

Thematic Review of Sukuk Ijarah Issued in Nigeria: An Opportunity for Economic Development

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Abstract,

Ijarah Sukuk is becoming one of the most improved products in Islamic finance. It has become an alternative source of financing and liquidity for both private and public sectors. Also, it plays important role in development of the economy of Muslim and non-Muslim countries. The objective of this paper is to clarify the concept of *Sukuk Ijarah* and discuss its opportunity for economic development of the country. Also, the issues and challenges related to the implementation of Islamic finance particularly *Sukuk* by the Federal government of Nigeria (FGN) and also as an alternative to conventional bond. The paper adopts content analysis of relevant previous studies. Findings reveal the potential of *Sukuk ijarah* as an alternative for rapid economic growth and its functional role in attracting government and client to invest in it. Furthermore, the authors observe that misunderstanding among religious leaders is a major challenge to the growth of Islamic banks and implementation of *Sukuk* in Nigeria. It is recommended that workshops, seminars and conferences are to be organized by Islamic centres, financial institutions and academicians in Universities to spread knowledge and create awareness among Nigerians Muslims and non-Muslims about benefit and advantage of Islamic finance products and *Sukuk* in particular.

Keywords: Sukuk, Ijarah, Islamic finance, Liquidity

INTRODUCTION

Sukuk market has grown rapidly over the last few years in terms of numbers, size and sophistication. It is fast replacing conventional bonds and its being utilized in financing projects. It provides corporation and government with access to liquidity pool in addition to the traditional investor base (Ayu, Sary, & Nanggolan, 2020; Godlewski, Turk-ariss, & Weill, 2010). *Sukuk* market carries numerous benefits to the investors and issuers. Issuers can benefit from the massive increase in liquidity in the Islamic globe. An expanded number of multinational special purpose vehicle (SPV) are issuing *sukuk* to finance projects development. Moreover, government and corporate sectors have considered *sukuk* as an attractive source of financing (Ab Majid, Shahimi, & Syah, 2011). Accordingly, Nafiu, Echchabi, and Alfarisi (2012) there are two factors that have added to the development of the shariah products. Namely, the improving trend of religiosity of Islam and the breakdown of the present capitalist financial system to benefit the society at large.

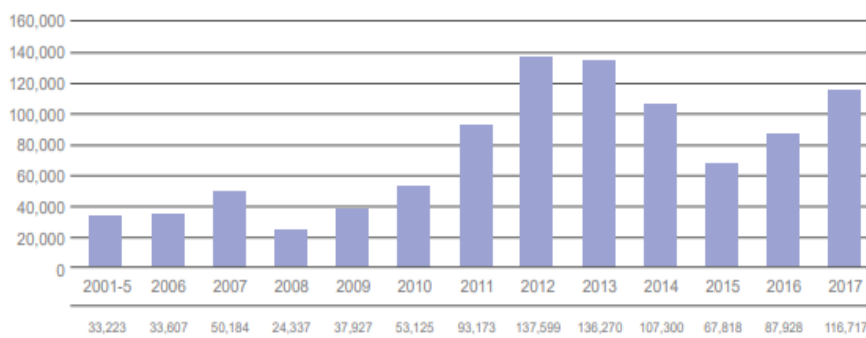
Furthermore, (Mohd Zin et al., 2011) emphasize that *sukuk* now has turned into the strongest sector in Islamic finance, that engaged in the international market and generate an important cross-border flow of funds as might be achieved beyond domestic markets. The investment in *sukuk* requires a fixed investment return with

less risk and Shariah compliance. *Sukuk* can also be issued for new industrial projects. If *sukuk* is issued for businesses, it must certify that the holders have complete ownership in real assets (Ahmed, 2014).

Sherif and Hussain, (2017) also underline that the most considerable development of asset in Islamic finance is *sukuk*. It has a structure comparable to conventional bonds but allow firm issuers to expand investments that abide by *shariah* principle. Similarly, Godlewski, Turk-Ariss, and Weill (2013) state that *sukuk* are investment certificates needed to finance new projects where profit and loss are shared between the holder and the issuer of *sukuk*, rather than conventional charging of interest rate. *Sukuk* as an Islamic form of bonds depend on profit and loss sharing. It is demonstrated that *sukuk* issuers have better performance than their conventional bond counterpart (Klein, Weill, & Godlewski, 2018).

Many developed countries such as Japan, United Kingdom (UK), Singapore, Luxembourg and emerging economies such as Gulf Cooperation Council (GCC) and Malaysia have issued *sukuk* for their infrastructural development (Godlewski et al., 2013; Gelbard, Hussain, Maino, Mu, & Yehoue, 2014; Hussain, Shahmoradi, & Turk, 2015). Global *sukuk* issuance amounted to \$116.7 billion in 2017. The Figure below shows that global *sukuk* has increased from \$87.9 billion in 2016 to \$116.7 in 2017 and increase jump to around 32% volume (Labuan IBFC Inc., 2018).

Figure 1. Total Global Bonds Sukuk Insurance 2001-2017



Source: (Labuan IBFC Inc., 2018).

