).

Further directives came from the Central Bank of Nigeria (CBN) to enlist the above contract of *Istisna'* is among the approved transactional modes to operate in the Nigerian capital market, as pointed out: *The PFIs [Participating Financial Institutions] shall purchase the inputs for on-selling to the beneficiaries using the CBN-approved non-interest financing contract of Murabaha, Istisna, etc.* (Central Bank of Nigeria, 2016).

Based on these directives from the authoritative agencies, *Istisna'* was legally approved to operate in the Nigerian financial industry under the principles of the *Shariah* and other financial acts designed in agreement with their operational concept.

3. Major Infrastructural sectors in Nigeria

Nigeria centered emphasis on transforming certain infrastructural sections which are believed to have an impact on the transformation of the economy and enhancing the well-being of the citizens, such as Transportation, Industrialization, Technology, Agriculture, Healthcare, Energy, Power, Water Resources, Mining, etc. which only six are selected and discussed below:

- a. Transportation: The Nigerian transportation system cut across four dimensions, where some relied on:
 - i. Road transportation network (Foster & Pushak, 2011) for the movement of vehicles on land routes that are owned and managed by the Federal Government, state governments, and local governments as pointed out with a stipulated number of kilometers covered at every governmental arm jurisdiction. *Nigeria has a total road length of about 200,000 kilometers, comprising 35,000km of Federal roads, 30,500 km of State roads, and 129,577 km of Local Government roads (Federal Ministry of Finance, 2020).*

These identified roads are being managed by several agencies and administrative bodies in Nigeria; even though analysis of their conditions revealed that the majority of them are in dilapidated conditions and hence need drastic action to upgrade their standards.

"It is estimated that 40.0 percent of the Federal Road network is in poor condition and needs rehabilitation; 30.0 percent is in fair condition and requires periodic maintenance; and about 27.0 percent is in good condition, which needs routine maintenance. The remaining 3.0 percent is accounted for by unpaved trunk roads that must be paved. In the case of State roads, about 78.0 percent are in poor condition, with only 22.0 percent in fair-to-good condition. The local government roads are worse off, with 87.0 percent in poor condition." (Federal Ministry of Finance, 2020)

This statement indicates why Nigeria fails to catch up with the standards of the countries that have emerged with it at the same grade, such as Malaysia, India, Indonesia, and others, who have improved their road network systems to a higher standard.

- ii. Rail network (Foster & Pushak, 2011) is another means of transportation in Nigeria through the use of trains that were aligned to connect the South, North, and Eastern sections of Nigeria. These sections were mainly part of the legacies of the colonial masters and were neglected earlier, even though little attention was paid to them with mere reactivation to connect Abuja to Kaduna and other rehabilitated areas. At this juncture (2020), Nigeria was said to have 304 rail stations and gauge rail lines to have covered 1,496 km. that linked various locations in the country's west, east, and northern parts; such as Lagos to Ibadan, Gombe to Maiduguri, Abuja to Kaduna, and the rest (Federal Ministry of Finance, 2020).

- iii. Air transport system (Foster & Pushak, 2011) (Aviation) is another means of transportation made available through aircraft to transport people, goods, and services within some cities of the country and other countries at the international level. As of 2020, Nigeria was known to have twenty-two (22) airports, many airstrips, and heliports (Federal Ministry of Finance, 2020) that host movements both at domestic and international levels.
- iv. Maritime Ports. Moreover, water transportation served as another dimension of the Nigerian transportation system where movements of people, goods, and services are made possible through ships, canoes, and boats in the coastal areas through the Atlantic Ocean, where major seaports were built such as Lekki, Badagry (at Lagos), Ibom (at Akwaibom) seaports to host international connectivity (Federal Ministry of Finance, Budget and National Planning 2020).
- b. Water Resources and Sanitation (Foster & Pushak, 2011) was another sector that had an impact on the development of the Nigerian economy and transformed the lives of humanity within the country's jurisdiction. The country was believed to have abundant water resources estimated to have reached 286.2 billion cubic meters which are virtually enough (if properly managed) for human consumption, power generation, irrigation, etc. Unfortunately, the resources were not efficiently utilized as only ten percent (10%) of the irrigable lands are cultivated; furthermore, out of the 200 existing Dams, only 19 were affirmed to have small hydropower facilities that have a combined potential capacity of generating about 3,600 megawatts of electricity (Federal Ministry of Finance, Budget and National Planning 2020).

