



**THE DEVELOPMENT OF ISLAMIC BANKING LAWS
IN NIGERIA**

BY

NURA SANI ABDULLAHI

**A dissertation submitted to fulfillment of the requirement for
the degree of Master of Comparative Laws**

**Ahmad Ibrahim Kulliyyah of Laws
International Islamic University Malaysia**

JULY 2017

ABSTRACT

The Islamic banking system has been in existence in Nigeria for almost six years. Banks and Other Financial Institutions Act 1991 (BOFIA) (as amended) permits the establishment of profit and loss sharing which leads to the emergence of Islamic banking in Nigeria as a category of the non-interest banking. The Central Bank of Nigeria Act 2007 (CBNA) and BOFIA empower the Central Bank of Nigeria (CBN) to issue guidelines to any institution under its supervision. In an attempt to develop Islamic banking laws in Nigeria, the CBN has issued various guidelines to govern Islamic financial institutions in the country. This study focuses on the development of Islamic banking laws in Nigeria by examining, evaluating and scrutinizing the laws. Data was obtained through the primary and secondary sources, such as statutes, regulations, guidelines, textbooks and articles. The study finds that there are significant developments in Islamic banking laws in Nigeria, starting from the 1991 amendment of BOFIA. Moreover, between 2009 and 2015 the CBN released different regulations and guidelines in relation to the scope, conditions and minimum standards of capital ratio, regulation and supervision, *Sharī'ah* governance and advisory committees for all Non-Interest Financial Institutions in Nigeria. It is hoped that the Islamic banking laws in Nigeria will be developed further with the issuance of more guidelines by the regulatory body when it deems necessary. It is suggested that the National Assembly should review the provisions of the Federal Constitution of the Republic of Nigeria to empower the *Sharī'ah* Court of Appeal to hear and decide any dispute on Islamic banking matters. Otherwise, a special court with specific jurisdiction to hear and decide Islamic banking and finance matters should be established within the Federal High Court. Reference to the Financial Regulation Advisory Council of Experts (FRACE) by the Federal High Court and arbitrator should also be made when dealing with *Sharī'ah* issues in any dispute on Islamic banking and finance. In addition, the regulatory body should also provide comprehensive regulations on Islamic liquidity management instruments and review the guidelines on tax incentives on Islamic banking products.

ملخص البحث

قد أُسس نظام البنوك الإسلامية في النيجيريا منذ ست سنوات تقريباً. أجاز قانون البنوك والمؤسسات المالية الأخرى عام 1991م، إنشاء النظام البنك القائم على المشاركة في الأرباح والخسائر، الأمر الذي أدى إلى ظهور البنك الإسلامي في النيجيريا الذي هو نوع من أنواع البنوك غير الربوية. القانون البنك المركزي عام 2007م، والقانون البنوك والمؤسسات المالية الأخرى تمكنوا البنك المركزي النيجيري في إصدار التوجيهات القانونية لأية مؤسسة تحت إشرافها. لمحاولة تطوير القوانين البنوك الإسلامية في النيجيريا، أصدر البنك المركزي النيجيري مختلف التوجيهات القانونية لتنظيم الشركات المالية الإسلامية في الدولة. وقد ركزت هذه الدراسة على البحث في تطورات القوانين البنوك الإسلامية في نيجيريا، من خلال دراسة وتقييم والتدقيق القوانين. وطريقة جمع المعلومات حصل من خلال المصادر الأصلية والتبعية، مثل القوانين واللوائح والتوجيهات القانونية، والكتب والمقالات. ونتيجة البحث هي أن هناك تطورات هامة في القوانين البنوك الإسلامية في النيجيريا، الذي بدأ من عام 1991 بتعديل قانون البنوك والمؤسسات المالية الأخرى. وعلاوة على ذلك، أصدر البنك المركزي النيجيري التوجيهات القانونية مختلفة من بين عامي 2009 و 2015 فيما يتعلق بنطاق والشروط، والحد الأدنى من معايير نسبة رأس المال، والتنظيم والإشراف، والحكم الشرعي، واللجان الاستشارية لجميع المؤسسات المالية غير الربوية في نيجيريا. والوجه أن القوانين البنوك الإسلامية في نيجيريا سيتطور أكثر، مع إصدار المزيد من التوجيهات القانونية من قبل الهيئة التنظيمية عندما ترى ذلك ضرورياً. فالمقترح أنه يحسن لمجلس الشورى الدولي مراجعة أحكام الدستور نيجيري لتمكين المحكمة الشرعية من قضاء على أي نزاع يتعلق البنوك الإسلامية. وإلا، فينبغي وضع محكمة خاصة ذات اختصاص محددة للسماع والحكم على الأمور البنوك الإسلامية ضمن محكمة المركزي. ومع ذلك، ينبغي لمجلس الشورى الدولي أن يطالب محكمة المدني ومجلس التحكيم أن يرجعا كل قضية تتعلق بالبنوك الإسلامية إلى المجلس الاستشاري النظام المالي من الخبراء، وتكون النتيجة لازمة عليهما. ويحسن على الهيئة التنظيمية أيضا توفير توجيهات القانونية شاملة فيما يتعلق بطريقة التمويل البنوك الإسلامية ومراجعة التوجيهات القانونية فيما يتعلق بتأثير الضرائب على المنتجات البنوك الإسلامية.

