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To Link this Article: <http://dx.doi.org/10.6007/IJARBSS/v8-i5/4218>

DOI:10.6007/IJARBSS/v8-i5/4218

Received: 20 April 2018, Revised: 25 May 2018, Accepted: 27 May 2018

Published Online: 29 May 2018

In-Text Citation: (Ibrahim & Adnan, 2018)

To Cite this Article: Ibrahim, B. U., & Adnan, A. A. (2018). Shari'ah-Compliant Trading: An Assessment of Current Practices in Nigeria. *International Journal of Academic Research in Business and Social Sciences*, 8(5), 779–790.

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Vol. 8, No. 5, May 2018, Pg. 779 - 790

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Shari'ah-Compliant Trading: An Assessment of Current Practices in Nigeria

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Abstract

Despite the fact that Nigeria has a Muslim majority population, the shari'ah compliance of trading activities in the country do not seem to be carried along with the Islamic economic development reached at globally. This paper is set out to provide a review of the current situation using a conceptual approach, in order to highlight on the current level of development and pave the way for further studies on developing the economy towards complying with the shari'ah in the trading activities conducted in the country. Major findings of the paper are that some irregularities in regards with the shari'ah compliance do occur in most of the trading centers in the country which need to be addressed, while more Islamic banks and financial institutions should be established and more regulations and regulatory bodies have to be constituted to accomplish the conduction of trading in accordance with the shari'ah.

Keywords: Trading, Shari'ah Compliance, Nigeria.

Introduction

Trade literally means exchange, which could be in an unrestricted manner, and it is opposite to purchase (<http://www.dictionary.com/browse/trade>). Trade is also used for purchase, just as purchase is used for trade. It could be said (ba'a) meaning he bought it, and (ishtarau) meaning they sold it, so each of them could be used for the other interchangeably and the meaning is specified by the connotation. Trade in (shar'a) is exchanging property for another property by placing in possession and being placed in possession through mutual agreement (al-Abadi, 1995).

In fact the Qur'an and the Sunnah of the Prophet (SAW) urge Muslims to engage in trade and commerce, and to undertake journeys for what is referred to by the Qur'an as "seeking the bounty of Allah" (al-Qaradawi, 2001).

Al-Qaradawi (2001) also pointed out that Islam does not prohibit any trade except that which involves injustice, cheating, making exorbitant profits and the promotion of anything that is haram.

Among the conditions in trading is that there exists offer and acceptance by words indicating each one of them has accepted or what stands in the place of words like the signs of the mute person. Writing is considered as speech, while practical trade like where the buyer takes the good and pays the price such as buying bread, books, postal stamps and the like, is looked into. If it is a good with a well-known price in the market without bargaining therein then the action indicates offer and acceptance so it is considered trade and this is what is termed by the *fuqaha* as trade of mutual taking, but not otherwise. However, transactions must be in a form that prevents disputes.

The term *shari'ah* is an Arabic word derived from the root "shin ra 'ayn" which literally means the road to the watering place, the straight path to be followed. It refers to Allah's divine law and could technically be defined as "the total of Islamic teachings and system, which was revealed to Prophet Muhammad (S.A.W.) recorded in the Qur'an as well as deducible from the Prophet's divinely guided lifestyle called the Sunna" (Laldin, 2009).

The theory of Islamic jurisprudence recognizes four sources of Shari'ah: the Quran, Sunnah (authentic hadith), Qiyas (analogical reasoning), and Ijma'a (juridical consensus). Different legal Schools -of which the most prominent are Hanafi, Maliki, Shafi'i, Hanbali and Jafari-developed methodologies for deriving Shari'ah rulings from scriptural sources using a process known as *ijtihad*. Islamic jurisprudence distinguishes two principal branches of law, *'ibādāt* (rituals) and *mu'āmalāt* (social relations), which together comprise a wide range of topics. Its rulings assign actions to one of five categories: mandatory, recommended, permitted, abhorred, and prohibited (John, Esposito, ed. 2014, Retrieved: March, 2017).

Trading in accordance with *shari'ah* is very essential to Muslim civilization. Muslims are supposed to be conducting their financial transactions in accordance with Islamic injunctions. Islam has an economic system that is known to be neither socialist nor capitalist, aimed at reducing the gap between the rich and the poor. It encourages trade, discourages the hoarding of wealth and prohibits usury (Riba);

﴿وَأَحَلَّ اللَّهُ الْبَيْعَ وَحَرَّمَ الرِّبَا﴾

"... and Allah has allowed trading and forbidden usury..." (Q1:275).

Therefore, through zakat wealth is taxed, and trade is not taxed. Business is only acceptable based on profit sharing and venture capital, whereby the money provider is also exposed to risk. Hoarding of food for speculation is discouraged, and grabbing other people's land prohibited.

Haron and Azmi (2009) elaborated that the existence of Islamic economics is proven through Surah al-Ma'idah, where Allah (SWT) said: "This day I have perfected your religion for you, completed my favor upon you, and have choose for you Islam as your religion..." (Q5: 3).