Furthermore, the country's water accessibility level falls below the standard of the M.D.G. bench ground, whose sanitary level was measured at only 44% based on the findings of the Water, Sanitation Hygiene National Outcome Routine Mapping (WASH-NORM) (Federal Ministry of Finance, Budget and National Planning 2020). However, a series of projects in the sector could be propelled by *Istisna'* once it is incorporated.

- c. The agriculture sector has accommodated the employability of about 70% of the active population on 79 million hectares of arable lands, of which only 34 million hectares are cultivated (Federal Ministry of Finance, Budget and National Planning 2020). Smallholder farmers mainly relied heavily on subsistence farming to produce outputs, significantly pushing the country's nominal GDP to about 28.41, as determined in 2020.

The required Infrastructure of this sector extends beyond rainy season cultivation to irrigation, fisheries, animal husbandry, storage facilities, and the rest of the input facilities that could maximize outputs and boost economic development, capable of attracting investment from various dimensions.

- d. Power and energy supply (Sakala et al., 2010) is another sector having a crucial role in the development of the Nigerian economy as industrial production and reduced cost of production relied on its availability; hence Government made several attempts to reform its structure for upgrading its infrastructural standard (Babatunde et al., 2023) which end up with little achievements.

The sector relied on various strategies to ensure electricity provision to Nigeria's rural and urban societies, such as hydropower generation, wind energy resources, solar energy resources, and biomass energy resources (Sakala et al., 2010) based on the designated action plan which is yet to attain the target as the 2020 report indicated that about 20 million households are living without electricity, and only 3200 megawatts out of 12,500 generated megawatts were said to have been transmitted for consumption in the said year (Federal Ministry of Finance, 2020), due to the limited Infrastructure, which could not support the transmission of such megawatts to the consumer's point.

- e. Medical sector: Healthcare services are among the primary responsibilities of any administrative structure of a society, where medical facilities are to be ensured to the subjects at the local, state, and federal administrative levels. As of 2020, Nigeria was said to have 23,385 public primary healthcare clinics, 963 secondary care units, 42 tertiary healthcare institutions, and 13 specialist hospitals (Federal Ministry of Finance, 2020) that are restricted to serving over 200 million citizens.

However, total condemnation cannot be passed on the sector since policies, budgetary allocations and other strategies of joint investment to upgrade the infrastructural standard of the sector are still ongoing with the construction of new medical facilities such as care centers, laboratories, storage facilities, and digital equipment procurement (Federal Ministry of Finance, 2020) to enhance the system to a certain standard.

- f. The educational sector is responsible for the facilities and infrastructures crucial to preparing the ground for the educational attainment of the citizens designed by the reviewed National Policy on Education of 2004 (Federal Ministry of Finance, 2020) to start from 9 years of primary education, followed by three years of post-basic education at senior secondary and tertiary educational levels, categorized into non-university and university segments. Educational certification is issued depending on the strata of the undergone programs.

The sector is privileged by a joint effort of the public and private entities to provide infrastructural facilities for educational development, with the estimation of the public and private early childhood care educational centers to 81,562 (as of 2018) (Federal Ministry of Finance, 2020) There are 119,532 primary schools (as of 2019), 32,567 junior secondary schools, and 24,069 senior secondary schools (Federal Ministry of Finance, 2020). However, all these are limited to accommodating school-aged citizens, who, due to vast problems and inadequate facilities, remain out of school. This situation ranks Nigeria with the highest number of out-of-school citizens in the world, estimated to have reached 12.7 million children of school age (Federal Ministry of Finance, 2020). Thus, the concluding remark indicated that much is required from the public and private sections to jointly ensure the adequate educational Infrastructure of the country that could accommodate the educational needs of the citizens to attain a high level of development to step the stage of those to excel in the sector.

Summarily, the infrastructural provision in Nigeria is something to have started from a time unprecedented when several efforts were made by those on the authority and collaborative partnerships with private individuals to ensure the wellbeing of the citizens through the provision of the sectors above and rest not to have been discussed such as information and technology, environment and management, financial, housing and urban development, manufacturing, food and nutrition, mining, oil and gas, industry, security and the rest.

4. Impact of the *Istisna'* towards infrastructure development in Nigeria

The application of the *Istisna'* financial tool had tremendously contributed towards the development of infrastructure in some agricultural and commerce sectors viz:

- a. Construction of thirty (30) bilingual education boarding schools in nine participating states, with the construction of three (3) or four (4) lots in each state (Mohammed, 2015).
- b. Development of Dawanau market infrastructure: The project encompasses the construction of 4km of roads and drainage facilities, an electricity lighting post, a police outpost, a mosque, an office and conference center, 18 toilet facilities, and the development of a market information system.