APPROVAL PAGE

I certify that I have supervised and read this study and that in my opinion, it conforms to acceptable standards of scholarly presentation and is fully adequate, in scope and quality, as a dissertation for the degree of Master of Comparative Laws.

.....
Safinar Binti Salleh
Supervisor

I certify that I have read this study and that in my opinion, it conforms to acceptable standards of scholarly presentation and is fully adequate, in scope and quality, as a dissertation for the degree of Master of Master of Comparative Laws.

.....
Mohamad Asmadi
Abdullahi
Examiner 1

I certify that I have read this study and that in my opinion, it conforms to acceptable standards of scholarly presentation and is fully adequate, in scope and quality, as a dissertation for the degree of Master of Master of Comparative Laws.

.....
Uzaimah Ibrahim
Examiner 2

This dissertation was submitted to the Department of Islamic Law and is accepted as a partial fulfillment of the requirements for the degree of Master of Comparative Laws.

.....
Ghazali Ja'afar
Head, Department of
Islamic Law

This dissertation was submitted to the Ahmad Ibrahim Kulliyah of Laws and is accepted as a partial fulfillment of the requirements for the degree of Master of Comparative Laws.

.....
Ashgar Ali Ali Mohamed,
Dean, Ahmad Ibrahim
Kulliyah of Law

DECLARATION

I hereby declare that this dissertation is the result of my own investigations, except where otherwise stated. I also declare that it has not been previously or concurrently submitted as a whole for any other degrees at IIUM or other institutions.

Nura Sani Abdullahi

Signature

Date

INTERNATIONAL ISLAMIC UNIVERSITY MALAYSIA

**DECLARATION OF COPYRIGHT AND AFFIRMATION OF
FAIR USE OF UNPUBLISHED RESEARCH**

THE DEVELOPMENT OF ISLAMIC BANKING LAWS IN NIGERIA

I declare that the copyright holders of this dissertation are jointly owned by the student and IIUM.

Copyright © 2017 Nura Sani Abdullahi and International Islamic University Malaysia. All rights reserved.

No part of this unpublished research may be reproduced, stored in a retrieval system, or transmitted, in any form or by any means, electronic, mechanical, photocopying, recording or otherwise without prior written permission of the copyright holder except as provided below

1. Any material contained in or derived from this unpublished research may be used by others in their writing with due acknowledgement.
2. IIUM or its library will have the right to make and transmit copies (print or electronic) for institutional and academic purposes.
3. The IIUM library will have the right to make, store in a retrieved system and supply copies of this unpublished research if requested by other universities and research libraries.

By signing this form, I acknowledged that I have read and understand the IIUM Intellectual Property Right and Commercialization policy.

Affirmed by Nura Sani Abdullahi

.....
Signature

.....
Date

ACKNOWLEDGEMENTS

Firstly, all thanks and salutations are due to Almighty Allah for giving me this wonderful opportunity, good health and wisdom to undertake this course in Malaysia. Peace and blessings be upon to His best creation, and His Prophet, Muhammad Bin Abdullah.

May I first and foremost extend my due respect and appreciation to my humble supervisor Assistant Professor Dr. Safinar Binti Salleh for her kind and continued support and guidance throughout this research work. I pray may the almighty Allah increase her in health and prolong her life for the better.

