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An Overview of the Islamic Banking Development in the United Kingdom, Malaysia, Saudi Arabia, Iran, Nigeria, Kenya and Uganda

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***Abstract*—**The level of penetration of Islamic banking products and services has recorded a reasonable growth at an exponential rate in many parts of the world. There are many factors which have contributed to this growth including, but not limited to the rapid growth of number of Muslims who are uncomfortable with the conventional ways of banking, interest and higher interest rates scheduled by conventional banks and financial institutions as well as the financial inclusion campaign conducted in many countries. The system is facing legal challenges which open the research fdoor for practitioners and academicians for the sake of finding out solutions to those challenges. This paper tries to investigate the development of the Islamic banking system in the United Kingdom (UK), Saudi Arabia, Malaysia, Iran, Kenya, Nigeria and Uganda in order to understand the modalities which have been employed to run an Islamic banking system in the aforementioned countries. The methodology which has been employed in doing this research paper is Doctrinal, of which legislations, policies and other legal tools have been carefully studied and analysed. Again, papers from academic journals, books and financial reports have been deeply analysed for the purpose of enriching the paper and come up with a tangible results. The paper found that in Asia, Malaysia has created the smoothest legal platform for Islamic banking system to work properly in the country. The United Kingdom has tried harder to smooth the banking system without affecting the conventional banking methods and without favouring the operations of Islamic banks. It also tries harder to make UK as an Islamic banking and finance hub in Europe. The entire banking system in Iran is Islamic, while Nigeria has undergone several legal reforms to suit Islamic banking system in the country. Kenya and Uganda are at a different pace in making Islamic Banking system work alongside the conventional banking system.

Keywords*—Shariah*, Islamic banking, law, alternative banking.

I. Introduction

ISLAMIC banking system is an avenue used to fulfil the concept of financial inclusion policy in societies which have been left behind in as far as financial services is concerned. Again, the same has been considered as the avenue to make money by capturing customers who dearly want to bank with institutions offering Islamic banking products and services. These two reasons pushed various nations to engage in the Islamic banking industry. This paper therefore is surveying the state of affairs of the Islamic banking industry in Europe, Asia, Middle East and Africa.

The United Kingdom has strategically been selected because it is the only country in Europe which has gone a thousand miles ahead in as far as Islamic banking industry is concerned. Malaysia has been chosen to represent Asian countries in this research. That is because Malaysia is the only country in Asia which stands to hold a number one ranked state in the world to lead the market and own a large market share of the industry in the whole world. In the Middle East, Saudi Arabia has been selected because it has a majority of Muslims and therefore it is prudent to research on the status of the Islamic banking system in countries with that quality and to observe the level of development in as far as the regulatory, supervisory and Shariah compliance of Islamic banking products and services offered in that country.

African states like Nigeria, Kenya and Uganda have been selected in order to have a clear picture of the development of the Islamic banking industry in the emerging markets. Furthermore, Kenya and Uganda have been selected for the purpose of representing the Eastern part of African states and to see how the Islamic banking system is taking shape.

A. Islamic Banking in the UK

UK as an Islamic Banking and Finance Hub outside the Muslim World

If one talks of the Islamic banking and finance base outside the Islamic world, he/she shall mention the United Kingdom as the main base due to how it has positioned itself in the market and created a level playing field for the sector to grow. Engel reports that given the fact that the industry officially started in 2003 (literally), it has managed to employ more than 200 staff up to 2007 and accrue a total asset of up to GBP 737.7 million by the end of the same year. Furthermore, Engel noted that there was a rise of equity ownership from zero (0) in the 2003 to GBP 385.1 million by the end of 2007, while the revenue was GBP 26.97 million in the same year [1]. In the same line of argument, in 2011, the UK was recorded to be the 10th largest country around the globe in as far as the size of Islamic assets it has in the Islamic financial market. Again, the City of London alone was recorded to be the 3rd largest Islamic financial market. In the same period, Gulf Corporation Council States (GCC) and Malaysia were recorded as the first and the second, respectively.

Again, up to 2011, it is the UK alone in Europe which housed standalone Islamic financial institutions, regardless of the fact that the country has a smaller number of Muslims

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compared with France and Germany [2]. The above statement is strongly confirmed by Hussain and others who have concluded that the UK has aimed to be the capital of Islamic banking outside of the Muslim world, and to make this aim true, the country has allowed the mixture of banking systems where Islamic banks have been introduced and conventional banks operates Islamic windows. Again, it has been noted further that *Sukuk*, *Murabaha* and *Ijara* contracts are the most trending Islamic products in the banking industry in the UK [3]. Furthermore, the country has easily worked so fast in making major amendments in banking and finance laws in order to allow the Islamic finance system to work in the country. These amendments were introduced in line with important adjustments in the taxation laws of the country so as to enable more Islamic financing instruments to enter the banking market.

This part dwells on exhibiting the Islamic banking developments achieved in the UK since its establishment. The following part gives a historical background of how the same has entered the UK, the regulatory changes as well as various amendments which have been made for the betterment of the finance industry in general and the Islamic banking system in particular.

B. The Emergence of the Islamic Banking System in the UK

Study shows that Islamic finance was introduced in the UK in the early 1980's, and specifically, the first Islamic bank in the country was known as Al Baraka International which was launched in the 1982. *Murabaha* transactions are recorded to be the very first and popular Islamic financing product in the UK. Again, it has been reported that from 1980 to 1982, there were some other financial institutions that offered what was known as "bespoke *Shariah* compliant" products particularly to business persons working in the Middle East where the common and popular products were trade financing, leasing and project finance.

When the Islamic banking started in the UK, only limited financial activities were provided. Transactions which were provided by the London Metal Exchange (LME) were the commodity *Murabaha* which was used to liquidity institutions from the Middle East and other investors to develop their business. No Muslim retail consumers were benefiting from this type of product as it was issued as wholesale to high-net-worth investors, and it was only in 1990 that retail Islamic banking activities started to be offered. However, these retail banking services did not attract many customers because they were not under the protection of the financial regulators. For instance, customers who opted for these services were not under the protection of the financial ombudsman service and were subject to redress from the financial services compensation scheme [4].

In order to facilitate proper functioning of Islamic banking operations in the UK, Mr. Andrew Buxton and Mr. Eddie George were appointed to lead a team of experts which was entrusted to come up with suitable recommendations in as far as the Islamic banking industry is concerned. The team was technically composed as it was formed by individuals from different levels of the finance and banking sector that included representatives from treasury and the UK Financial Services Authority (FSA). Furthermore, members from the council of mortgage lenders, financial institutions and the Muslim community were also involved. Above all, both the team leaders came from Barclays Bank and the Bank of England; the notable banking giants in the UK. Following the successful operation of the said team, the UK government came up with a number of changes in financial laws in order to accommodate Islamic banking and finance products and services provision. This was mainly done by inserting what was known as alternative finance clauses in Taxation Acts. For instance, huge amendment was made to the Stamp Duty Land Tax (SDLT) which was removed in all *Shariah* compliant mortgages. This and other legal charges revolutionized the progress of Islamic banking and finance industry to the extent that the UK emerged as the 9th largest country having more than 20 Islamic financial institutions offering Islamic finance activities. Six out of those 20 institutions were offering fully *Shariah* compliant products and services [5].

C. Why the Islamic Banking System Has Expanded So Fast in the UK

There are many reasons that allowed the Islamic banking industry to grow at such speed in the UK. A report shows that the pragmatism, realism and inclusiveness of the UK political system was instrumental in allowing the industry to move forward at such a fast pace. The UK government has positioned itself in creating competitive and suitable environments for the financial industry in the country and to ensure that everyone enjoys the best financial products and services in the country irrespective of religious affiliations, race or colour. Again, with the presence and existence of capitalism as a financial model for decades in the world, many researchers have tried to look for an alternative financial model that can produce better results and find that the Islamic banking system can be tested against the existing capitalist financial models. With the UK being open to research and business, it was easy for the Islamic banking system to be taken on board as a trial financial model. Similarly, the UK has been the leading international financial centre since 17th century. It has opened its doors for financial business, innovations and new ideas. This phenomenon has accelerated the zeal of engaging in Islamic banking and finance in the country.

Research further reveals that there are about six reasons which led to the expansion of the Islamic banking system in the UK. These are the global expansion of Islamic finance, Markets and skills base, Islamic windows, excess liquidity in the Middle East, public policy and taxation as well as the idea of having a single financial regulator. These six reasons are summarily explained here under.