Another reason behind the increasing popularity of *sukuk* is that it is deeply rooted in Islamic capital market. The most potential in *sukuk* issuance can achieve positive pricing in *sukuk* market when compared to conventional bond counterpart market (Zolfaghari, 2017). *Sukuk* are a kind of security which represent the claim of a bundle of assets or an asset (Adam & Thomas, 2005). Occasionally people perceive that *sukuk* is like bonds. However, there are few differences between *sukuk* and bond, such as: nature of claims, security, purpose, principal and return, trading of security and duty of *sukuk* holders (Adam & Thomas, 2005). The other distinctive nature of *sukuk* is the endorsement of shariah scholar to guarantee all aspect of *sukuk* issuance must fulfil the shariah standards. Also, Saeed, (1995) claim that the interest is a typical feature element in conventional bond and if the borrower fails to repay according to the schedule, the interest is increased and added to the principal amount. However, in Islamic finance no interest is charged even if the borrower is unable to repay by the

time frame, neither can the amount financed by the lender be increased in event of default in payment or late payment. So also, the penalty cannot be enforced expect the borrower intentionally refuses to pay (Hussain et al., 2015a).

In spite of the success of sukuk and the opportunities it provides for governments and private sector, its application is not fully understood. There is little or no awareness on the economic benefits and infrastructural development sukuk provides in other countries. In Nigeria, its implementation is also being misconstrued as an attempt to Islamise the country (Ogunbado, Islam, Sharif, & Ahmed, 2017; Sulaiman, 2020). COVID 19 is also changing the economic dynamics of the world and the epidemic may open more opportunities for Islamic finance products particularly sukuk markets by accelerating trends such as sustainability, social investment response which sukuk can handle (Parker 2020; Selim, Hassan & Rahman, 2019). Against the backdrop of this virus, the sukuk will continue to play a critical role in economic growth and development of infrastructure in the coming year by accelerating access to financial services and transforming Islamic finance (AbdulKareem, AbdulGaniyy, Mahmud & Yazid, 2020). Many studies emphasised that numerous Shariah-compliant instruments would be among of integrated pandemic response plans such as sukuk and zakat to enable nations to recover from economic problem during the COVID 19 epidemic (Brown, 2020; Osmanovica, Kb, & Stojanovic, 2020; Rehman, 2020).

Therefore, the objective of this paper is to clarify the concept of ijarah sukuk in Nigeria and discuss its opportunity for economic development for the country. It also identifies issues and challenges facing Islamic finance in Nigeria especially sukuk as an alternative for road's rehabilitation and construction across six geopolitical zones in the country. The remaining part of this paper is structured as follows: section two explains the application of ijarah sukuk and the importance of *Sukuk* as an alternative to a conventional bond. Section three is on methodology. Section four discusses the FGN sukuk structure and explains the issues and challenges in the implementation of Islamic finance particularly sukuk in Nigeria. Section five highlights recommendations and concludes the discussion.

LITERATURE REVIEW

Sukuk are derived from the Arabic word of *sakk* for the singular and plural is *sukuk*. The term is utilized to represent legitimate instrument, deed and check. In practice, *sukuk* is utilized as papers indicating financial commitments from trade and business activities. In any case, *sukuk* as connected in the capital markets relates to the process of securitization and is commonly characterized as an Islamic bond (Kamil, 2008). The concept of *Sukuk* has been viewed differently by scholars and Islamic authorities. *Sukuk* are securities that comply with *shariah* principle and its investment principles, which prohibits charging or paying of interest (Liquidity Management Centre website., 2008). The Accounting and Auditing Organization for Islamic Financial Institution (AAOIFI) states that *Sukuk* must be tradable and be possessed by *sukuk* holders, with all obligations and right of ownership. The ownership include

intangible asset, whether service or usufruct, the ability to be owned and sold legitimately in accordance with guidelines of *shariah*.

AAOIFI (2018) defines *sukuk* as “*certificates of equal value representing undivided shares in ownership of tangible assets, usufruct and services or of the assets of a particular project or specific investment activity; however, this is true after receipt of the value of the sukuk, the closing of subscription and the employment of funds received for the purpose for which the sukuk were issued*” (AAOIFI, 2018 p. 468). Under the AAOIFI investment, *sukuk* definition are said to represent undivided shares in ownership of tangible assets, services, usufruct, assets of specific projects or unique investment activity. Notice that AAOIFI definition does not include debt receivables or financial assets as possible asset classes that can be represented by the *sukuk*. Also, Islamic Financial Service Board (IFSB) (2018), defined *sukuk* as “*Certificates that represent a proportional undivided ownership right in tangible assets, or a pool of tangible assets and other types of assets. These assets could be in a specific project or specific investment activity that is Shariah-compliant*” (IFSB, 2018, p. 1).

In addition, the Securities Commission Malaysia (SCM) defines “*sukuk as a financial document or certificate which represents the value of an asset evidencing an undivided pro rata ownership of an underlying asset*” (Ahmad & Abd Rahim, 2013, p.87). Islamic securities are securities issued pursuant to any Shariah principles and concepts approved by the SC’s Shariah Advisory Council (SAC) (Mohamad & Mohd Saad, 2012). *Sukuk* are often referred to as Islamic bonds. However, the right interpretation of the Arabic word *Sukuk* is Islamic investment certificates. In fact, various *sukuk* introduced in the market have been categorized as Islamic bonds rather than *sukuk* (Ahmad & Abd Rahim, 2013). Cizakza (2010) argued that *sukuk* are certificates of equal value put to utilize as common right and share in tangible assets, services and usufructs or as investment activity or equity in a venture.