Thanks are due to my parents for their support, prayers and guidance in the course of my programme and the whole of my life. Due respected to my lovely wife Nusaiba Salisu Khamisu and my son Abdurrahman Nura Sani, May Allah increase their iman and protect them from any harm. My sincere appreciation is also due to my brothers and my sisters Manniru Sani Abdurrazak Sani Ado Sani Abubakar Sani Saifullahi Sani Hassan Sani Muhammad Sani Zubaida Sani Ummukhursum Sani Hauwa Sani Fatima Sani Rumanatu Sani Rabiatsu Sani and Hussaina Sani and my other brothers and sisters as well.

I also highly regard and appreciate my respected lecturers notably Prof. Dr. Hunud Abia Kadouf; former Dean of Ahmad Ibrahim Kulliyah of Laws, Assoc. Prof. Dr. Umar Aimhanosi Oseni, Assoc. Prof. Dr. Rusni Binti Hassan, Assoc. Prof. Dr. Ahmad Zaki Salleh, Assoc. Prof. Dr. Zulkifli Hasan, Assist. Prof. Dr. Ahmad Azam Othman, Dr. Zaid Bin Mohamad, and all those who helped me in understanding my course and made me feel confident about my study. I also appreciate other lecturers in this Kulliyah (AIKOL) and other Kulliyah in (IIUM). I pray to Allah for their good health and lives.

My next regards and appreciations are due to my wonderful teacher and brother in Islam, Sheikh Dr. Bashir Aliyu Umar. He really helped me with good advice and financially supported my study. I pray may the almighty Allah increase him in health and prolong his life for better. I also wish to extend my regards my late teacher Sheikh Ja'afar Mahmud Adam and Dr. Sani Umar Musa, Malam Abdulwahab Abdullah, Dr. Abubakar Sani Birnin Kudu, Dr. Abdulkadir Isma'il, Malam Jamilu Labaran, Malam Usman Dabo, Alramma Malam Ismail and Professor Dr. Kabiru Dandago for their guidance.

Finally, I would like to thank my colleagues and friends, especially, Dr. Auwal Adam Tulde, Dr. Isa Ado, Dr. Lawal Sa'ad, Dr Mansur Isa Yalwa, Rabi'u Ibrahim Yahaya, Aminu Ahmad Sani, Bello Salisu Abdullahi, Muhammad Adam, Ubaidullahi Siraj Abdullah, Mubarak Aminu Usman, Sunusi Muhammad Adam Musa, Yasir Ramadan Gwale, Bukhari Alasan, Ahmad Bashir Aliyu Abdullah Abdulwahab Sheikh Khamis Nasidi and all my other friends.

LIST OF LEGISLATIONS

(i) STATUTES

1. Banks and Other Financial Institutions Act 1991 (as amended) (Act No. 25) 1991
2. Central Bank of Nigeria Act 2007 (Act, No. 7) 2007
3. Companies and Allied Matters Act 1990 (as amended) 1999
4. Constitution of the Federal Republic of Nigeria 1999 (as amended) 1999
5. The Interpretation Act 1964

(ii) REGULATIONS

6. Regulation on the Scope of Banking Activities & Ancillary Matters, No. 3, 2010
7. Circular to all Non-Interest (Islamic) Financial Institutions on the Treatment of Hamish Al Jiddiyyah (Earnest Deposit) 2015
8. CBN Scope, Conditions & Minimum Standards for Commercial Banks Regulations 2010
9. CBN Scope, Conditions & Minimum Standards for Specialised Institutions Regulations 2010
10. Revised Regulatory and Supervisory Guidelines for Microfinance Banks in Nigeria 2012

(iii) GUIDELINES

11. Guidelines for the Regulation and Supervision of Institutions Offering Non-Interest Financial Services in Nigeria 2011
12. Guidelines on Non-Interest Window and Branch Operations of Conventional Banks and Other Financial Institutions 2011
13. Guidelines on Sharī'ah Governance for Non-Interest Financial Institutions in Nigeria 2011
14. Guidelines on Tax Implications of Non-Interest Banking in Nigeria 2013
15. Guidelines on the Governance of Advisory Committees of Experts for Non-Interest (Islamic) Financial Institution in Nigeria 2015
16. Guidelines on the Governance of Advisory Council of Experts for Non-Interest (Islamic) Financial Institution in Nigeria 2015
17. Guidelines on the Governance of Financial Regulation Advisory Council of Experts for Non-Interest (Islamic) Financial Institution in Nigeria 2015