The fact that the Islamic banking industry is growing in many parts of the world like Malaysia, Arab world as well as in Africa, the same has played a great role in the development of the industry in the UK. Islamic banking products from other parts of the world were brought into the UK but now products

from the UK can be marketed in other countries as well. On the aspect of market and the skill base, the UK has proven to be the suitable market and with the readiness of adapting to new business innovations.

It should be noted that the UK is the most liquid and deep market in the world supported by qualified legal, accounting and financial skilled practitioners. Talking on the aspect of having Islamic windows, most of the major banks like Citi, Deutche, HSBC and others are in operation in the Middle East and the UK as well and have developed enough capacity in retail banking services through Islamic windows within conventional banking. Thus, it was easy for UK banks and other international financial players to work on the Islamic banking industry based on their success in the Middle East financial market. Oil prices also created more business from the Middle East, while the UK market has been always sharp and ready to speed up the service compared with the local financial market in the Middle East [4].

Study further reveals that the UK has been providing Islamic banking products and services for over 30 years. The provision of services also in line with government initiatives in creating a fiscal and regulatory framework that by and large accelerates the growth of Islamic finance in the country. As per the world record, the global market for Islamic finance in 2013/2014 was USD 1.3 trillion where the total asset as per *Shariah* compliant assets has grown by 150% from 2006 onward where USD 19 billion assets have been recorded for the UK alone. Again, in 2014, the UK government issued a sovereign *Sukuk* of GBP 200 million which is due to mature on 22nd July, 2019. This amount was distributed to UK investors and others from major Islamic finance hubs around the world. Similarly, it has been reported that the UK government of made a tremendous effort to create a level playing field through legal channels through the removal of double tax on Islamic mortgages, the extension of tax relief to companies and individuals and proper arrangement for payment of debts. Talking on the number of banks offering Islamic banking products and services, the UK has more than 20 international banks where six of them are fully *Shariah* compliant. This number cannot be found in any European country. The popular Islamic banking product in the UK is financing major infrastructure projects in the UK. Notable infrastructures financed by Islamic banking facilities include the Shard of Glass, the Olympic Village and the redevelopments of Chelsea Barracks and Battersea Power Station. Furthermore, the London Stock Exchange (LSE) also plays a significant role in the development of Islamic banking in the UK. More than USD 34 billion has been raised in the LSE through various alternative finance investment bonds. Similarly, tremendous contribution has also been made by the London Metal Exchange (LME) which is considered to be the leading office for metal exchange in the UK. In fact, a huge volume of liquidity management transactions have been made on LME warrant. All transactions are *Shariah* compliant.

Another factor accelerating the growth of Islamic finance is the fact that many colleges and universities offer Islamic finance programmes. These institutes include the Institute of Islamic Banking and Insurance and the Chartered Institute for Securities and Investments. Reports suggest that since the industry is growing at such a fast pace that it should work with the government, tax and regulatory authorities to develop and shape the financial environment and UK legislation in order to ensure a level playing field for *Shariah* compliant products and services. Other reasons are such as the flexibility of the legal system, establishment of a single regulator, the remarkable growth of the Islamic finance industry and the presence of active Muslim community organizations in the UK [4]. However, the presence of the *Shariah* supervisory boards (SSBs) has not been given enough weight in the UK where the boards are only available in individual banks and not at the national level. The role of these boards is to oversee the day-to-day activities of the bank and to make sure that all services and products provided by the bank are in accordance with Islamic finance law [6]. On the other hand, potential opportunities and challenges should be taken up to make Islamic banking more user friendly in every segment of the economy and society. There is a need to make a clear and transparent system of general Islamic banking [7].

TABLE I
BANKS AND FINANCIAL INSTITUTIONS OFFERING ISLAMIC BANKING PRODUCTS AND SERVICES IN THE UK

s/n	Institution	Year	Product
1	Al Baraka International Bank	1982	Islamic Mortgages
2	United Bank of Kuwait (AUB)	1996	Islamic Mortgages
3	HSBC Amanah	2003	Islamic Mortgages, Treasury and Investment services Private banking
4	ABC International Bank (Alburaq)	2004	Islamic Mortgages
5	Islamic Bank of Britain	2004	First Islamic Retail Bank
6	RBS/Bank of Ireland	2004	Islamic Commercial Property financing
7	European Islamic Investment Bank (EIIB)	2005	First wholesale Islamic Investment Bank in the UK
8	Lloyd	2005	Current Account
9	Children's Mutual	2005	Children Mutual Fund
10	Bank of London and the Middle East (BLME)	2007	Wholesale Islamic Investment Bank
11	QIB UK (European Finance House)	2008	Wholesale Islamic Investment Bank
12	Gatehouse Bank	2008	Wholesale Islamic Investment Bank
13	British Islamic Insurance Co.	2008	Takaful
14	Abu Dhabi Islamic Bank (ADIB)	2013	Representative Office
15	Cobalt Underwriting	2013	*Shariah* Compliant Insurance Products

D. Regulatory Development of Islamic Finance in the UK

Ercanbrack reports that Islamic law, which is considered as a stateless law, generates municipal legal challenges because every country has its own laws. In the UK, Islamic financial transactions are governed by the UK Financial Services Regulation, on one hand, but also should follow European Union Financial Directives as well as Basel Capital Adequacy Standards. He adds that Islamic financial contracts that are brought to court face legal challenges because English laws are applied to determine the fate of the same. The author argues that although Islamic law (including Islamic Banking laws) can be applied globally but it is necessary for municipal laws to welcome the same in order to allow the smooth operation of the Islamic banking and finance in a given locality. Again, for transactions which look international and cross border in nature, international regulatory orders should be in place in order to make cross-border transactions possible. It is apparent at this stage to describe and understand what the English law is and the way it operates in the UK [2].

To make this point in good order, it is worth to note that English law comprises of the law of England and Wales. But when one talks of the United Kingdom, they are talking about England and Wales, Northern Ireland and Scotland, where these jurisdictions comprise of three differing legal parameters within the United Kingdom. While Common Law governs both the England and Wales legal system, Wales, Northern Ireland and Scotland have enacted different laws which separate them from the central government of the United Kingdom. These laws are such as the Northern Ireland Act (1998); the Government of Wales Act (2006) and the Scotland Act (1998). But again, the UK parliament, which is a supreme law making body in the UK, also enacts laws for England and/or Wales. In the UK, only the Financial Services Authority (FSA) regulates the whole financial market. It has been empowered by the Financial Services and Markets Act 2000 (FSMA 2000). Ercanbrack reveals further that the concept of legal transplants plays a significant role in making sure that Islamic finance law is working well in any given country. The author was particularly referring to the UK. The concept is nothing more than relocating the rules from one country to another, and once the re-location is made, the same is developing in the host system as a native law. Describing further on the said concept, Ercanbrack explains that legal transplants may happen through the following categories:

i) When peoples relocate to a foreign country and brings its laws with it
ii) When peoples relocate to a foreign country where there is a similar civilization but, nonetheless, brings its law with it.
iii) When peoples voluntarily accepts a large part of the system of another peoples.

Based on the above concept, the author concluded that the concept of legal transplants helped the transmission of the law of Islamic finance in the UK through immigration as well as the commercial and historical background between the UK and the Arab world. Furthermore, the author further noted the complex reality of the UK legal systems as emerging from the interaction of values, norms and other legal systems; therefore, *Shariah* laws, EU laws and international financial standards do interact and sometimes interfere one another and or cause possible future legal complications. Conclusively, the author argues that despite its rigorous textual hermeneutic, *Shariah* is an adaptive, pragmatic and functional law that possesses a number of legal instruments which enable jurists to adopt the law to changing needs and circumstance [2].

Given that background and conceptual analysis on the legal system of the United Kingdom, here is the summary of the necessary steps towards the creation of a level playing field for Islamic banking to operate smoothly in the UK. The move started in 2001, where the bank of England established a team tasked to work on all possible obstacles facing the Islamic finance industry in the UK. This was followed by another technical group formed by the HM Treasury and HM Revenue and Customs Tax which was asked to investigate in details and specific issues particularly on the technical aspects of Islamic finance in as far as the UK environment is concerned. Efforts of the first and the second team resulted in the amendment of the Finance Act particularly in the area of Stamp Duty Land Tax (SDLT) which removed the concept of double taxation for those opting for alternative property arrangements which covers the concept of Islamic mortgages. The removal of double taxation helped financial institutions when buying and re-selling the product to individuals. Before the removal of double taxation, these two transactions were taxed separately.