Application of Ijarah Sukuk

An *Ijarah* is a contract under Islamic principles and it is allowed by Islamic jurists. It is an agreement between two parties: the first is the lessor or financial institution and the second is the lessee. In Arabic terms, *mujir* is called lessor, the *mustajir* is called lessee and the *ijarah* is called rent. The *ijarah* is like an operating renting contract. The *ijarah* is among Islamic financing contracts which Islamic banks apply. In *ijarah*, the Islamic bank purchases an asset and rents it to the customer at an agreed price plus profit for a specific period at a fixed rental charge (Rahman, Hilmy, & Saifurrahman, 2018). The term *ijarah* is used for leasing of property in accordance with an agreement under which an indicated permissible benefit in the form of usufruct is obtained for a predefined period in return for a predefined permissible consideration (AAOIFI, 2015). In *ijarah*, ownership of the rented asset remains in the hands of the lessor. The contract of *ijarah* is gaining popularity in the industry because the structure is productive and compliant with Shariah principle (Ahmad & Abd Rahim, 2013). Uddin, Sultan, Hosen, & Ullah, (2015) states that *ijarah sukuk* is the most recent product in the market that is quickly making progress in the capital

market. Ijarah sukuk has emerged as a different classical asset among the Islamic finance products. It has gained acceptance among shariah scholars with high demand by huge investors and Islamic financial institutions (IFIs). On the supply side, not only sovereign but also corporate entities are likewise finding it valuable to generate funds for their project specific needs, working capital management, especially capital requirements and restructuring financing (Uddin et al., 2015).

The sukuk Ijarah is structure with the concept of rental with the right of lease to purchase the underlying asset rented on the final date of rental. The sukuk issued with agreement among sukuk holders and sukuk issuer to purchase the rental asset at maturity date. Though, the application of this sukuk involve sale and purchase at the inception stage (Hussin, Muhammad, & Awang, 2012). As indicated by Shariff and Rahman, (2003) *ijarah* is a rent of a service or object including the transfer of usufruct for a lease consideration. This standard requires *shariah* compliant leasable and tangible asset, such as mechanism and property. In project financing, *Sukuk ijarah* is among the most commonly used principles because of its mechanism that is deployable for project financing structure. In Islamic jurisprudence the terms of *ijarah* is used for two main conditions.

The first *ijarah* type has to do with services given by people. *Ijarah* means to engage the service of a person, a compensation is paid to him/her for his/her employment and for agreed consideration between the lessee and lessor. There are examples of this in the Holy Quran, Allah has mentioned the word *ijarah* when Allah tells the story of prophet Shuaib and Prophet Moses in Sural Al- Qasas: "O my father, hire him. Indeed, the best one you can hire is strong and trustworthy" (Sural Al-Qasas verse 26-27). The prophet Muhammed (may Allah be upon him) also states that: pay the lessee or worker (*Mustajir*) his wages before his/her sweat is dried (Sahih Al-Bukhari, 2270). Furthermore, the Prophet Mohammed said that there are three people I will be an enemy of them in the Day of Judgement. One of these three is: "The man who employs a worker and do his work for him but does not pay him his wages" (Sahih Al-Bukhari, 2270). The second kind of *ijarah* has to do with asset. Here, *ijarah* is selling the benefit to exchange the usufruct of a specific property to someone in exchange for a wage or fixed price from the lessee. In this type of *ijarah*, the standard of the contract is similar to the principles of sales because two contracts include the transfer of properties to another (Ayub, 2007).

Sukuk ijarah constitutes the financial plan for durable asset that is related to an *ijarah* contract. They constitute the structure of rented assets and do not set up a relationship among *sukuk* holders and any organization. They are easily tradable at par, premium, or markdown in both secondary and primary market as determined by market. *Sukuk ijarah* involve three parties, namely the originator, *sukuk* holder and SPV. It is important for the terms of the agreement to be clearly defined in an *ijarah* contract (Jobst, 2009; Vishwanath, & Azmi, 2009). The following six stages are the structure of *sukuk ijarah*.

1. The owners of the asset will be identified the projects or asset to be underlying asset.
2. The owners of the asset will sell the underlying asset to the SPV to raise fund.

3. SPV issued sukuk and collect fund from investors and given sukuk certificate to the investors.
4. SPV will enter into rental agreement with the issuer.
5. The rental amounts gotten by SPV from the issuer which will distributed to the investors.
6. At time of maturity the SPV will sell the underlying asset of Ijarah to issuer with agreed price to redemption sukuk certificate (Rafay, Sadiq, & Ajmal, 2017; Sulaiman. A.K, 2012)

Furthermore, Mohd Zin et al., (2011) posits that, *sukuk ijarah* is divided into a lease agreement, purchase undertaking, services agreement and purchase agreement. It is considering letting property rights to other to benefit according to the agreed price. *Sukuk ijarah* is issued on a leaseback and sale arrangement of real estate and has been a well-knowing structure for sovereign issuer. The SPV applies to buy land from the originator and rents it back to the originator. The originator agrees to repurchase the asset at maturity or upon schedule settlement of the original purchase price. The SPV is required by *shariah* principle to undertake the major maintenance of the property but will frequently appoint the obligor to carry out such activity for its benefit (Yahya, Hussin, & Muhammad, 2012).

As indicated by Saeed and Salah (2012), the structure of *sukuk ijarah* depends on the contract of *ijarah*. An *ijarah* contract permits the transfer of the usufruct of an underlying asset to the lessee in return for the rental payment, which is like the traditional lease contract. In this way, the *sukuk* depend on the basic underlying asset that the SPV has obtained rather than securities debt which is the case in traditional bonds. Hence, the structure of *sukuk ijarah* uses the leasing contract as the base for the return paid to *sukuk* holder, who are the owner of the underlying asset and all benefit from the rentals as well as sharing risk.