LIST OF CASES

1. Islamic Investment Company of the Gulf (Bahamas) Ltd v Symphony Gems NV and others [2002] Lexis Citation 1056
2. Magaji v Matari (2000) 5 SCNJ 140
3. Sanghi Polyesters Ltd (India) v The International Investor KCSC (Kuwait) [2000] Lexis Citation 2632, Lloyd's Rep 480 QBD England
4. Shamil Bank of Bahrain EC v Beximco Pharmaceuticals Ltd and others [2004] 4 All ER 1072 & [2004] EWCA Civ 19
5. The Investment Dar Company KSCC and Blom Developments Bank Sal [2009] EWHC 3545 (Ch)

LIST OF ABBREVIATIONS

AAOIFI	: Accounting and Auditing Organization for Islamic Financial Institutions
ACE	: Advisory Committee of Experts
BOD	: Board of Directors
BOFIA	: Banks and Other Financial Institutions Act
CACE	: CBN Advisory Council of Experts
CBN	: Central Bank of Nigeria
CBNA	: Central Bank of Nigeria Act
CSC	: CBN Sharī'ah+ Council
DMO	: Debt Management Office
FRACE	: Financial Regulation Advisory Council of Experts
GAAP	: Generally Accepted Accounting Principles
IAS	: International Accounting Standards
IDB	: Islamic Development Bank
IFRS	: International Financial Reporting Standards
IFSB	: Islamic Financial Services Board
IIFS	: Institutions offering Islamic Financial Services
NAICOM	: National Insurance Commission
NASB	: Nigerian Accounting Standards Board
NDIC	: Nigeria Deposit Insurance Corporation
NIFI	: Non-Interest Financial Institution
NIFIs	: Non-Interest Financial Institutions
PENCOM	: National Pension Commission
PHB	: Platinum Habib Bank
ROSBAM	: Regulation on the Scope of Banking Activities and Ancillary Matters
CAMA	: Companies and Allied Matters Act
SAC	: Sharī'ah Advisory Committee
SEC	: Securities and Exchange Commission

TABLE OF TRANSLITERATION

ء	’	ز	z	ق	q
ب	b	س	s	ك	k
ت	t	ش	sh	ل	l
ث	th	ص	ṣ	م	m
ج	j	ض	ḍ	ن	n
ح	ḥ	ط	ṭ	هـ	h
خ	kh	ظ	ẓ	و	w
د	d	ع	‘	ي	y
ذ	dh	غ	gh		
ر	r	ف	f		

Short Vowels

ـَ	a
ـِ	i
ـُ	u

Long Vowels

ا + ـَ	ā
ي + ـِ	ī
و + ـُ	ū

TABLE OF CONTENTS

ABSTRACT	ii
ملخص البحث	iii
APPROVAL PAGE	iv
DECLARATION	v
COPYRIGHT PAGE	vi
ACKNOWLEDGEMENTS	vii
LIST OF LEGISLATIONS	viii
LIST OF CASES	ix
LIST OF ABBREVIATIONS	x
TABLE OF TRANSLITERATION	xi
TABLE OF CONTENTS	xii
CHAPTER ONE	1
INTRODUCTION	1
1.1 BACKGROUND OF THE STUDY	1
1.2 STATEMENT OF THE PROBLEM.....	2
1.3 OBJECTIVES OF THE STUDY	3
1.4 RESEARCH QUESTIONS	3
1.5 SIGNIFICANCE OF THE STUDY	4
1.6 METHODOLOGY OF THE RESEARCH	4
1.7 SCOPE AND LIMITATION.....	5
1.8 LITERATURE REVIEW	6
1.9 OUTLINE OF THE DISSERTATION	11
1.10 CONCLUSION	12
CHAPTER TWO	13
THE BACKGROUND OF ISLAMIC BANKING IN NIGERIA	13
2.1 INTRODUCTION	13
2.2 EMERGENCE OF ISLAMIC BANKING SYSTEM	13
2.3 HISTORICAL DEVELOPMENT OF ISLAMIC BANKING IN NIGERIA.....	15
2.4 NON-INTEREST BANKING	17
2.5 TYPES OF ISLAMIC BANK IN NIGERIA AND THEIR PRODUCTS AND SERVICES.....	20
2.6 CONCLUSION	22
CHAPTER THREE	23
THE LEGAL FRAMEWORK OF ISLAMIC BANKING IN NIGERIA	23
3.1 INTRODUCTION	23
3.2 LEGISLATIVE POWER AND COURT JURISDICTION ON ISLAMIC BANKING IN NIGERIA.....	23
3.3 LAWS RELATED TO THE ESTABLISHMENT OF ISLAMIC BANKING IN NIGERIA	30
3.3.1 Federal Constitution of the Republic of Nigeria 1999 as amended (the Constitution)	30
3.3.2 Central Bank of Nigeria Act (CBNA) 2007.....	32