On the issue of public policy and taxation, the UK has made several changes in order to suit Islamic banking products as explained above. However, the decision of having a single financial regulator has helped a lot on the growth of the Islamic banking system in the UK. Before the 1997, the UK had 11 regulators taking care of the financial market. Currently, only the Financial Services Authority (FSA) stands as the sole body in charge and controller of all financial matters in the country. Ainley and others have put forward that Islamic banks and Islamic financial institutions are enjoying the level playing field in the sector. But the FSA firmly stated that there is a room for Islamic finance to develop in the UK but there is no possibility of having variations in financial standards between the Islamic banking system and conventional banking. This is popularly known as "*No obstacles, but no special favours*" [4].

Apart from the achievements reached above, Islamic finance witnessed another big development where Stamp Duty Land Tax was extended to equity sharing arrangements in 2005. Again, in the same year, the UK government legislated and confirmed that the *Murabaha* transactions as the purchase and re-sale arrangement and make it acceptable under *Shariah* financial principles. Before the legislation of this Act, *Murabaha* was not considered as such under UK law.

In 2016, the SDLT provisions were extended to corporate entities and companies were allowed to engage in alternative property financing which covers the aspect of Islamic mortgages. The year 2007 witnessed a huge change in the UK laws where another team of experts on Islamic finance was

formed in order to advise the government on how Islamic finance can best be supported in the country. It is in this period that the UK government started reviewing the possibility of issuing the wholesale foreign *Sukuk*. Again, it is in this period where the FSA issued regulations of Home Purchase Plans which also goes in line with tax treatment of financing techniques covering capital allowances, value added tax and capital gains tax as well.

The above change was followed by the announcement of *Sukuk* issuance in UK in 2008. In 2011 and 2013, the UK government established the country's Islamic Finance Secretariat (IFS) and Islamic Finance Task Force (IFTF), respectively. The secretariat was tasked to support the promotion and development of the Islamic finance in the UK while the task force was entrusted to promote the country as an Islamic financial centre.

The study also shows that in every large consultants, accountants and professional service firms have a separate department providing advisory services for both local (UK clients) and international clients who seek investment opportunities in Islamic finance. Some of these firms are such as Aberdeen Asset Management, Cobalt Underwriting, DDCAP Group, Deloitte, Eiger Trading Advisors Ltd, Ernst & Young, IFAAS, The Islamic Finance Council UK, KPMG, London Stock of Exchange, PWC LLP and Simply *Shariah* [5]. Moreover, it has been reported that there is a huge pressure on the global standardization of Islamic financial system and that Islamic Banking System should have a global standards as the conventional banking system do. Discussing on the regulatory approach to Islamic finance as governed by the FSA, the author pointed out that the FSA is failing to appropriately define Islamic banking products offered by the UK's Islamic financial institutions. The point is that, according to the author, Islamic banking products tend to be similar to those of conventional banking but that the legal structure varies significantly. Briefly, the FSMA 2000 does not apply to Islamic financial products and services. It has been observed that the deposit guarantee scheme is operating contrary to *Shariah* particularly on the aspect of the prohibition of *gharar* (risk or uncertainty). Again, the deposit guarantee scheme in the UK accepts the interest bearing accounts and above all, the concept of segregation of funds for Islamic banking transactions is not recognized and respected [5].

The same has been taken care by Turkey and Malaysia where the concept of *Takaful* is used in deposits and that the concept of segregation of funds is clearly and openly observed. Based on the facts presented above, the FSA prohibits the profit and loss accounts mode in deposit taking and allows the same in other transactions like that of asset transactions. It should be noted that in Islamic banking, money mobilisation is performed through profit and loss sharing; the principle which is not welcomed in the UK. The FSA allows deposits in Islamic banks and Islamic financial institutions similar to that of conventional banking.

Apart from the reasons elaborated above, here are more appealing reasons towards the development of the Islamic banking system in the UK. It should be noted that up to 2000, the largest volume of Islamic banking products and services originated from Muslim countries, particularly from the Gulf. Pointing out the reasons as to why many clients from Muslim countries are doing business with the UK, Wilson has opined that there are number of issues which resulted on that including but not limited to the availability of the financial market, solidity of the available banks, the closeness between Middle East with the UK borders rather than investing in New York, and the presence of a favourable time zone between the two regions, as well as the use of the English language as a second language for Arabs which eases the business environment for both. Again, the huge presence of a good number of Arabs/Muslims including students, employees and immigrants living in the UK contributed greatly to the rise of Islamic banking industry in the country [8].

E. Other Features in Regulating Islamic Banking in the UK

When the bank or financial institution is authorized to operate in the UK, it can also launch an Islamic window without seeking any other approvals from the relevant financial authorities. This also goes in line with the auditing and *Shariah* compliance issues which are very important aspects in the provision of Islamic banking products and services in any given country. In the UK, there is no National *Shariah* Supervisory Boards (NSSB) for that purpose and that the Financial Services Authority is not responsible and not concerned with the *Shariah* compliance of any product or service. The government shifted the burden to individual banks to satisfy themselves on the issue of *Shariah* compliance from what they offer [2]. It should be further noted that individual banks have their own styles of employing *Shariah* scholars who form *Shariah* supervisory committees in their respective banks [2].

F. Islamic Banking Case Laws in the UK

The author stipulates that parties who perform international commercial and financial transactions adopt English law to govern their contracts. But again, there are few cases which have been reported in relation to Islamic financial transactions.

For example, the Symphony Gems Case (Islamia Investment Co. Ltd V. Symphony Gems) is the first case to be entertained in a Western court where the crux of the matter was on the *Murabaha* contract performed as per *Shariah* law. However, it was stipulated that the contract itself was to be governed by English law in case of any dispute arising out of that particular contract. In this case, the following legal issues were raised:

The first issue was on the definition of a *Murabaha* contract. This matter was not discussed by the court because clause 25 of the agreement clearly put forward that the same "*shall be construed in accordance with English law*". The second issue was on the legality of the contract where the defence side claimed that the contract was illegal because it was to be performed in Saudi Arabia and that *Shariah* law was to be applied. This defence was crashed by Judge Tomlinson who ruled out that the defence of illegality was not valid at all.

From the given scenario above, issues related to Islamic financial transactions were not given their weight and that only English law was applied in determining the fate of the case. According to the author, the judge ruling in the case, pointed out that "*the courts primary concern was in upholding properly agreed contracts and thus safeguarding commercial interest*" [Islamia Investment Co. Ltd. V. Symphony Gems].

In the case of Beximco, the issue of whether *Shariah* can be applied as the governing law in England or not was raised, discussed and ruled out. Reaching out the decision, the Court of Appeal illustrated two important principles: The Rome Convention on the Law Applicable to Contractual Obligations and the EU Treaty. Part of this decision reads as follows: "*A contract could only be the law of a country so that a contract which sought to incorporate a non-state law or body of principles such as the lex mercatoria or Shariah would not be recognized as the applicable law of a contract*" (Shamil Bank V. Beximco Pharmaceuticals Ltd). The referred instruments above were the only legal tools used in the UK to determine the application of laws at a time where this case was brought before the court of law.

G. The Doctrine Of Incorporation in the UK Explained

In this case, the court also determined the issue of incorporation of specific terms of a foreign law. When this is done, the court may refer on the same in case of any dispute arising out of that contract. This can be done by way of calling an expert to that foreign law in question and to testify accordingly. However, it should be noted that the English court is not bound by any expert opinion adduced before the court. Based on the above findings, the court ruled that *Shariah* could not be used as a governing law in the UK. On the other hand, it has been observed that England, Wales and Northern Ireland recognise the arbitration agreements which involve cross border disputes taking into account that the UK is a signatory to the Convention on the Recognition and Enforcement of Foreign Arbitral Awards popularly known as the New York Convention. Article II (1) of the convention reads as follows:

> "Each contracting state shall recognise an agreement in writing under which the parties undertake to submit to arbitration all or any differences which have arisen or which may arise between them in respect of a defined legal relationship, whether contractual or not, concerning a subject matter capable of settlement by arbitration" [2].

Authors have agreed that due to what the UK is doing in the Islamic Finance market can be seen as a standalone experiment in as far as Islamic banking development is concerned. This goes in line with the strong aim of the UK government to developing the country as an international financial centre for Islamic finance outside the Muslim world [6].