Al-Bashir (2012) identify three differences between conventional and Islamic lease concept. First, Islamic lease must be free from any kind of interest or any arrangement that may contain any component of interest payment. Second, the nature of the rented asset should be in line with the Islamic point of view and that asset should be allowed and might be utilized for acceptable functions. Third, *ijarah* draws clear differences between the responsibilities and role of the lessor (owner of the property) and the lessee (hirer) where every major maintenance and capital cost are the responsibility of the lessor as the property owner, while daily maintenance cost would be the duty of the renter as beneficial of the usufruct (Rafay et al., 2017).

Difference Between Asset Backed and Asset Based In Sukuk Structure

According to SCM, (2009) *sukuk* are categorized into asset backed and asset based *sukuk* structure. Hidayat (2013) noted that in asset backed *sukuk*, there is a real sale and absolute transfer of asset to the third part which is SPV. The SPV acts as a trustee on behalf of *sukuk* holder and manage the asset profit that is remitted from investment and transfer it to the *sukuk* holder. The SPV collects money as the issuer of the *sukuk* and manage the assets, whereas, the ownership of the asset will belong to

the *sukuk* holder. Since underlying asset has been separated from the book of originator, there would not be recourse to the obligor. It should be noted that, for asset backed *sukuk* to be acceptable from *shariah* perspective, it must be free from any dispute or legal issues, must not have obstacle that void the real transfer of the asset from the obligor to the SPV who act as a trustee on behalf of *sukuk* holder and must generate cash flow from the underlying asset (Hidayat, 2013). In contrast, *Sukuk* holder does not have the right of ownership of the asset under the asset based *sukuk*. If there is a deficit in the payment, the *sukuk* holders have recourse to the obligor not underlying asset. Because they are beneficial ownership not legal owner of the asset. Beneficial ownership has rights of the property that belong to a person despite the legitimate title of the assets belongs to someone else. *Sukuk* holders owned the asset under the asset backed *sukuk* and do not have recourse to the obligor if there is a deficit in payment (Tahmoures, 2013).

Therefore, there are many *sukuk* involving sale of the underlying assets from the originator to SPV but in many *sukuk* the originator just transfer beneficial ownership of the asset to the SPV not legal title (Thani, 2012). According to Elias, Haron & Mohammed (2013) a major criticism from *shariah* scholars on *sukuk* are the issue of beneficial ownership in relation to asset based *sukuk*. Since *sukuk* represents *sukuk* holder ownership over certain asset, some practitioners and scholars of Islam discussed whether ownership of *sukuk* holder concurred with requirement of *shariah*. In many countries including Malaysia, *sukuk* issued is asset based structure and not asset backed because of the limitation on foreign ownership of certain assets. Hence, in such situation, the *sukuk* holders is only guaranteed security interest in the *sukuk* asset and *sukuk* holder are recognised as creditors and not owners of the asset. Also, if there is foreclosure or asset disposal, surplus must be returned to the obligor. (Aziz, Shahid, & Ibrahim, 2013; Bahari, Ahmad, Shahar, & Othman, 2016).

Usually, the ownership for rented asset remains in the hands of the lessor. According to the structure, the *sukuk* holders possess equal shares on the underlying asset or its usufruct. Essentially, the *sukuk* holders possess the right to the asset and collect the rental payment (Yaakub, Shah, Mujani, Jusoff, & Hamid, 2011). Once more, these rights rely upon the structure of *ijarah* whether asset based *ijarah* *sukuk* or asset backed *ijarah* *sukuk*. Asset backed *ijarah* *sukuk* permits the holders of *sukuk* to liquidate the underlying asset in any case of default to recover most of their investments while asset based *ijarah* *sukuk* only represent beneficial ownership on the underlying asset and it limits *sukuk* holders right in the event of default (Yaakub *et al*, 2011).

Sukuk and Conventional bond

Sukuk are Islamic financial certificates that are frequently mentioned as *Shariah* compliant bonds. Both bonds and *sukuk* are sold to the investors who then get a stream of payments till a set date of maturity. *Sukuk* are compliant to the *Shariah* which anybody cannot generate money from money which is tantamount to the *riba*. This is based on the principle that it is improper for any commodity, including money to increase in value simply by lending money to another person. However, Islamic law

does not disallow investors from making a profit/return on the capital if the capital provider is willing to share the risk with entrepreneur. The conventional bonds are always interest (riba) based since the payment is fixed (Alam, Hassan, & Haque, 2013; Bhuiyan, Puspa, Saiti, & Ghani, 2020). Furthermore, bonds are different significantly from sukuk in a way that the return of bonds to bondholders indicate the right to claim indebtedness for the money borrowed. Whereas the return to the sukuk investors indicate the right to benefit payments from a trade transaction or the claim of ownership of the venture (Bhuiyan et al., 2020). While conventional bonds and Sukuk are very alike in nature but there are some important differences to be aware of:

1. Ownership of sukuk asset and debt obligation: sukuk backed by underlying tangible asset and sukuk holders given partial ownership in the underlying asset of sukuk with actual value while bonds ownership indicates merely a debt obligation.
2. Shariah complaint and not comply with Shariah: the underlying asset of sukuk must be complaint with Shariah. This means that any investment prohibited from shariah cannot be financed such as sale of alcohol, gambling, pork products, tobacco, pornography and so on. It also prohibits financial institutions from been involved in any interest based transactions. On the other side, underlying asset of bonds may not comply with principle of shariah it can be utilized to finance any business, projects, assets or join investment that complies with western legislation.
3. Sukuk asset value and bonds asset credit worthiness: value of sukuk is based on market value of the underlying asset of sukuk which can increase in value when the asset of sukuk increases in value while bonds is based on credit worthiness on the neck of the issuers