3.3.3 Banks and Other Financial Institutions Act (BOFIA) 1991 (as amended)	32
3.3.4 Regulation on the Scope of Banking Activities and Ancillary Matters, No. 3, 2010	34
3.3.5 Companies and Allied Matters Act (CAMA) 1990	34
3.4 REGULATIONS AND GUIDELINES FOR THE OPERATION OF ISLAMIC BANKING	35
3.4.1 Guidelines for the Regulation and Supervision of Institutions Offering Non-Interest Financial Services in Nigeria.....	35
3.4.2 Guidelines on Non-Interest Window and Branch Operations of Conventional Banks and other Financial Institutions.....	40
3.4.3 Guidelines on the Governance of Advisory Committees of Experts for Non-Interest (Islamic) Financial Institutions in Nigeria	42
3.4.4 Guidelines on the Governance of Financial Regulation Advisory Council of Experts for Non-interest (Islamic) Financial Institutions in Nigeria	45
3.4.5 Guidelines on Tax Implications of Non-Interest Banking in Nigeria	48
3.5 CONCLUSION	49
CHAPTER FOUR.....	51
THE LEGAL DEVELOPMENTS OF ISLAMIC BANKING IN NIGERIA	51
4.1 INTRODUCTION	51
4.2 DEVELOPMENT OF THE ISLAMIC BANKING LAWS.....	51
4.3 RECOGNITION OF THE ISLAMIC BANKING BY THE LAWS	53
4.4 CAPITAL REQUIREMENT	54
4.5 SHARĪAH GOVERNANCE	56
4.6 SHARĪAH COMPLIANCE REQUIREMENTS.....	57
4.7 TAX IMPLICATION	59
4.8 SPECIALISTS	63
4.9 CONCLUSION	65
CHAPTER FIVE	66
CONCLUSION AND RECOMMENDATIONS	66
5.1 CONCLUSION	66
5.2 RECOMMENDATIONS.....	67
BIBLIOGRAPHY	74

CHAPTER ONE

INTRODUCTION

1.1 BACKGROUND OF THE STUDY

Islamic banking is a system of banking that is based on the principles of Islamic law (Sharī'ah). The global recognition of the Islamic financial system led by the development of Islamic banking system in many Muslim countries, such as Sudan, Saudi Arabia, Dubai and Malaysia has changed the world financial structure. However, the Nigerian banking system has been characterized by features of the conventional banking system and it has widely been accepted by the Nigerian populace and it has been practicing for quite a long time. The fact is that the conventional banking system contradicts the Islamic belief system of the Muslims that constitutes the majority of the population in the country, because it provides non Sharī'ah compliant products and services. As a result of such contradiction, the Muslims agitated for the Islamic banking system and their yawning were fulfilled when an Islamic bank known as Jaiz Bank with regional status and several conventional banks with Islamic banking windows were established.

Since Nigeria is a multi-racial, ethnic and religious country, it needs both conventional and Islamic banking systems to operate in parallel in order to satisfy the belief system of various groups in the country. Previously, the banking system in Nigeria was solely based on conventional system. Later, the issue of establishment of Islamic banking in Nigeria arose, when it was placed before the National Assembly, both the Senate and House of Representative agreed to name it as non-interest banking in order to be consistent with principal law, and the Governor gave the approval for

Islamic banking to be incorporated with the name of non-interest banking. The non-interest bank provides financial products and services as what being provided by a conventional bank in Nigeria, save it is operated in accordance with Islamic law principles. However, Islamic banking in Nigeria was established as non interest bank because the Nigerian law does not allow the use of the term Islamic bank, except with consent of the CBN Governor. Both conventional banking and Islamic banking in Nigeria are governed by the same legislations (BOFIA & CBNA). The statutes do not provide specific requirements for Islamic banks but allow the CBN to issue guidelines to regulate Islamic banks. Pursuant to the power given by the legislations, the CBN has issued several guidelines for Islamic banks.