TABLE II
DEVELOPMENT OF ISLAMIC BANKING SYSTEM IN THE UK SINCE 1976

s/n	Year	Event
1.	1976	The Islamic Foundation of UK, Leicester, established the Islamic Economic Unit as a research centre in Islamic economy
2.	1977	Establishment of the International Centre for Research in Islamic Economics (CRIE)
3.	1981	Establishment of the International Association for Islamic Economics (IAIE) in Leicester, UK. This association was meant for the organisation of conferences on Islamic economy inside and outside the UK.
4.	1982	Dar Al-Mal-Al-Islami (DMI) was allowed to open its offices in London and operate its business. DMI was registered in Geneva for the purpose of doing business as per Islamic financial rules and regulation.
5.	1983	Takaful UK Limited was established in the UK and starts providing Islamic investment opportunities as provided by the Takaful S.A in Luxembourg which was part of DMI.
6.	1983	In the same year, the Bank of England (BOE) allowed Al-Baraka Bank to commence its Islamic banking activities in the UK.
7.	1995	The UK witnessed the provision of Islamic banking degrees offered at Loughborough University. These degrees were sponsored by the Islamic Foundation UK.
8.	1997	The United Bank of Kuwait introduced "Home Purchase Finance" in the UK. This product was branded as *Manzil*.
9.	2000	The 4th International Conference of Islamic Economics was organised by a consortium of UK universities. This conference is considered to make the UK the first country in Europe to host such an international event on Islamic economy issues.
10.	2000	In the same year, the Islamic Foundation UK established the Islamic Institute which offered degrees in Islamic economics, banking and finance. The institute initially collaborated with Portsmouth University and later on with Loughborough University and Gloucester University.
11.	2001	Formation of a technical team to investigate all barriers to Islamic banking and finance in the UK.
12.	2003	Removal of double taxation in all Islamic mortgages, an act which made the UK the first European country to adjust its laws in order to suit Islamic banking products and services.
13.	2003	In the same year another team of experts was formed to explore further on the development of the Islamic finance in the UK.
14.	July, 2003	HSBC (the giant international bank) started offering Islamic current accounts to its customers. The bank also launched Home Purchase Finance products.
15.	2009	The UK government budget provided relief from tax on capital gains and capital allowances rules. This was done purposely in a bid to encourage and promote Islamic debt issuance with particular reference to *Sukuk*.
16.	2013	The 9th World Islamic Economic Forum took place. In the meeting, the then UK Prime Minister David Cameron announced the issuance of GBP 200 million worth of Islamic *Sukuk* to boost the market.

II. ISLAMIC BANKING IN MALAYSIA

Research shows that Malaysia is considered to be the leader, champion and pioneer of Islamic banking industry in the world. A lot of research has been made in the country, the fact which is supported by [9], who have reported that Malaysia has a large collection of academic research on that Islamic banking industry which has been conducted over the past 24 years or so. Part of the outcomes of the said research was to come up with suitable *Shariah* compliant banking

products which are beneficial to the larger community. Many of those research carried out suggest that Islamic banking system is a suitable system alternative to the traditional banking system which is in place around the world [9].

Research reveals further that the Islamic banking system in Malaysia has been transformed from time to time. For example, the industry started with simple banking products and developed to include much comprehensive and sophisticated ones. Again, the industry shifted from the monopoly aspect to diversified players where Muslims and non-Muslims both enjoy the ethical ways of banking through the Islamic banking system. Furthermore, the system has shifted from operating as a window to the introduction of fully-fledged Islamic banks. Again, the system has moved from acting as an alternative banking mode to a national agenda where strong and viable projects and plans are made to facilitate the industry for the benefit of the whole nation. Above all, the market has turned to work at the international level with cross border or global players from that of the traditional or local market [10]. In the same vein, one study reported that Malaysia is considered to be the forerunner in Islamic banking in the world and that other nations are always learning from that country in as far as Islamic banking industry is concerned. The author suggests further that the higher level of development in the sector is due to the "undeniable support" from the Malaysian government particularly following the introduction of the Financial Sector Master Plan (FSMP) of 2001 which aimed at making the full utilization of all benefits of the Islamic banking industry and Islamic insurance as well [11].

Supporting the role played by the FSMP 2001, the Financial Stability and Payment System Report of 2016 noted that the Islamic finance industry has grown in strength following the availability of a comprehensive set of strategies outlined in the plan. Furthermore, the report reveals that the growth can be experienced by examining the level of resilience that Islamic banking and Islamic insurance have shown during the world economic downturn in recent years. Giving an example which justifies the said growth, the report declares that the Islamic banking industry has grown by 8.3% in 2016, amounting to an increase of 28% for the whole banking system [12].

Another study shares a similar opinion that Malaysia is one of the shining examples of countries that have established a strong Islamic banking system alongside the conventional one. According to the author, the growth of the Islamic banking industry in Malaysia has been tremendously contributed to by the following key factors: Presence of the "deep and vibrant *Sukuk* market" in the country, accepting major foreign direct investment, open doors for multilateral Islamic financial institutions and banks to operate in the country and offer both local and international Islamic financial products and services, the introduction of Islamic insurance (*Takaful*) as well as allowing foreign *Takaful* operators to open their *Takaful* business in the country, and having qualified staff and strong leadership which has helped a lot in improving Islamic banking industry in Malaysia. This has been made possible by the presence of strong education institutions like the International Centre of Education in Islamic Finance (INCEIF) which teaches Islamic banking and finance-related programs [13].

Other academic centres for talent include the Asian Institute of Finance (AIF), International *Shariah* Research Academy for Islamic Finance (ISRA), the Leadership & Governance Centre (ICLIF) as well as the Islamic Banking and Finance Institute Malaysia (IBFIM) [10].

A. Contribution of Internal and Foreign Factors towards the Growth of the Islamic Banking Industry in Malaysia

For their part, [14] are of the opinion that Islamic banking and finance development in Malaysia has been accelerated by both foreign and internal factors. External factors include but are not limited to the achievement made by the Mit Ghamr Local Savings Bank of Egypt, the remarkable development achieved by the Islamic Bank of Dubai (UAE) as well as the establishment of the Islamic Development Bank (IDB) in Saudi Arabia. These Islamic banks helped to a great extent towards the rapid development of the Islamic banking industry in Malaysia. Internally, the authors are of the opinion that the idea of consolidating religious teachings in the mainstream education system of the country played an important role in creating awareness in religious matters with particular reference to Islamic banking. They added that *Tabung Haji* (the locally established Islamic Fund in Malaysia) also contributed greatly to the development of the Islamic banking industry in Malaysia as the fund had survived for a long time and had helped its members economically, socially and spiritually as well [14]. Similarly, another study argues that the level of development Malaysia has reached in the Islamic banking industry is the result of having clear guidelines, a business-friendly environment, close supervision as well as a proper *Shariah* advisory council. Bank Negara Malaysia suggests that 40% of all banking assets should be booked by the Islamic banking system by the end of 2020 [15]. On the other hand, the Bank Negara Malaysia report suggests that the growth of Islamic banking activities is also contributed to by the fact that there is a high demand in household financing products, while Islamic banks and Islamic financial institutions have been able to utilise that opportunity accordingly. Islamic banks and Islamic financial institutions channelled funds into the health, education, manufacturing and agriculture sectors. The report further unveils that in the first place, the Islamic banking and finance regulatory and supervisory framework focused highly in four areas namely, *Shariah* standards, *Shariah* governance framework, implementation of capital and liquidity standards for Islamic banks, and lastly, guidance on the clarity of the Islamic banking products and services [12].

As of now, the following Islamic banks are in operation in Malaysia: Affin Islamic Bank, Al Rajhi Banking & Investment Corp., Alliance Islamic Bank, AmIslamic Bank, Asian Finance Bank, Bank Islam, Bank Muamalat, CIMB Islamic, HSBC Amanah, Hong Leon Islamic Bank, Kuwait Finance House, MayBank Islamic, OCBC Al Amin, Public Islamic Bank, RHB Islamic Bank and Standard Chartered Saadiq [15].

B. Legal Background of the Growth of Islamic Banking Industry in Malaysia

Giving a short history of Islamic banking industry in Malaysia, one study mentioned Bank Islam Malaysia Berhad (BIMB) which started its operation in 1983 following the enactment of the Islamic Banking Act, 1983 (IBA) which was then followed by other Acts of parliament such as the Government Investment Act, 1983, (GIA) as well as the Takaful Act, 1984 (TA). All these Acts were executed for the purpose of creating a level playing field for the newly introduced Islamic banking system [11]. In another development, other authors [9] support this concern and add that to ensure the healthy growth of Islamic banking, a dramatic change in the legal framework is urgently needed; otherwise, the process will take too long to be realized. They further added that the situation is very different in Malaysia where the government took the advantage of amending the law and enacted suitable laws for the growth of the Islamic banking in the country.