Selling underlying asset of sukuk and selling of bonds: when sukuk investors sell asset of sukuk they sell ownership of asset that backs the sukuk. In terms of bonds, the investors sell debt which is the relationship between bond holders and bond issuer (AbdulKareem, I.A, Mahmud, M.S, AbdulGaniyy, A.F, & Yazid, 2020)

METHODS

The paper uses descriptive approach of qualitative method. This depends on secondary data that has been gathered and is available in electronic form; published or unpublished materials (Curtis, 2008). Johnston (2017) identify further secondary data as data that was collected by another person for another primary purpose. The usage of this current data provides a viable alternative for researchers who may have limited time. Secondary data is an experimental exercise that applies the same basic research principles as studies using primary data and has steps to be followed just as any research method (Doolan, & Froelicher, 2009)

DISCUSSION

Overview of Sukuk in Nigeria and its Structure

According to the United Nations Population Division (UNPD's) world population prospects, Nigeria's as population stood at 185.9 million in 2016 with 2.6%

growth rate when compared with 2015 estimation. Nigeria is the most populous country in Africa, representing approximately 47% of the entire population of West Africa. Nigeria has a relatively young population, with 2.7% of the population aged 65 above, between ages of 15 and 64 is 53.3% and under 15 is 44%, as of the end of December 2015 (Nganga, 2016; Ogunbado et al., 2017).

In January 2012, the CBN granted *Jaiz* bank an endorsement to operate as a regional interest free bank in Northern part of Nigeria with three branches situated in Abuja, Kano and Kaduna. Thus, *Jaiz* bank became the first and the full-fledged bank to operate Islamic banking in Nigeria. It started with three branches in 2012 but now its branches has increased to 17. Also, there are other banks operating Islamic banking windows in Nigeria. Islamic banking advocates the principles of profit and loss sharing among investors (Bello, 2016; Rita, 2013; Yahaya, & Lamidi, 2015). Oladunjoye (2014) explains the possibility of using Islamic finance, especially *sukuk* as a mechanism for raising capital and development of infrastructures in Nigeria. In 2013 the first *sukuk* was issued by Osun state government of Nigeria and which is the first of its kind in sub-Sahara Africa (SSA). The N60 Billion Debt Issuance was meant to fund the development of 20 High Schools, two middle level schools and two elementary schools in Osun State, Nigeria. This *sukuk* issued at a rate of 14.75% per annum at N1,000 per unit and would mature on 08 October 2020. This first *sukuk* issued by Osun state government would bring the huge possibilities for Islamic finance in the country (Oji, 2015; Sulaiman, 2020).

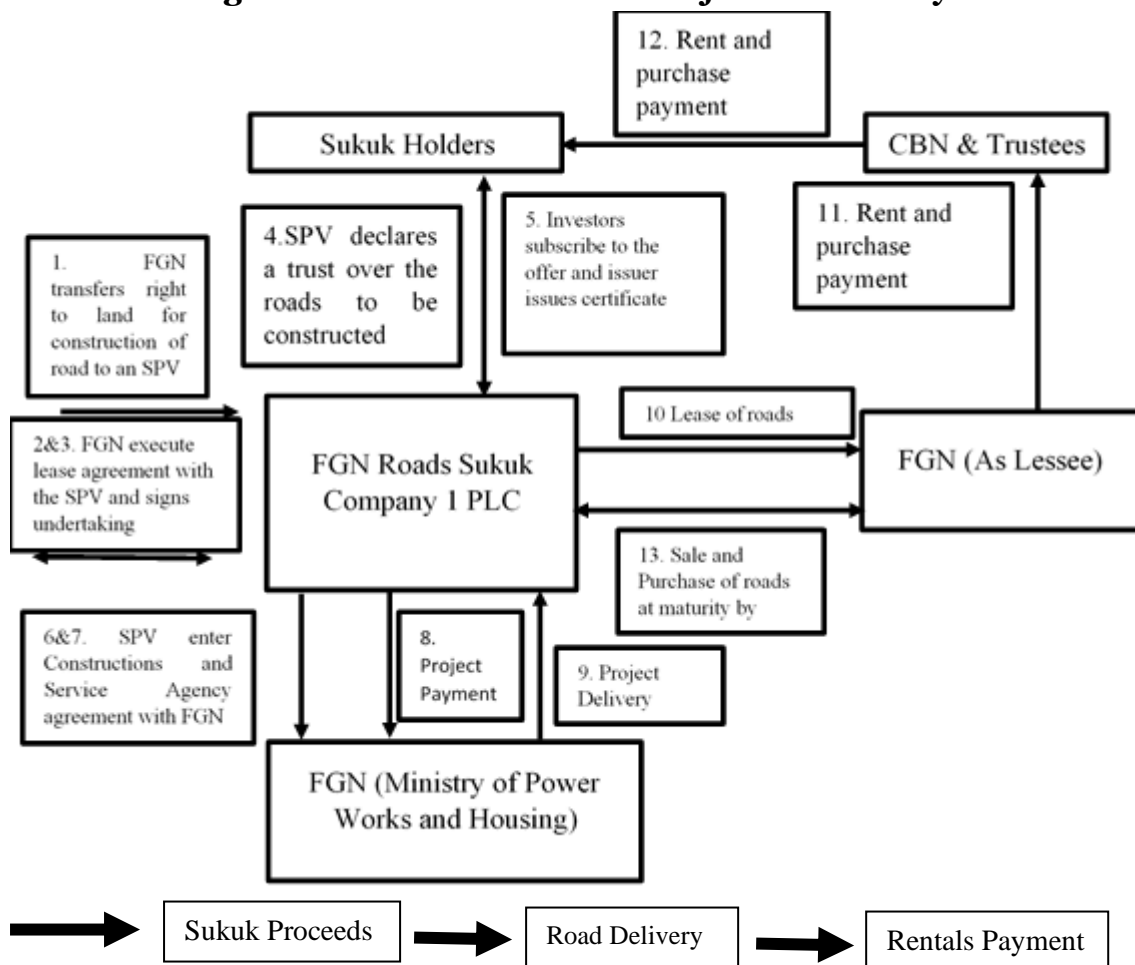
Similarly, in 2016 the Federal Government of Nigeria (FGN) followed suit by issuing 100 billion naira of *sukuk ijarah* for 25 road infrastructure projects throughout the federation. The *sukuk*, which has been illustrated as a low risk and save investment, was issued by the Debt Management Office (DMO) with seven years tenor (Jannah, 2017; Odunsi, 2017). In addition, the *sukuk* attracted an oversubscription of 105.9 billion naira, indicating investors' desire and demand for *sukuk*. The proceed from FGN *sukuk* issuance is expected to be utilized to finance infrastructure development in the country especially, the rehabilitation and construction of road infrastructure.