Therefore, this study focuses on the development of Islamic banking laws in Nigeria which consist of the principal laws such as BOFIA and Central Bank Act (CBNA) 2007 and the guidelines issued by the CBN to regulate Islamic banks such as Guidelines for the Regulation and Supervision of Institutions Offering Non-Interest Financial Services in Nigeria, Guidelines on the Governance of Advisory Council of Experts for Non-Interest (Islamic) Financial Institution in Nigeria and Guidelines on the Governance of Financial Regulation Advisory Council of Experts for Non-Interest (Islamic) Financial Institution in Nigeria, and some other available Guidelines as well.

1.2 STATEMENT OF THE PROBLEM

The development of Islamic banking in Nigeria may be associated with some challenges and constraints, for instance, religions constraint such as resistance from

non-Muslim counterpart assuming that the country will be Islamized.¹ In addition to that, there was also lack of legal framework for Islamic banking that has caused some difficulties when it comes to the establishment of Islamic banking in the country.² However, recently the regulators have made several efforts to provide the legal infrastructure to support the operation of Islamic banking within the Nigerian financial system. Therefore, the present study specifically focuses on the developments of Islamic banking laws in Nigeria, since the latest amendment of BOFIA in 1991 until the recent achievement.

1.3 OBJECTIVES OF THE STUDY

The aim of the research is to examine the developments of Islamic banking laws in Nigeria; therefore, the study will:

- (1) discuss the background of Islamic banking in Nigeria.
- (2) examine the legal frameworks and the laws governing Islamic banking in Nigeria.
- (3) analyse the legal developments of Islamic banking in Nigeria.
- (4) suggest ways for improvement of the laws.

1.4 RESEARCH QUESTIONS

The study will answer the following research questions:

- (1) How does Islamic banking in Nigeria develop?
- (2) What are the laws and the legal frameworks governing Islamic banking in Nigeria?

¹ Daud, Mustafa and Ibrahim Mohd Yussof. "The Emergence and Challenges of Islamic Banking and Finance in Nigeria: A Stakeholder Perception." *Essentials of Islamic Banking and Finance in Nigeria*. Benchmark Publishers Limited. Kano, (2013), p. 85

² Ibid, p 85

(3) What are the impacts of the laws on the development of Islamic banking in Nigeria?

(4) In what ways the laws could be improved for more developments of the Islamic banking industry in Nigeria?

1.5 SIGNIFICANCE OF THE STUDY

The study provides a clear picture about the legal framework of Islamic banking in Nigeria, by looking to what has been developed in its regulations. The study also, provides a ground for a policy initiative that stakeholders and regulatory body may come up with the new legislations and useful laws for the betterment of Islamic banking operation. The study will also be useful to Islamic banks in Nigeria as the outcome provides guidelines and suggest several ways for further developments of Islamic banking sectors in Nigeria in accordance with Islamic law principles. Lastly, the study will be useful for researchers on Islamic financial services as the findings portray areas that need to be improved for better practice.

1.6 METHODOLOGY OF THE RESEARCH

The study deals with both primary data, such as statutes, regulations and guidelines, and secondary data, such as text books and articles in order to form comprehensive analysis on the legal development of the Islamic banking laws in Nigeria. Therefore, the researcher used various sources to gather data relevant to the research. The study is a doctrinal legal research as it involves careful examination and evaluation the existing legal frameworks and laws governing Islamic banking in Nigeria to identify the improvement in developing Islamic banking laws in Nigeria. By using this method, the researcher pointed out a various developments on the laws relating to

Islamic banking in Nigeria, from 1991, the period where BOFIA was amended to accommodate certain financial transactions that will be in accordance with the rules of profit and loss sharing, among others, up to the recent period. Based on the findings of the study, the researcher suggested ways in which new development in Islamic banking laws may be introduced.

In the context of this study, the term Islamic banking is used along the journey of the research to refer to the non-interest banking based on the principles of Sharī'ah.

1.7 SCOPE AND LIMITATION

The study focuses on the development of Islamic banking laws in Nigeria with specific reference to is the provisions provided in the existing legislations in the Federal Republic of Nigeria, such as the Central Bank of Nigeria Act (CBNA) 2007, the Banks and Other Financial Institutions Act (BOFIA) 1991 (as amended) and other federal laws as well such as Regulation on the Scope of Banking Activities and Ancillary Matters, No. 3, 2010 (ROSBAM) and Companies and Allied Matters Act (CAMA) 1990 as amended.