The study also noted that BIMB held a monopoly in the industry for the period of 10 years from 1983 to 1993, during which time another three financial institutions were licensed to operate Islamic banking transactions as a pilot project. These banks were Maybank, Bank Bumitera and United Malayan Banking Corporation. Stressing on the importance of having a proper legal framework, the author noted that an "*Islamic banking system without the law is futile and meaningless*". He added that proper the legal system should be kept in place to regulate, control and supervise all Islamic banking affairs. The author reports that up to 1989, Malaysia had two different Acts of parliament which governed the banking sector in the country. As mentioned above, the Islamic Banking Act, 1983 governed the Islamic banking industry, while the Banking and Financial Institutions Act, 1989 was used to govern conventional banks [11].

Apart from the establishment of the Acts of Parliament specifically on the Islamic banking industry, the following instruments and efforts contributed to a rapid development of the industry in Malaysia. These efforts include a 10-year Master Plan for the development of the global Islamic financial industry, the Islamic Interbank Money Market (IIMM), Global Islamic Derivatives Master Agreement (IDMA) and the Interbank *Murabaha* Master Plan (IMMA). In a bid to strengthen the smooth operation of Islamic banking system in Malaysia, Bank Negara Malaysia established the *Shariah* Advisory Council (SAC) in May 1997 with the duty of ascertaining Islamic law in all matters related to Islamic banks and Islamic insurance (*Takaful*). To make the Council's role much stronger, the same was reinforced in the Central Bank of Malaysia Act (CBMA), 2009 [14].

Stressing on the establishment of the *Shariah* Advisory Council, it is vital to understand that there were three objectives of the establishment of National *Shariah* Advisory Council which were to advise the Central Bank of Malaysia on Islamic Banking and Finance issues, to coordinate Islamic Banking and Islamic Insurance (*Takaful*) issues and analysing and evaluating newly released products and services and to determine if they conform with *Shariah* principles [16].

C. Modalities of Islamic Banking Operation in Malaysia

It is important at this juncture to discuss the Islamic banking modalities practiced in Malaysia. There are four types of Islamic banking modalities in Malaysia which are applied in the provision of Islamic banking and financial transactions. These models include standalone full-fledged Islamic banks, Islamic windows, a subsidiaries and specialized Islamic financial institutions which are described in the following.

1. Standalone Full-Fledged Islamic Banks

This is an Islamic bank which is independent in the sense that it has its own autonomous information technology system, risk management system, human resource management and other necessary systems to run the bank, and which are all taken care of internally. Full-fledged Islamic banks offer a full range of banking products and services which are *Shariah*-based, from opening simple saving bank accounts, to other corporate products. They also offer various retail banking products and services, participating in the Islamic Capital Market, performing advisory services as well as working on asset or wealth management depending on the size of the bank and its capacity.

2. Islamic Windows

An Islamic Window is a specialized set up within a conventional bank which deals with Islamic banking products and services. Although they have their own separate balance sheets, they operate under the common infrastructure of the conventional bank that established the particular window. Islamic Windows offer the same products and services which as that of the standalone full-fledged Islamic banks depending on their ability to handle them.

3. Subsidiaries of Conventional Banks

These are subsidiaries of conventional banks which posses a separate governance structure offering similar or same products and services as that of standalone full-fledged Islamic banks or Islamic Windows, as per the size and ability of the bank. On the other hand, these subsidiaries share infrastructures of the mother conventional bank like that of information technology, branch network, risk management system, human resource issues and other financial matters of the bank.

4. Specialised Islamic Financial Institutions

These include all other organisations operating as financial institutions offering selected and specialised financial programs like Islamic insurance etc. They all follow *Shariah* precepts in running their activities [10].

D. Sukuk Issuance in Malaysia

Up to December 2012, the total global *Sukuk* amounting to USD 240 billion was issued, where 64%, which is equal to USD 154 billion was issued by Malaysia alone [10]. Other countries which issued *Sukuk* in the same year (shown as a percentage of their total bond issue) are the Cayman Island (8.5%), Saudi Arabia (5.9%), Qatar (4.9%), Indonesia (3.4%)

and others issued only 8.1% of *Sukuk,* jointly [17].

TABLE III
PRODUCTS DEVELOPMENT IN MALAYSIA FROM 1983 TO 2017

1983-1990	1991-2000	2001-2005	2006-2008	2009-2017
1. Wadia Account	1. Sarf Forex	1. Bai Dayn, Musharakah,	1. Commodity Murabahah Profit Rate	1. Tawarruq Business Financing
2. Wadia Savings Account	2. Mudharabah	Mudharabah, ICDO	Swap	2. Tawarruq Personal Financing
3. Mudhaarabah Investment	Interbank	2. Wadia Debit Card	2. Commodity Murabahah Forward	3. Murabahah with Novation
Account	Investment	3. Bai Inah Overdraft	Rate Agreement	agreement
4. Mudharabah Financing	3. Bai Inah Credit	4. Bai Inah Commercial	3. Ijarah Rental Swaps-1	4. Istisna' Convertible to Ijarah
5. Ijarah Financing	Card	Credit Card	4. BBA Floating Rate	5. Bai and Ijarah (sale and lease
6. BBA Financing	4. Al Rahn	5. Bai Inah Personal	5. Istisna' Floating Rate	back)
7. Murabahah LC		Financing	6. Muarabahah Capital Protected	6. Musharakah Mutanaqisah
8. Musharakah LC		6. Bai Inah Negotiable	Standard Investment	7. Istisna' with Parallel Istisna'
9. Wakalah LC		Instrument of Deposit (NID)	7. Bai Inah' Floating Rate NID	8. Wakalah Deposit
10. Bai Dayn Trade Financing			8. Mudharabah Savings Multiplier	9. Waqf
11. Murabahah Working			Deposit	10. Tawarruq Revolving Credit I
Capital Finanncing			9. Tawarruq Commodity Undertaking	11. Green Sukuk

III. ISLAMIC BANKING IN SAUDI ARABIA

"Modification of existing legal framework to accommodate the specificities of Islamic finance is crucial for developing Islamic money markets including banking and securities law" [18].

Up to 2013, there were 33 banks operating in the Kingdom of Saudi Arabia (KSA), where 12 were Saudi banks and 11 of them were non-Saudi banks. Out 12 the Saudi banks, only four of them were Islamic banks. The author reports that despite the fact that the Saudi Arabia possesses a very high position in the Islamic world with all the necessary qualifications among its peoples, wealth and other important needs for the establishment of the stronger Islamic banking system, the country has failed to lead the industry and be champion of the same in the entire world. Moreover, the author has added that many scholars and supporters of the Islamic banking system in the country place the blame on the Saudi Arabian Monetary Agency (SAMA) as well as the Ministry of Finance for not officially recognising Islamic banking system. On the other hand, the author has given some examples as to why Saudi Arabia has not emerged as the leading nation of Islamic finance. The examples include the absence of supervisory authorities and monetary foundation to promote Islamic banking, availability of weak and credible Islamic financing instruments, absence of uniform regulations for the Islamic banking system for all nations, poor academic interest in the area of Islamic banking and lack of research support in the area of Islamic banking [19].

A. Development of the Islamic Banking System in Saudi Arabia

It has been reported that Saudi Arabia is the only country which took a reasonably shorter period of time to quickly adapt to the fully-fledged Islamic banking system as the entire community is formed of Muslims. There are two main regulatory bodies in Saudi Arabia which are the Saudi Arabian Monetary Authority (SAMA) and the Capital Markets Authority (CMA). Since its establishment in 1952, SAMA's role has been to supervise all banks in Saudi Arabia, issuing Saudi Arabian currency, reserving foreign exchange and having full control of all monetary issues in the country. On the other hand, the CMA, which was formed in 2003, was tasked to regulate and govern capital market transactions in the country. This authority came into being 50 years after the establishment of SAMA [20].

The authored also mentioned three reasons which led to the rapid adaption to Islamic banking system in Saudi Arabia, which includes the growth of Islamic banking in neighbouring countries, as well as in other parts of the world, and pressure from local investors and the huge demand for the system from Saudi nationals. The first institution to engage in the Islamic banking business in Saudi Arabia is known as Al-Rajhi Investment which was formed in 1978. The main duties of this institution were to provide foreign exchange and money transfer transactions based on Islamic financial teachings. Other banks joined the trail but did not pick up very well. The system started working in full swing in 2000 [20].