- c. Prepared Grazing reserve at Dan Soshiya village, which covers 3000 hectares of land, constructed borehole and reticulation, constructed perimeter fence and Access (earth) roads, veterinary clinic, loading ramp, holding area, nomadic school, mosque, store, and mini market, the establishment of 20 hectares seed multiplication plot (Muhammad, 2022).
- d. Construction of Milk collection centers at various locations viz: (Kano State Agro-Pastoral Development Project, 2022).
 - i. Construction of 10Nr Milk Collection Centers in Ajingi, Albasu, Garko, Wudil, and Dawakin Kudu Local Government Areas.
 - ii. Construction of 10Nr Milk Collection Centers in Kiru, Tudun Wada, and Kura Local Government Areas.
 - iii. Construction of 10Nr Milk Collection Centers in Danbatta, Dawakin Tofa, Tofa, and Kumbotso Local Government Areas.
 - iv. Construction of 10Nr Milk Collection Centers in Garun Malam, Gezawa, and Nassarawa Local Government Areas.

4.1. Challenges of the *Istisna'* in Nigeria

Istisna' operation in Nigeria is known to have been confronted with several challenges at various dimensions, which set hurdles for its smooth running. The analysis of interviews with individuals like Muhammad (aged 65) reveals several significant challenges hindering the smooth operation of *Istisna'* in Nigeria. These challenges can be categorized into lack of awareness and understanding, and human resource constraints.

- i. Many potential subscribers of the *Istisna'* are not aware of the *Istisna'* and process of subscribing to its securities in Nigeria, hence does not know how or where to subscribe the securities of the tool (*Istisna'*). Limited knowledge about the product and its operation processes limits people's participation in the product, as many people run to the conventional model on account of not being aware of its alternate product that operates on Islamic principles.
- ii. Misconception from members of other religious faiths deters their ample participation and subscribing to its securities in Nigeria, where some among the followers of the Christian faith accused the effort of its legalization in the financial industry of the country as an effort of Islamizing the financial system of the country with multi-religious followers. Scarce human resources with relevant expertise in Islamic financial knowledge lame the operation of the *Istisna'* in Nigeria, as some of the managers entrusted to handle the contracts are not qualified or do not have expertise in handling the contract efficiently. A clear example could be cited in one of the Nigerian states where one of the *Istisna'* contract managers was found to have studied agriculture alone and did not have any relevant certificate in relevant Islamic financial studies.

These challenges underscore the need for concerted efforts to raise public awareness about *Istisna'*, and to invest in human capital development to ensure the effective implementation of Islamic financial instruments in Nigeria.

5. Research Findings

The research work was able to find great achievements in the limited areas of *Istisna'* application in Nigeria; especially the construction of some infrastructural structures in the agricultural sectors, such as milk collection centers, milk banks, grazing grounds veterinary clinics, and other identified projects above.

Istisna' was able to attract investment to Nigeria from within and foreign institutions, such as the Islamic Development Bank, that supported the development of agriculture and commerce with the sponsorship of infrastructure establishment to supplement the sector's development in the country. *Istisna'* operation had brought dual contract management in the country in addition to the earlier conventional construction contract that operated for decades in the country. Operation of the tool in Nigeria has added value to the infrastructural structures of the country in the domain of education, agriculture, and commerce domain of the country.

6. Recommendations

Istisna' operation in the Nigerian infrastructure sector is an outstanding achievement that brought ample development in terms of structure enhancement and economic transformation. The tool is known to have met so many challenges that hold its smooth development. Hence, subsequent recommendations are analyzed to guide on avoiding the earlier raised challenges:

- i. *Istisna'* operation should be diversified to other infrastructure sectors beyond agriculture and commerce, for the existence of wide infrastructure gaps in the Health, Petroleum, Mining, Information and technology, power and energy, etc., which *sukuk* has the potency of upgrading or adding value to their development.
- ii. The administrative unit of the Government should uphold project sustainability. This unit should target the development of the nation, not otherwise. Thus, political leaders should sustain projects initiated by others for the development of the nation and its citizens.
- iii. An intensive awareness campaign should be promoted for the product in Nigeria through seminars, talk shops, and workshops to acquaint people with its principles and pattern of operation and attract the attention of many potential customers in the country.
- iv. Establishing departments of Islamic finance to graduate experts who will prosper the activities of alternative financial products in Nigeria could enhance human expertise in operating the tool.