In addition, the research also focuses on the various guidelines issued by the CBN to regulate the operation of Islamic banking in the country such as Guidelines for the Regulation and Supervision of Institutions Offering Non-Interest Financial Services in Nigeria, Guidelines on Non-Interest Window and Branch Operations of Conventional Banks and other Financial Institutions, Guidelines on the Governance of Financial Regulation Advisory Council of Experts for Non-interest (Islamic) Financial Institutions in Nigeria, Guidelines on the Governance of Advisory Committees of Experts for Non-Interest (Islamic) Financial Institutions in Nigeria and other available

Guidelines as well. Therefore, the study examines the provisions of the above mentioned laws, guidelines and other relevant sources for the purpose of meeting the objectives of the study

1.8 LITERATURE REVIEW

The improvement of Islamic banking laws becomes very significant in developing Islamic banking practice in Nigeria. A number of researches have been conducted on the legal development of the Islamic banking in Nigeria. Most of the literatures focus on its challenges and try to highlight some of the problems which may hinder the better development of the Islamic banking system in the country. The existing literatures could be divided into two phrases. Literatures published before the establishment of Islamic banking in Nigeria, and literatures published after the commencement of Islamic banking in Nigeria. However, most of the literatures come under the first category. The following discussions suggest that the earlier studies are different from the present study in the sense that the former tries to propose and suggest that Islamic banking should be established in the country and the latter focuses on the legal developments of Islamic banking in Nigeria after its establishment by examining the laws that govern Islamic banking sector in the country.

Among the earliest literatures that were written before the establishment of Islamic banking in the country concerning legal issues on Islamic banking can be seen in several studies. Ahmad (n.d.) discussed the legal basis for the establishment of the Islamic banking system and the overview of the Nigerian laws on it. The paper is quite short and useful; the target of the paper was to discuss legal bases of the Islamic

banking system in Nigeria. The scope of that paper is different from that of the current research. The paper was reviewed because it assisted the researcher to understand the overview on the legal trip of Islamic banking in Nigeria.

Bawa (1992) proposed the establishment of Islamic banking in Nigeria in the sense that will contribute in developing the vast agricultural potentials of the country in various ways, and it will provide the employment opportunities to a certain number of citizens. Bawa's paper presumed possible challenges which may likely arise at the initial stage when Islamic banking is allowed to be operated in Nigeria. Among those challenges is the difficulty in determining eligible institutions to operate such banking system, because most of the bankers were trained with conventional systems. Thus, the staffs should be given orientation how to operate Islamic banking according to Sharī'ah principles. Indeed, Bawa's paper approach purposely focused on the economic advantages in establishing Islamic banking in Nigeria whilst the present research focuses on the legal development of Islamic banking to see the improvement of the Islamic banking laws.

Yadudu (2002) discussed some issues which may directly or indirectly be related to Islamic banking laws and some of the problems may affect the operation of Islamic banking and the laws governing it, in the sense that the Nigerian laws were characterized as secular laws. Yadudu discussed the scope and limitation of the Federal Constitution and the extent to which it is binding across the country by referring to section 1, the secularity of Nigeria under section 10 and the right to freedom of religion to everyone under section 38 of the Federal Constitution of the Republic of Nigeria. All the above provisions suggested that there are still needs for further discussion on the operation of Islamic financial institutions under the Federal

Constitution of Nigeria. Yadudu's work can also be considered, to some extent, as a study on the legal framework of Islamic banking in Nigeria and the article highlighted the challenges in the implementation of Sharī'ah in a democratic Nigeria in the view of constitutional law. On the other hand, the present research intends to discuss those issues in the sense of developing the Islamic banking laws and, in this regard, to see the flexibility of the provisions the Federal Constitution of Nigeria to fit various situations.

Abikan (2009) discussed and considered the extent to which the establishment and operation of the Islamic banking system can be accommodated under the 1999 Constitution of the Federal Republic of Nigeria. The paper focused on constitutionality of Islamic banking in Nigeria and it was presented before the establishment of the Islamic banking in Nigeria. Thus, the current research is different in the sense that it focuses on the legal development of Nigerian Islamic banking.

There are several literatures on the legal framework of Islamic banking in Nigeria after its establishment. Abikan (2012) examined the legal provisions of the financial institutions and regulatory laws in Nigeria in order to determine their amenability, or otherwise to the principles and practices of Islamic banking in Nigeria. The paper targeted to discuss the legal framework for Islamic banking in Nigeria by looking to the foregoing financial regulatory laws. Abikan did not focus on the developments of Islamic banking laws to find out the new improvements on operating Islamic banking sector in the country as what the present research intends to do.