Onihaa (2017) expresses that this first *sukuk* issued by FGN has raised a lot of enthusiasm as well as questions from the public. Thus, there is the need to enlighten public more about *sukuk* issuance in the country. *Sukuk* is one of the financial instruments utilized by organizations and governments to raise funds. Furthermore, unlike traditional bonds whose fund can be utilized for various purposes including recurrent expenditure, funds achieved from *sukuk* issuance can only be utilized for assets such as infrastructure. Moreover, investors receive income, according to the assets rather than interest, as in the case with traditional bonds.

Onihaa (2017) further stated that why FGN issued *sukuk* as alternative for conventional bond. Before this time, FGN had borrowed money from the domestic market through the traditional bonds such as FGN bonds, Nigeria Treasury Bills (NTB), and FGN saving bond. Issuance of *sukuk* as a new instrument by FGN currently around is another landmark in the domestic market that has huge benefit and advantage to the government, investors, capital market and Nigeria masses for

different reason. Among the three strategic objectives of the Economic Recovery and Growth Plan (2017-2020) is to set up worldwide competitive economy. One of the strategies for obtaining this is by investing in infrastructure. Therefore, every avenue towards growing Nigeria infrastructure must be tapped. The utilization of the Sukuk to raise funds to finance infrastructure contributes directly to achieving this target. Also, Vanguard (2017) postulate that Nigeria economy needs good roads for development; because they link different parts of the nation, facilitate trade, provide access to markets for farmers and connect remote areas to vital social service such as health and education. In addition, *sukuk* issuance will also motivate financial inclusion by providing an opportunity for non-interest investors to participate in the fixed income market. Furthermore, it gives a chance to develop the saving culture in Nigeria, especially among individual and other retail investors. To motivate the investment culture and mobilize savings, the rental *sukuk* income is tax exempt (IMF and World Bank, 2017; Vanguard, 2017). Figure 1.1 below indicates Structure of Sukuk Ijarah issued by FGN.

Figure 1.1: Structure of Sukuk Ijarah issued by FGN



Source: (FGN, 2017).

An overview of Sukuk Ijarah Structure

1. FGN issues a letter of distribution of certain land to the trustee/issuer for rehabilitation and construction of highways.
2. FGN through the Federal Ministry of Power, Works and Housing (FMPWH) implements an Ijarah agreement with the trustee /issuer to lease constructed roads.
3. Purchase undertaking is implemented by the FGN to purchase constructed roads from the Trustee/Issuer at maturity.
4. Trustee/Issuer declares as a trust over the roads to be constructed for the Sukuk holders under the declaration of trust deed and nominates STL trustees limited and FBN trustees limited to carry out its functions as trustee under the trust.
5. Sukuk holders subscribe to the offer and the Trustee/Issuer issues electronic investment certificates through the CBN as registrar.
6. Trustee/Issuer enters into a construction agency agreement (CAA) with FMPWH to choose contractors to supervise/construct the road.
7. Trustee/Issuer also enters into a service agency agreement (SAA) with the FMPWH to undertake major repairs on the road after construction.
8. Trustee/Issuer pays the workers through the FMPWH for rehabilitation and construction of roads from the Sukuk proceeds after the work done by the contractors are certified by delegate trustees and FMPWH.
9. After completed roads the contractors deliver to the Trustee/Issuer through the FMPWH.
10. Trustee as a lessor will leases the roads to the FGN in accordance with the Ijarah contract.
11. FGN pays periodic rentals for the utilization of the roads.
12. CBN would transfers the periodic distribution amounts to Sukuk holders.
13. At maturity date FGN would purchase the road back.