B. Indicators Which Helped Saudi Arabia Gaining a Positive Growth in the Islamic Banking Industry

A report outlines the indicators that helped Saudi Arabia towards the positive growth of the Islamic banking industry in the country. These indicators include the presence of suitable legal framework which is encouraging the Islamic banking system to grow, the level of *Shariah* compliance between banks and Islamic financial institutions, government and customers, and the business-friendly political system in the country where regulators encourage the growth of Islamic banking system. Other indicators are the presence of supportive accounting, auditing, taxation and information system as well as the continued introduction of innovative products and services [21]. On the other hand, one study highlights the popular Islamic banking products in Saudi Arabia include *Qard Al Hasanah*, *Imam*, *Murabahah*, *Mudarabah* and *Wakala*, *Ijarah* and *Musharakah.* In their concluding remarks, the authors are of the opinion that the Kingdom of Saudi Arabia survived the World Financial Crisis (WFC) where many countries emerged bankrupt like Cyprus and Ireland, suggesting that Islamic banking system and the life style of the peoples of the Kingdom remained stronger and resilient during the whole period of the financial crisis [22].

C. Supervision and Regulation of the Islamic Banking System in Saudi Arabia

In terms of the regulation, the report reveals further that financial regulators are not overseeing the *Shariah* compliance issues and that it is the duty of the bank or Islamic financial institution to work on *Shariah*-related issues to run the business. However, the following models are in place to govern the operation of the Islamic banking industry in Saudi Arabia.

1. It is a corporate policy which tasks all Islamic banks and Islamic financial institutions to adhere and comply with the *Shariah* guidelines related to financial transactions carried out by the bank or financial transaction.
2. That every bank or financial institution offering Islamic banking products and services is obliged to appoint a *Shariah* auditor, consultant or have a full *Shariah* committee at the bank or financial institution.
3. The bank or financial institution offering Islamic banking products and services should have its own *Shariah* team to govern the day-to-day activities of the bank or financial institution.
4. It was further adopted in 1985 that there shall be a National *Shariah* committee in all United Arab Emirates and a separate financial *Shariah* scholar for every bank. The financial *Shariah* scholar should be academically specialized in *Fiqh Muaamalaat* (Islamic Financial Jurisprudence) and being experienced in financial management. However, good command of the English language should not be a criterion for the appointment of the Islamic financial *Shariah* scholar in the United Arab Emirates [20].

Contrary to what other authors have said, Al-Shamrani is of the opinion that there are neither specific laws on Islamic banking or specific regulations. Again, there is no national *Shariah* Board which has been established to determine the level of *Shariah* compliance in Islamic banks and Islamic financial institutions. As well, no special *Shariah* courts have been established that can deal with disputes emanating from Islamic financial transactions. Furthermore, the author has revealed that there are some provisions in the "law of Supervision of Corporate Insurance" that contradict *Shariah* law. The literature reveals that all *Sukuk* issued in Saudi Arabia are not consistent with *Shariah*, because at present, there are no regulatory policies in Islamic insurance in the country [23].

A joint study focused on the perceptions of non-Muslims towards Islamic banking products and services in Saudi Arabia and found that many non-Muslims in the country have heard about the products and services offered and that many of them joined the system. The authors also discovered that non-Muslims in Saudi Arabia, mostly foreign experts working in the Kingdom, have reported that they enjoy the cheaper transaction costs charged by Islamic banks as well as other social benefits accruing from banking with Islamic banks and financial institutions in the country. Generally, non-Muslims living in Saudi Arabia perceive the Islamic banking system as a complete system which satisfies their modern banking needs. They further noted that due to the maximum use of corporate Islamic banking products in places of work, non-Muslims were found to be attracted by the products on offer. However, the "no interest" rule of the Islamic banking system has not been mentioned as the reason for the positive responses to the system by non-Muslims in Saudi Arabia [24].

TABLE IV
LIST OF BANKS OPERATING IN SAUDI ARABIA

S/N	BANK NAME	S/N	BANK NAME
1	National Commercial Bank	11	Al-Bilad Bank
2	Riyad Bank	12	Al-Inma Bank
3	AlJahr Bank	13	Emirate Bank
4	Aljazira Bank	14	Bank Muscat
5	Saudi Investment Bank	15	National Bank of Kuwait
6	Saudi Hollandi Bank	16	National Bank of Bahrain
7	Banque Saudi Frensi	17	Gulf International Bank
8	Saudi Arabian British Bank	18	Deutche Bank
9	Arab National Bank	19	BNP Paribas
10	Samba Financial group	20	J.P. Morgan Chase N.A

Discussing the level of penetration of Islamic banking system in Gulf Countries Corporation (GCC), the authors have noted that Islamic banking asset reached USD 490 billion in 2013, out of which, a share of 49% is owned by the Kingdom of Saudi Arabia. In 2015 alone, the Saudi Islamic banking sector has grown and constitutes 51% of all local assets in the country. Furthermore, the authors reveal that SAMA is not distinguishing between the operation of Islamic banking and that of conventional banking [18].

The authors of another study are of the opinion that Saudi Arabia is regarded as a pioneer in Islamic banking system, but they further agree that countries like Malaysia and the United Arab Emirates lead the industry. They reveal that money exchange companies were licensed by SAMA, but were unregulated, and that speculative and fraudulent acts were happening in the business arena. To rescue the situation, SAMA introduced two financial institutions in order to provide interest-free loans for the needy. These institutions are the Saudi Arabian Agricultural Bank (1963) and the Saudi Credit Bank (1971) which dealt with provision of agricultural loans and interest-free loans for low income Saudis. Currently, Al-Jahri Bank, Bank Al-Bilad Bank Aljazira are full-fledged Islamic banks in Saudi Arabia. Other banks provide Islamic banking products and services through Islamic Windows or branch banking facility [21]

IV. ISLAMIC BANKING IN NIGERIA

"Due to the nature of Islamic banking, which is asset-linked as compared to the interest-based system which is subject to fluctuations in interest rate levels, an interest-free monetary system is more likely to lead to monetary stability"- Sanusi Lamido Sanusi, former governor of the Central Bank of Nigeria.

A. Islamic Banking in Nigeria: Review of Literature

Akanbi suggests that the concept of Islamic banking is very hard to be understood in non-Islamic states and even in

countries with a large or sizeable population of Muslims, like Nigeria which is one of the countries with a large number of Muslims in Sub-Saharan Africa. Up to 2012, Nigeria was recorded to have more than 80 million Muslims out of 150 million people. Talking on the challenges of Islamic banking in Nigeria, Akanbi has cited a good list of challenges like the high rate of borrower delinquency, the conservative *Shariah* Supervisory Board, difficulty in participating in long-term projects, low consumer lending, absence of an appropriate legal and regulatory framework, lack of awareness and complacency, lack of skilled personnel, absence of the an appropriate dispute resolution regime and lack of a suitable non-interest-based financial instrument for monetary markets [25].

For the sake of his part, the author of this paper will discuss three challenges here, which are the absence of an appropriate legal and regulatory framework, absence of the appropriate dispute resolution regime and lack of a suitable non-interest-based financial instrument.

1. Absence of Appropriate Legal and Regulatory Framework

It has been reported by Akanbi that conventional banking laws in Nigeria do not permit banks to engage in business, while this is the huge asset for Islamic banks to survive. That being the case, the author suggests that new legislations should be enacted in order to allow Islamic banks and Islamic financial institutions to do business by using the deposits from their customers. Going into detail on this point, the author suggests that

> "fundamental changes in the existing laws governing contracts, mortgages, pledges & companies practice and above all, Islamic banking laws should be enacted to make the full realization of Islamic banking system in Nigeria" [25].

2. Absence of the Appropriate Dispute Resolution Regime

Asouzu (2011) and Gardner (1958) as quoted by Akanbi have jointly opined that it is very important that there must be an efficient dispute resolution so that Islamic banking transactions should not be over emphasized. In the same vein, Akpata (1997) and Oyekunle (1991) as quoted by Akanbi reiterate that in most societies courts have been resolving commercial disputes as the core traditional role of the court. But again, these courts apply conventional laws in solving the same. On this, Oyekunle provides solution that the use of alternative dispute resolution (ADR) is inevitable in the field of Islamic banking industry. Quoting other scholars, Akanbi stressed that ADR should not be undervalued as it is the cost effective process and quick way of dispute solving [25].

Stressing on the importance of ADR, which is considered to be the fastest way of solving disputes, there are unprecedented cases which took more than 18 to 32 years to be decided by normal courts of law. These cases are, Rossek & Others (Rossek & Ors. V. ACB Ltd & Ors., 1993), ACB Ltd & Others (1993:382) 382 and Ogbunyinya V. Okudo (1990:551) (Ogbuyinya V. Okudo (No.2) [1990] 4 NWLR (Pt.146) 551, which were not resolved for 18 years and 32 years, respectively, an act which resulted in higher cost of running the business in terms of time and finance, as well in the litigation of these cases before the court of law [26].