These recommendations could help Nigeria's Infrastructure excel above the rest of the African countries and follow in the footsteps of the *Istisna'* pioneers of the world in terms of development and economic advancement in a diversified manner.

7. Conclusion

Istisna' is an Islamic financial instrument deduced to cater for the constructional contract in substitute to the long-used conventional construction contract. The model was reactivated in the modern financial trend and had spread widely in the world financial industry; Nigeria was counted among those to have adopted and established its legal operation under the legal, financial acts released by the Central Bank of Nigeria to prepare the ground for its smooth operation. The tool was applied in some limited sectors of Nigeria to bridge infrastructural gaps and was credited to have tremendously contributed to Nigeria's agricultural, commerce, and educational sectors.

References

Al-Bukhari, M. (1422 AH). *Al-Jami' al-Musnad al-Sahih al-Mukhtasar min Umur Rasul Allah Sallallahu Alayhi wa Sallam wa Sunanihi wa Ayyamihi = Sahih al-Bukhari*. Dar Tawaq al-Najat.

- Al-Jarhi, M. A., Abozaid, A. & Owaida, A. (2022). *Handbook of Islamic Finance*. Yayinlari, Ankara Sosyal Bilimler Universitesi. Retrieved from <https://ulifam.asbu.edu.tr/sites/digerleri/ulifam.asbu.edu.tr/files/inlinefiles/The%20Islamic%20Finance%20Products%20Handbook%20.pdf>.
- Babatunde, O., Buraimoh, E., Tinuoye, O., Ayegbusi, C., Davidson I., & Ighravwe, D. E. (2023). Electricity sector assessment in Nigeria: the post-liberation era. *Cogent Engineering*. 10: 2157536. Retrieved from <https://www.tandfonline.com/doi/pdf/10.1080/23311916.2022.2157536?download=true>.
- Bank Negara Malaysia (2015). *Istisna`*. Islamic Banking and Takaful Department, Central Bank of Malaysia. BNM/RH/PD 028-1. Retrieved from https://www.bnm.gov.my/documents/20124/938039/Istisna_PD_29122015.pdf/b2da7948-cb8a-40ad-f669-3d55b4e8b26b?t=1592244257525.
- Borhan, T. (2002). *Istisna`* in Islamic Banking: Concept and Application. *Jumal Syar iah*, 10:2 99-108. Retrieved from https://mksq.journals.ekb.eg/article_65997_5831cefd98b279b64d5c3c919a7faf10.pdf.
- Bukhari, M. I. (1973). English translation of Sahih al-Bukhari. Second revised edition. *Ahmadiyya Anjuman Isha'at-i Islam*, Lahore. Vol. 1. Book 8. Hadith 97. No. 440. Retrieved from <https://sunnah.com/bukhari:6120>.
- Central Bank of Nigeria (2016). *Guidelines for Granting Liquid Asset Status to Sukuk Instruments Issued by State Governments*. Fmd/Dir/Gen/Cir/07/006. Retrieved from <https://www.cbn.gov.ng/out/2016/fmd/guidelines%20for%20granting%20liquid%20status%20to%20sukuk%20instruments%20issued%20by%20state%20governments.pdf>.
- Central Bank of Nigeria. (2016). *Non-Interest Guidelines for the Accelerated Agricultural Development Scheme (AADS)*. FPR/DIR/CIR/GEN/07/058. Retrieved from <https://www.cbn.gov.ng/Out/2020/CCD/Circular%20to%20All%20NIFIs%20-%20July-16-2020.pdf>.
- Federal Ministry of Finance, Budget and National Planning (2020). *Reviewed National Integrated Infrastructure Master Plan*. The Federal Republic of Nigeria. Retrieved from <https://nationalplanning.gov.ng/wp-content/uploads/2022/10/REVIEWED-NIIMP.pdf>.
- Foster, V. & Pushak, N. (2011). *Nigeria's Infrastructure: A Continental Perspective*. Africa Infrastructure Country Diagnostic (AICD). The International Bank for Reconstruction and Development / The World Bank Washington, U.S.A. Retrieved from <https://ppiaf.org/documents/3154/download>.
- Kano State Agro-Pastoral Development Project (KSADP) (2022). *Construction of Milk Collection Centers*. Islamic Development Bank *Istisna'a*. Retrieved from <https://www.nigeriantenders.com/p/4469/international-competitive-bidding---construction-o.html>
- Khalid, M. J. (2015). *Al-Tawthiq li-Bidayat al-Mutafaqqih min Kalam al-A'immah*. Dar al-Taqwa.
- Muhammad, I. G. (2022). Kano State Agro-Pastoral Development Project (KSADP). *Kano State Agro-Pastoral Development Project KNARDA Building, Km 9 Hadejia Road, Kano*. Retrieved from <https://www.isdb.org/project-procurement/sites/pproc/files/tenders/documents/Final%20Kano%20Project%20General%20Procurement%20Notice%20%20Final%20June%202019.pdf>.
- Muhammad, I. G. (2021). *Kano State Agro-Pastoral Development Project (KSADP)*. Islamic Development Bank (ISDB)/Federal Republic of Nigeria. Retrieved from <https://www.isdb.org/project-procurement/sites/pproc/files/tenders/documents/Final%20Kano%20Project%20General%20Procurement%20Notice%20%20Final%20June%202019.pdf>
- Mohammed, A. (2015). IDB will invest N19 bn in bilingual education in Nigeria. *The Guardian newspaper*. Retrieved from <https://guardian.ng/news/idb-to-invest-n19-bn-on-bilingual-education-in-nigeria/>