Table 1. Main Terms of The Sukuk

Issuer	FGN Roads Sukuk Company 1 Plc. On behalf of the FGN
Description	FGN Sovereign Sukuk due 2024 at a return of 16.4796
Tenor	7 Years
Issue Size	N100.000.000.000
Unit of Issue	N1.00 per unit
Minimum Subscription	Minimum of N10.000 (i.e 10 units @N1.000/unit) and in multiples of N1.000 (1unit) thereafter
Rental payment	Semi-annually
Redemption	Bullet payment of investment funds at maturity
Paying Agent/Register	Central Bank of Nigeria
Security	Backed by the full faith and credit of the FGN

Legal Framework Guiding the Principles of Islamic Banking in Nigeria.

Having established the principle of Islamic banking in Nigeria and presented how it came into existence, the legal framework that guides its day-to-day operations shall be discussed in this segment. The beauty of a legal framework is its permissibility for private and government businesses, not minding whether it is local or international to prosper or allows its growth. Nigeria is a common law country, which has no devoted laws for Islamic banking and finance. Conversely, the legal system for Islamic banking and finance is derived from current traditional finance laws by utilizing on certain arrangements to establish Islamic banking and finance institutions. Provisions in banks and others financial institutions Act 1991 (BOFIA) and CBN Act 2007 enable the Governor of CBN to make rules and regulations to issue guidelines for the operation and control of all institutions under the supervision of CBN. Also, the provisions enable CBN to supervise and regulate the activities of specialized banks including profit and loss sharing banks (IFSB, 2018).

In addition, there is no certain law for sukuk activity in Nigeria, but the provision of the investment and securities Act 2007 enable the securities and exchange commission (SEC) to register and control securities exchanges, corporate and individual capital market operations and collective investment schemes (IFSB, 2018). Also, Abdullahi (2016) posits that the Act permits the SEC to establish specialized department for regulating and developing Nigeria capital market and to make rules and regulations that would guarantee the smooth working of the capital market. Under these arrangements, the establishment of Islamic fund and listing of the sukuk by the SEC becomes conceivable (Nmadu & Mika'ilu, 2018).

Mohammed (2015) furthermore mention that, the CBN has issued rules on Shariah governance for non-Interest financial institutions (NIFI) in the country with four major areas: (i) setting out guidelines and procedures in establishment of Shariah Advisory Committee (SAC) of NIFI; (ii) describing the role and responsibilities of the committee and its members; (iii) outlining the function relating to Shariah review and audit processes and (iv) describing the relationship and working arrangement between CBN Shariah council and committee. Rules on Shariah governance issued by CBN in 2010 clearly state that all licensed IFIs should establish a SAC that must be approval by the regulators (COMCEC, 2017; IFSB, 2018).

Issues and Challenges in Implementation of Islamic Finance in Nigeria

There are many issues and challenges following the establishment of Islamic banking and finance in Nigeria. Nigeria as a multi-religious country, the adoption of Islamic banking and finance is alleged as a way to Islamize the country (Ogunbado et al., 2017). Also, there has been a campaign against implementation of sukuk ijarah structure by the FGN. The campaign was organized and planned by Christian Association of Nigeria (CAN). This emotional outburst started since the first license to implement non-interest banking system was granted by CBN. Again, the implementation of sukuk was tainted with religious emotion. According to Godwin (2017) many countries around the world have issued sukuk in the past but the case of

Nigeria is different. Religious authorities in Nigeria are always intolerant over any religious matters (Yunusa & Nordin, 2015).

Many Christians view that granting Islamic banking and finance to operate in Nigeria would permit the Islamization of the country. They feel that Islamic and Muslims activities could control the economic activities while Christianity would most likely be deserted (Chidi, Clementina, & Onyike, 2013). This can be perceived from the report issued by a prominent CAN member, Archbishop of God-Do-well Awomakpa where he said:

“It has become increasingly obvious that the Islamic community has stepped up its determination to totally Islamize Nigeria as a nation. The observation is clear from the ongoing efforts to establish Islamic banking in Nigeria through the instrumentality of the Central Bank Governor, Malam Lamido Sanusi” (Quoted in Adegboyega, 2013, p.22).

Also, another prominent CAN member, Anthony Cardinal Olubumi Okogie observed that it is to suppress Nigerian Christianity. He said: *“We are against the operation of Islamic Banking in Nigeria because we see it as another deliberate move to subjugate Christianity in Nigeria” (Adegboyega, 2013 p. 22).*

In another event, it is revealed that the leader of the CAN Pastor Ayo Oristejapor and their General secretary Rev. Musa Asake blamed the CBN Governor for being sectional and bringing religion into Nigeria's financial system by introducing Islamic banking. They stated that CAN will never support the system because doing that would mean encouraging discrimination and disunity in the nation. They further contend that why Islamic bank and finance be given a different rule?. The CBN ought to rather give one single rule that could cater for every Islamic banking and finance industry as well as the Christian non-interest banking (Sulaiman, 2020; Yunusa & Nordin, 2015). Each law that has been declared to back the Sukuk issuance and promote an Islamic banking and finance system in Nigeria is ultra vires, void, illegal and null.

Rev. Asake said”

“The FG must dismantle all legal and institutional framework established to promote Islamic financing in Nigeria. We affirm that the territorial integrity of Nigeria is undermined through the issuance of Sukuk in the country. We hope that the government shall desist from its policies of unbridled religious sectionalism” (Godwin. A.C, 2017; Ogunbado et al., 2017).