3. Lack of Suitable Non-Interest Based Financial Instrument for Monetary Markets

Akanbi reports that without an Islamic money market, it is very difficult for Islamic banks and Islamic financial institutions to invest their surplus incomes and generate enough money for the benefit of the society. Stressing on the importance of the presence of an Islamic money market in Nigeria, the author points out that government treasury bills and other security instruments are interest-based instruments and that Islamic banks and Islamic financial institutions will never invest in them. On this, Akanbi argues that the situation will diminish the growth of the Islamic banking industry in Nigeria because the conventional banking industry has no such a limit [25].

Olokooba has pointed out that for over 21 years in Nigeria that the taxation issue has not been taken care of in relation to Islamic banking industry. It should be remembered that the Nigerian government devised the Bank and Other Financial Institutions Decree (BOFID) which laid down legal environment for the survival of the Islamic banking industry in the country. The decree came into force in 1994. It should be noted that for more than 20 years now, taxation for Islamic banking products and services has not been taken care of and in fact, the same has not been addressed satisfactorily. Given the status of Islamic banking in Nigeria, Olokooba asserts that establishment or the presence of Islamic banking in Nigeria is not an issue of discussion anymore in the country. Nigeria has gone through a very hot debate whether the same should be introduced or not. Giving an example of the key scholars and practitioners who debated on this are such as Abikan, Mallam Sanusi Lamido Sanusi (Former Governor of the Central Bank of Nigeria, CBN), Tabiun Abdelazeez and Prof. Yadudu who debated in favour of the Islamic banking system in Nigeria. On the other hand, Amos, Lews and Eghes debated on the pessimistic views of Christians on the establishment of the Islamic banking system in Nigeria while Prof. Agbede, Prof. Nwabueze, Prof. Ejobowah and Keyodo Eso debated on the unconstitutionality of the concept of Islamic banking in Nigeria noting that the establishment of the same would jeopardize Section 10 of the Constitution of the Federal Republic of Nigeria which as a secular state and that having Islamic banking system in the country would mean that the country is moving towards making it Islamic [27].

By now, the same is not an issue any more and the Central Bank of Nigeria is continuing to create a fertile environment for Islamic banking to grow, ending the long debate on the presence of this faith-based financial system in Nigeria. In the same vein, the Decree on Bank and Other Financial Institutions (BOFID) came into being for the same purpose, which is explained here under.

B. The Decree on Bank and Other Financial Institutions (BOFID)

The Bank and Other Financial Institution Decree as amended from time to time established the interest-free banking in Nigeria (Section 9, Section 23 and Section 52). As a result of the enactment of this Act, two existing conventional banks were provided with the provisional licenses to carry on Islamic banking products and services in Nigeria in 1992, while in 1999, Habib Nigeria Bank Limited commenced its Islamic windows operation.

In 2005, CBN issued guidelines and directives on how the Islamic banking system can operate in Nigeria, which was followed by other guidelines in 2011, and which among other things, put in place new regulations on the supervision of Islamic financial institutions in the country.

To date, the author argues that neither the Central Bank of Nigeria nor the Companies Income Tax Act Cap. (C) 21 of the Laws of the Federation of Nigeria, 2004 (as amended in 2007), and the Companies and Allied Matters Act, Cap. (C) 20, give explanation on how Islamic banking products and finance can be taxed. But the author acknowledges the ongoing efforts done by the Nigerian tax authorities as well as Islamic scholars in fashioning the laws, in as far as the taxability of Islamic banking products and services are concerned.

Having reported all issues related to Islamic banking taxation in Nigeria, Olokooba recommends that Nigerian tax authorities should work on the following points in order to rescue the situation. These are the enactment of the Model Islamic Financial Law, having a complete review of the Companies Income Tax Act and Bank and Other Financial Institutions Act so that they accommodate Islamic banking system. Other issues to be dealt with are such as the formation of the special body of Islamic law and tax law experts who should come up with a practical model of taxing Islamic banking products and services, and adoption of the Malaysia and/or the UK models of Islamic banking system with the necessary modifications in as far as the taxation issue is concerned as a short term solution for Islamic banking system in Nigeria [27].

In his study, Sirajo discussed about the need for an Islamic banking sustainable framework in Nigeria. He said, it is very important to have this framework in place bearing in mind that the financial industry in Nigeria has witnessed several reforms including, the 1970's Indigenization Policy, Structural Adjustment Program (SAP) of 1986-1993, the 2006 Consolidation Process as well as the recently introduced Asset Management Corporation of Nigeria (AMCON). Again, Sirajo quoted Adeyemi (Central Bank of Nigeria CBN, Emetiele, Kama & Nwoha), who has noted that all these changes were due to the act of banks distress in the country, which was also caused by capital inadequacy, lack of transparency, non-performing loans, and issues related to the conflict of interest, just to mention a few. The author is in support of the views aired by the former Governor of the Central Bank of Nigeria that "*there is a lot of misconception about Islamic banking in Nigeria... which make it imperative to create mass awareness and acceptance... the fact that religion has become a volatile issue over the years* [in Nigeria]" [28].

In Nigeria, the CBN has been empowered by the Bank and Other Financial Institutions Act (BOFIA) 1991 to supervise and examine all banking business in the country. But again, the same Act has empowered the Apex Bank to provide rules and operational regulations and control of all financial institutions including conventional banks as well as non-interest banks. That is why in 2010, the CBN issued the following guidelines with respect of the governance of the Islamic banking system in the country. The guidelines are include *Shariah* governance for no-interest financial institutions, guidelines for the regulation and supervision of institutions offering non-interest financial services, and the framework for the regulations and supervisions on non-interest financial institutions.

On the other hand, the author reports that Apex Bank asks all financial institutions offering Islamic financial services to comply with CBN prudential guidelines, to comply with the risk management guidelines issued by the Basel Committee on Banking Supervision and to comply with the risk management principles issued by the Islamic Financial Services Board (IFSB). Other pieces of legislation and legal documents related to the Islamic banking industry in Nigeria are presented in Table V.

TABLE V
LEGISLATIONS AND OTHER LEGAL INSTRUMENTS IN NIGERIA WHICH ARE IN CONNECTION WITH ISLAMIC BANKING SYSTEM

S/N	Legislations and other Legal Documents	Year
1	Companies and Allied Matters Act (AMA) as amended from time to time.	1990
2	The Central Bank of Nigeria Act	2007
3	Guideline on Shariah governance for non-interest financial institutions in Nigeria	2010
4	Guidelines on no-interest window and branches operations of conventional banks and other financial institutions	2010
5	Draft Framework for non-interest deposit insurance scheme (2011)	
6	Supervisory intervention framework for the banking industries in Nigeria	2011
7	Framework for the regulation and supervision of institution and supervision of institutions offering non-interest financial services in Nigeria	2011

Balogun also discussed about the new guideline introducing non-interest banks in Nigeria.

> "When people get sick of mortgages and soaring interest rates, the alternative they have is Islamic banking. Since a country cannot do without taking loan. What former President Olusegun Obasanjo and Ngozi Okonjo-Iweala did after paying our debt was to go to Islamic Development Bank (IDB) to get a loan because they have learnt a lesson on the kind of effects interests have on loan taking" [28].

Talking on the problems facing the Islamic banking industry in Nigeria, Balogun stressed that there are number of challenges facing the industry like religious hatred in general, ignorance about the industry for Muslims and non-Muslims, as well as the wrong perceptions non-Muslims have with regards to the introduction of an Islamic banking system in the country. Again, non-Muslims fear that the Islamic banking system will affect the growth of other religions in the country. Furthermore, it is wrongly perceived that an Islamic banking system is for Muslims only and that others will be left behind. On another hand, another challenge is that there were a lot of religious conflicts in Nigeria during the period when the Islamic banking system was introduced into the country. But again, the author is optimistic that this is a perfect time for the introduction of an Islamic banking system in Nigeria [29].