- Muhammad, S. A. (1998). *Buhuth Fiqhiyyah fi Qadaya Iqtisadiyyah Mu'asirah: 'Aqd al-Istisna'*. Dar al-Nafa'is.
- Nigerian Tenders (2022). *International Competitive Bidding (ICB/MC) - Construction of Milk Collection Centers*. Kano State Agro-Pastoral Development Project (KSADP). Retrieved from <https://www.nigeriantenders.com/p/4469/international-competitive-bidding---construction-o.html>
- Oladunjoye, M. O. (2014). Sukuk as a Tool for Infrastructural Development in Nigeria. *Journal of Islamic Banking and Finance*, 2 (1), pp. 335-344. Retrieved from <https://kolaawodeinandco.com/assets/dl/published%20Sukuk%20Article.pdf>.
- Sakala, Z., Litse, J. K. & Dore, O. (2010). An infrastructure action plan for Nigeria: closing the infrastructure gap and accelerating economic transformation. *Summary report, African Development Bank Group*. Retrieved from https://www.afdb.org/file/admin/uploads/and/Documents/Project_and_Operations/An_Infrastructure_Action_Plan_for_Nigeria_-_Closing_the_Infrastructure_Gap_and_Accelerating_Economic_Transformation.pdf
- Securities and Exchange Commission (2013). *General Rules and Regulations Under the Investments and Securities Act, 2007*. Securities And Exchange Commission, Nigeria. Retrieved from <https://sec.gov.ng/files/SEC%20Consolidated%20%28JUNE2013%29%20SIGNED%28WEBSITE%29%20%281%29.pdf>.
- Universal Basic Education Commission (UBEC) (2022). *Construction of 30 Bilingual Education Boarding Schools in 9 Participating States (3 Or 4 Lots in Each State)*. Federal Government of Nigeria. Retrieved from [https://www.library.procurementmonitor.org/backend/files/UNIVERSAL%20BASIC%20EDUCATION%20COMMISSION%20\(UBEC\)%20INVITATION%20TO%20TENDER%20FOR%20CONSTRUCTION%20OF%20THIRTY%2030%20BILINGUAL%20EDUCATION%20BOARDING%20SCHOOLS%20IN%209%20PARTICIPATING%20STATES%20\(3%20OR%204%20LOTS%20IN%20EACH%20STATE\)%20dec%202021.pdf](https://www.library.procurementmonitor.org/backend/files/UNIVERSAL%20BASIC%20EDUCATION%20COMMISSION%20(UBEC)%20INVITATION%20TO%20TENDER%20FOR%20CONSTRUCTION%20OF%20THIRTY%2030%20BILINGUAL%20EDUCATION%20BOARDING%20SCHOOLS%20IN%209%20PARTICIPATING%20STATES%20(3%20OR%204%20LOTS%20IN%20EACH%20STATE)%20dec%202021.pdf).

Interviewee

- Muhammad, I. G. (aged 65). *Istisna'a* coordinator, Kano State Agro-Pastoral Development Project (KSADP). KNARDA Building, Km 9 Hadejia Road. Interviewed on 01/04/2024 at 9:12 pm. via phone +2348035960538.