Opejobi, (2017) in response to the CAN stated that one of prominent of human right lawyer in country confronted CAN to Christianise Nigeria by establishing interest free banks in the country. He further clarified that sukuk is an authentic method to develop infrastructure from which government would generate funds and sukuk are normal practice everywhere in the world. Also, FGN denied any arrangement to Islamize the country. The government stated that the financial initiative was as a result of the need to contain people who were against interest yielding businesses. While sukuk is not an effort to Islamize the country in any structure. Rather, it is an effort at financial inclusiveness. Difference between conventional bond and sukuk is that interest earning is prohibited under sukuk transaction. Along these lines, this would benefit those who believe that money cannot earn money without taking risk (Godwin.

A.C, 2017). Also, Nigeria Supreme Council for Islamic Affairs (NSCIA) has claimed that CAN is showing itself to be Islamophobic. Despite the remarkable tolerance from Muslims over the years, CAN appears to be increasingly becoming Islamophobic and paranoid about its hate and intolerance of Islam, casting aspersions, unnecessarily overheating the polity and unjustifiably creating fear and distrust in the minds of peace loving citizens of our great country (A.Mallum, 2016; Godwin. A.C, 2017).

Besides, World Bank has been engaged in Islamic finance and certainly on sukuk issuance as well. Interestingly, many non-Muslim countries across Europe, Asia and Africa have introduced Islamic finance in their system particularly sukuk for infrastructure development (COMCEC, 2019; IFSB, 2014). Worthy of mention here are Tanzania, Kenya, China, Luxembourg, South Africa, Russia, Singapore, UK and various firms in the United States (US). In recent years, British government facilitated world conference on Islamic Banking and Finance and David Cameron, the then British prime minister openly announced that their expectation is to make UK centre for Islamic finance worldwide (IFSB, 2018). As regards Africa region, Islamic finance has made substantial development and its encouraged with demand by Muslims and non-Muslims. Countries such as Gambia and Sudan have entered in sukuk issuance in the past (Labuan IBFC Inc., 2018). Prior to Nigeria, South Africa also issued sovereign sukuk (Godwin, 2017). Also, South Africa attempts to make country the hub for Islamic finance in Africa. The country has amending tax law to create field for Islamic finance. Currently, the country has Al Baraka Bank as a full-fledged Islamic bank. The was registered in 1989 and other banks such as Absa Bank, First National Bank (FNB) and HBZ Bank house Islamic finance windows working alongside with their traditional banking services. In addition, South Africa Treasury issued first sukuk in end part of 2014 with amount USD500 million 5.75 year and which was oversubscribed more than four times and it attracted investors from Asian and Middle Eastern region (Desai, 2016; IMF and World Bank, 2017).

Also, in West Africa region, Senegal successfully implemented a four year XOF100 billion (\$171.96 million) sukuk issuance in June 2014. This sukuk issuance represents a new year in the utilization of Islamic finance in the Senegal's public finances. The country may consider sukuk issued to boost Senegal's infrastructure needs and Dakar is aiming as the continent's centre for Islamic finance (Al Nator, 2015; Desai, 2016; Hussain, Shahmoradi, & Turk, 2015b; Labuan IBFC Inc., 2018). In addition, Cote d'Ivoire inaugurated its debuts 5 year tenure with amount of 150 billion CFA sukuk issuance at profit rate of 5.75% in the end of 2015 (Desai, 2016). Also, in East Africa region, Uganda government has endorsed the Financial Institutions (Amendment) Bill in 2015, which paved way for Islamic finance to operate in the country. Kenya government also has set vision to becoming Islamic finance centre in the East Africa with two full-fledged of Shariah compliant banks in operation, licensed Takaful and re-Takaful and many financial institutions offering products that fulfil with Shariah (Desai, 2016; Labuan IBFC Inc., 2018). Thus, it can be observed that religious misinterpretation statement or unnecessary Islamophobia culture is an immense challenge facing development of Islamic banking and finance in Nigeria.

CONCLUSION

The understanding and harmonization among different religious leaders in the country would enhance the growth of Islamic finance particularly sukuk which will make it easier to issue another sukuk for the infrastructural development. This would accelerate economic growth in Nigeria. Based on previous studies sukuk has gained significant performance globally. Outstanding issuance amounted to \$116.7 billion in 2017. FGN should not be ambiguous on guidelines and it must mention clearly policies and rules for conducting sukuk issuance. The practices and concepts of sukuk should be clarified and explained to clear away all sorts of misinformation and misconceptions about issuance of sukuk. Also, sukuk issuance around the globe indicated as alternative to conventional bond which is not affiliated with any religious or ethnic group. The authors observe that the solid religious affiliation of Nigerians which have made them to be so emotional on any matter that has symbol of religion and hard feelings among Islam and Christianity prevents them from looking at positive impacts of Islamic finance globally.

The unity, friendship and harmony should be embedded in every community that would give room to development and growth of the country. In addition, religious authorities must be called to order; hate speeches on social media must be banned. FGN is advised to create free relationship among religious leaders and enable intellectual sessions to share their opinions and views. In order to achieve this, workshops, seminars and conferences are to be organized by Islamic centre, financial institutions and academicians in Universities at state level to spread knowledge and create awareness among Nigerians Muslims and non-Muslims. This will enable tangible understanding of the meaning of Islamic banking and finance particularly sukuk in the country. This will also reduce misunderstanding and misinterpretation of Islamic finance in the country because people have limited awareness about Islamic finance products such as Ijarah, Mudarabah, Sukuk, Musharakah and so on. The level of awareness in Islamic products in Nigeria is less compared with other countries in Africa due to majority of people in Nigeria do not know how Islamic finance operate.

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