Ismail (2013) examined the origin of Islamic banking and finance in Nigeria, its perspective, operations as well as the challenges and prospects for the Nigerian economy. In the discussion of its challenges, the article highlighted the lack of

awareness of the Islamic banking concept in Nigeria, the need of incorporation, and requisite legal framework. The article did not directly discuss the legal development of Islamic banking in Nigeria, as what the current study intends to do. It is reviewed to see the initial stages of Islamic banking in the country.

Dauda (2013) discussed and examined the legal framework of Islamic banking and finance in Nigeria, which is the main objective of the article. Indeed, the article managed to highlight some issues and emphasize that to be legal challenges faced by Islamic banking in Nigeria. He mentioned two issues as the challenges faced by Islamic banking in Nigeria which are; the legislation problem and adjudication challenges. Those two issues can be considered as institutional challenges as it may likely be to hinder the successful establishment and management of Islamic banking in Nigeria. Thus, the article focuses on the legal framework of Islamic finance in Nigeria and looks into some challenges facing Islamic banking. However, the present study focuses on the legal development on Islamic banking in Nigeria.

Mustapha (2014) examined the legal and institutional framework on the Islamic banking system in Malaysia and Sudan, and identified the lessons that Nigeria can learn from the legal regimes of Islamic banking in Malaysia and Sudan for its practice of Islamic banking to be successful. The objectives of this study are typically different with the current study which aims to discuss on the legal developments of Islamic banking system in Nigeria.

Bello (2014) assessed the challenges and limitations that Islamic banking in Nigeria may face, and he also aimed at providing solutions to these issues. The writer divided the challenges into institutional challenges and operational challenges. However, the only issue out of his discussion is an inadequate legal framework, which

he said that is due to the fact that it is designed to suit the conventional settings. Islamic banking cannot adequately be operated if there is no special legal framework for its institutions. This can be understood from the fact that as Islamic banking operates on Sharī'ah basis, the enforcement of such operations in the court of law became a problem without implementing Islamic laws in the Nigerian legal system. The article also discussed different legal challenges faced by the Islamic banking in Nigeria. However, it does not discuss the improvement of the Islamic banking laws in Nigeria in developing Islamic banking in the country.

Muhammed (2014) discussed the issue of the taxability in Islamic banking products, and foreseeable problems thereto under the Nigerian laws. The research highlighted that there is a lacuna in the administration as well as in the taxation of Islamic banking activities in the country. The target of Muhammed's paper is, specifically, to find out the issues, problems and prospects on taxation on Islamic banking products. However, he does not highlight the development of the taxation laws in respect to Islamic banking products and services, which is very relevant to the topic to see what has been implemented to the tax laws in respect to Islamic banking businesses. The present research is going to discuss on the legal development of Islamic banking laws in Nigeria away forward.

Based on the all the above discussion, the researcher finds that it is relevant and beneficial to the recent situation in Nigeria to conduct a research on the development of Islamic banking laws in Nigeria from 1991 when BOFIA was amended, where it provided some rooms to accommodate profits and losses sharing banking, which is later known as non-interest banking, till 2016. Islamic banking system has been introduced in Nigeria and it started its operation in some of states

therein in 2012, and due to this introduction many improvements were made to the banking laws in Nigeria to give room for Islamic banking business. However, the smooth developments of Islamic banking laws were neglected by many writers. Most of the writers focused more on the problems and challenges on Islamic banking industry in Nigeria. However, this research focuses on the development of Islamic banking laws in Nigeria by looking at the main banking laws and the new guidelines issued by the CBN to see what has been improved in Islamic banking laws.

Indeed, the outcome of the research will be useful to the Central Bank of Nigeria for the improving regulatory framework in Islamic banking areas and it will also be beneficial to the National Assembly and other governmental bodies for more development of Islamic banking laws by addressing the areas to be emphasized in enacting new laws in respect to Islamic banking matters. By highlighting these developments, investors in Islamic financial institutions may have confidence in the Nigerian performance in providing better services in Islamic financial sectors, and they can easily invest their money, which will lead to more development of Islamic banking all over the country.

1.9 OUTLINE OF THE DISSERTATION

The research is divided into five chapters and each chapter consists of topics and subtopics within the boundaries and concepts of each chapter, therefore, the arrangement of the chapters is based on the following:

1. Chapter one on the introduction of the research
2. Chapter two on the background of Islamic banking in Nigeria
3. Chapter three on the legal framework of Islamic banking in Nigeria