The essence of Islamic banking system is to work on justice, fairness and very well-balanced society. They have also discovered that Nigeria is still in the initial stage of developing an Islamic banking system and that a lot more needs to be done for the industry to move speedily, saying that the country "*should prepare a comprehensive, effective and efficient framework for the industry*" [29]. In their study, the authors have recommended the following ways in order to arrest the situation:

1. Shariah board members of the Central Bank of Nigeria should be well equipped for them to be able to handle Shariah issues related to Islamic banking and finance.
2. CBN should restrict operators to employ at least one Shariah scholar from outside Nigeria in order to advice the institution on matters related to Islamic banking.
3. The current regulatory and supervisory framework is at the infant stage and that efforts should be done to improve the framework.
4. Central Bank of Nigeria should make sure that the ethics, morals and values of Islam are highly protected as per the teachings of the Quran and that of the Prophet Muhammad (PBUH).
5. Quick/Fast management of an Islamic liquidity instrument should be handled by the CBN and/or the Ministry of Finance for the avoidance of loss on the side of Islamic banks and Islamic financial institutions.
6. Authors have found that there are no Islamic instruments which cover deposit insurance and advised that the same be introduced in order to make the industry much safer.
7. The country should have a proper master plan for the Islamic development of the industry. Short of that, the CBN will not have a proper implementation plan for the growth of the industry.
8. Having a special Islamic Banking and Finance Board Forum. Authors are of the views that the CBN should form a special board in order to oversee the industry and be aware of new developments in the field.
9. Research Development Centre. There should be research development centres to investigate the development of the industry. These centres will help the industry by coming up with new proposals on the introduction of new products and services. These centres should partner with other research institutes for product development, quality assurance and ethical issues [29].

Authors have listed a number of the challenges facing the industry in Nigeria. These are the absence of Islamic Insurance (*Takaful*), lack of Shariah compliant liquidity management instruments, lack of knowledge of accounting and auditing standards pertinent to Islamic financial institutions, and lack of a robust and comprehensive legal framework; especially at the level of adjudication of contracts, products and entities. Other challenges are such as that Islamic banks and financial institutions cannot access loans from the CBN because these are accompanied with interest which is strictly prohibited in Islam, dearth of Shariah scholars knowledgeable in conventional economics, law, accounting, banking and finance which places severe constraints on the regulatory Shariah compliance mechanism as well as double taxation derived from stamp duties and capital gains tax deductible upon asset transfer [29].

Overcoming the above cited challenges, authors have proposed the following steps to be considered in order to rescue the situation. These steps are to develop a comprehensive Islamic financial system to allow more players to join the industry and offer Islamic banking products and services, and to identify relevant financial segments to support Islamic banking like Islamic insurance, developing an Islamic money market and Islamic capital market. Other ways are to establish a Shariah Advisory Council (SAC) as well as Shariah Advisory Boards/Committees in all Islamic banks and financial institutions in Nigeria. Legal reform should be done so that all financial laws can be reviewed and emended as necessary in order to suit the Islamic banking system without affecting the conventional banking system which is in place [29]

V. Islamic Banking System in Iran

The paper reveals that the government of Iran converted the conventional banking system of the country to an Islamic banking system in 1979. It also enacted the usury-free banking law in 1983. In executing its plan, the government also nationalized 28 banks after the 1979 revolution. Immediately after the revolution, the government ordered the commencement of the interest-free banks in 1984. All banks were strictly required to follow the Usury-Free Banking Law, 1983 which was passed by the Parliament of Iran known as the Islamic Iranian *Majlis* [30].

VI. Islamic Banking in Kenya

For the period of more than a decade, since the introduction of Islamic banking and finance in Kenya in 2005, it has remained in its infancy. Currently, three full-fledged Islamic banks and 11 Islamic windows are in operation in Kenya. Furthermore, two investment funds, one investment company, one Takaful company as well as one Takaful reinsurance company have been licensed to carry on Islamic-related financial transactions in the country. The newly licensed bank is the Dubai Islamic Bank (DIB- Bank Kenya Limited) which

is a subsidiary of Dubai Islamic Bank. The new bank was licensed by the Central Bank of Kenya (CBK) on April, 2017 to offer fully *Shariah* compliant products and services.

Islamic banking and finance in Kenya is recognized by the laws of the country. The Banking Act, as amended in 2008, acknowledges and allows the operations of the Islamic banking system in Kenya. Again, the CBK also recognizes the Islamic banking system and has authorized Islamic banks to conduct trade and engage in investment, contrary to *Shariah* law that prohibits banks and financial institutions to engage in trade and investment. But due to the nature of the Islamic banking business, the CBK approves that they can trade and invest in order to satisfy the requirements of some of Islamic banking products. Furthermore, the Capital Markets of Authority of Kenya also has been empowered to supervise and regulate Islamic banking trade and investment activities.

Again, all banks in Kenya (Conventional and Islamic banks) are licensed equally as they all follow the laid down procedures when applying for a license to operate as a bank. Islamic banks are subjected to follow the same prudential framework as needed for conventional banks. In another development, Kenya has not adopted the AAOIFI standards, and as well Islamic banks in the country are not bound to follow these said standards; however, all banks including Islamic banks are bound to comply with the IFRS guidelines.

On the aspect of failing banks, the regulators in Kenya have been empowered to take over failing banks or financial institutions in order to protect the money their customers. But unfortunately, no specific framework has been put in place for the purpose of accommodating any falling Islamic bank. The framework is crucial because Islamic banks have their own ways of handling banking transactions which is different from that of conventional banks. It is therefore, prudent to introduce a proper framework that shall describe in detail how a failing Islamic bank can be handled by the regulators as the law suggests [31].

VII. Islamic Banking in Uganda

History reveals that the Bank of Uganda (BoU) received the first application from a financial institution requesting to be given a license to offer Islamic banking products and services in 2008. By that time, the idea of establishing an Islamic bank on the part of the bank in question was not a priority and that its establishment was not considered. In the same year, several applications were sent to BoU asking for licenses to offer Islamic banking products and services. This fact awakened the BoU, which decided to take immediate action by calling an in-house training session so that its personnel can be well versed with the various aspects of the Islamic banking industry. The training involved banking regulators, insurance commission (as it were), the Capital Market Authority of Uganda as well as the Uganda Revenue Authority (URA). The training aimed at imparting knowledge of Islamic banking to participants so that they can serve better when Islamic banking is introduced in Uganda in the near future.

The next step taken by the BoU was to propose major amendments in the Financial Institutions Act of 2004 which had two major impediments for Islamic banks to move efficiently. These impediments were prohibiting financial institutions from engaging in trade whether directly or indirectly. Another impediment was prohibiting financial institutions from owning immovable properties which were not forming part of the daily activities of the bank or financial institution. Since Islamic banks and Islamic financial institutions engage in trade and own immovable properties before sale to their customers, the BoU then proposed two amendments in the Financial Institutions Act which were passed by the Parliament of Uganda in 2016. The Financial Institutions Act of 2016 established separate *Shariah* Advisory Boards which are tasked to take care of all daily activities of the bank or Islamic financial institution, particularly in the area of *Shariah* compliance. A report reveals further that the BoU is currently working on regulations and a supervisory framework for the Islamic banking system in Uganda [32].

The Act also allows financial institutions to engage in bank insurance which was not possible before the 2016 amendments were made. Similar amendment was also made in the Insurance (Amendment) Act, 2011 [33]

VIII. Conclusion

It is very clear that Islamic banking and finance industry is legally struggling and is making efforts to remedy this situation within the conventional banking system. This has been clearly observed when discussing its development in various countries such as the United Kingdom, Malaysia, Saudi Arabia, Iran, Kenya, Uganda and Nigeria. Every country has undertaken considerable efforts in harmonizing the two systems to work together. The methodology of adopting an Islamic banking system as an alternative banking system is different from one country to another depending on the nature of the country, size and population, religious atmosphere and economic status of the same.

It should be noted that in some cases, the growth of the Islamic banking system is due to commercial motivation, where business gurus are pushing its existence due to commercial gain. In this case, the concentration is on making money only; however, in some cases, the growth of the Islamic banking industry is accelerated for religious reasons where Muslims engage in this system as part of religious obligations. Again, the financial inclusion aspect has accelerated the move because the banking sector aimed at increasing the number of clients by targeting those unbanked individuals who are barred to use conventional modes of banking for religious reasons.

To conclude, legal reforms in the way of legislative amendments, enactments of new laws, and changes in banking and finance regulations for the purpose of creating the best playing field for Islamic banking system has been considered positively in the countries under study. Although it has taken more than two decades for the Islamic banking system to be considered as an alternative banking mode in many countries, it can be reasonably concluded that responsible government units in these countries have justly played their role in harmonizing the situation. While Malaysia seems to be a role

model in this field, other countries are making efforts to customise various Islamic banking products and services in order to suit their jurisdictions.

As noted above, African countries also follow suit by introducing Islamic banking products and services. Similar legal problems faced by nations in Europe and other parts of the world are also experienced by African countries too. This is mainly in the eastern part of Africa where the slow pace is also contributed to by the political will of making Islamic banks operate as a complete system. Despite the slow accommodation of Islamic banking products and services in some African countries, many do still hope that the same will be in good shape in the near future.

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