Chapra (1994, as cited in Haron & Azmi, 2009) mentioned that upon this, Islam encompasses all aspects of the human life, and has a unique system of economy.

Unfortunately, these concepts of Islamic economics were not really made known and some were forgotten. Instead, Muslims were exposed to economic systems established and developed by non-Muslims, which resulted to the society being led or forced to learn about the economic system of the West, and consequently became more familiar with Capitalist, Socialist and Marxist economics (Haron & Azmi, 2009).

Muslims, as well as the non-Muslims living with them in an Islamic society, are expected to practice their businesses in accordance with the Islamic economic provisions and laws. Which when abided by, the economy would surely develop, whereby the gap between the rich and the poor would be narrowed, and an easier life, with less malpractice could be realized (Abbas, 2014).

The objective of Islamic economic system is to ensure that a person's wealth is managed by the way that a better return of investment would be improved through all sorts of investment tools approved by the Shari'ah Law, as well as all financial transactions. It is an important aspect of Islam, since Muslims are required to manage wealth and their financial transactions in accordance with the Islamic legal system, owners are just keepers and not absolute owners of the wealth, which Allah is the actual owner. As such, Islam promotes the doctrine that everything in this universe, including wealth, belongs only to Allah, and creatures are just trustees of the resources in this world.

"To Him (Allah) belongs all that is in the heavens and all that is on the earth and all that is between them, and all that is under the soil" (Surah Taha, verse: 6).

With the Western influence gradually the Western culture as well as the Western financial system were introduced to either replace or overcome the Islamic financial system formally adopted, to the extent that most of the Muslims have got used to the interest based system, and have no awareness on compliance of the Islamic financial rules and regulations.

Despite the fact that Nigeria, which is situated in the Western part of Africa, has a large Muslim population of over fifty five percent (55%) of its citizens, and even the civilian Governments of some of the States in the Northern part of the country have been practicing Shari'ah legal system since the regimes elected into power in 2003. Nevertheless, it is unfortunate that in most of the trading centers in the country, some of the basic aspects of the Islamic economic rules and regulations are not being observed in compliance with the Shari'ah (Chairman Consumer protection agency Jigawa State and the Head of Gujungu Market, personal communications, 30/7/2017). Such rules violated include the collection of Zakat and other Islamic taxes, prohibition of: "Riba" (interest), "Ghish" (hiding vital information in a transaction from the other party), "Ihtekar" (inflating the price of commodities by creating artificial shortages) and "Najash" (overbidding for the purpose of rising up the prices) etc. (Najeeb, 2014).

However, there is lack of awareness among the Muslims in the country on how to conduct their businesses in accordance with the Islamic injunctions (Gumel, Yusha'u & Ali, 2017). Likewise the non-Muslims should be clearly informed that practicing the Islamic economic system does not mean Islamizing the country, which they strongly oppose, while "it is a system that is accepted globally" (Chapra, 2001), to the extent that Halal Food market is estimated to grow to 18.3% of Global Food Expenditure in 2021 (Mazelan, 2017).

Haron & Wan Azmi (2009) indicated that generally in the Muslim world concepts of Islamic economics were not really made known and some were forgotten, which resulted to the society being led or forced to learn about the economic system of the West, and consequently became more familiar with the conventional systems and only awareness could tackle that.

Another problem is lack of proper regulations and regulatory bodies that would regulate the conduct of businesses in accordance with the Islamic laws at the state and national levels (Sanusi, 2011).

Most of the theories in the studies conducted on such trading centers in the country are conventional, that do not consider the Islamic view in which Allah says; "...and Allah has allowed trading and forbidden usury..." (Q1:275). There is also great shortfall in the literature available. Likewise very little was documented on trading in the Northern part of the country, which is popular in agricultural produce (Ibrahim, 2005).

The paper, therefore aims at highlighting on the present status of *shari'ah* compliance of trading in the country, the history of Islam in Nigeria, and how it spread widely in the Northern part of the country, which has an overwhelming majority of Muslim population that supposed to be conducting their businesses in accordance with Islamic financial reforms that developed globally.

Literature Review

Laldin (2009) detailed that Shari'ah has three components, which are; First, "al-ahkam al-'itiqadiyyah" (sanctions relating to beliefs), such as the belief in Allah and the Day of Judgment. Second is "al-ahkam al-akhlaqiyyah" (sanctions relating to morals and ethics), such as the injunction to tell the truth, sincerity and to be honest. While the third is "al-ahkam al-amaliyyah" (sanctions relating to the sayings and doings of the individuals and his relations with others) which is also called Fiqh.

Shari'ah is the religious law forming part of the Islamic tradition derived from the Islamic primary sources of laws and regulations, particularly the Qur'an and the Hadith (Shu'aib, 2013), while Fiqh refers to its scholarly interpretations. The word Fiqh literally means comprehension or true understanding. Fiqh is also called Islamic jurisprudence or the science of Islamic law and could technically be defined as "the knowledge of one's rights and obligations derived from the Qur'an or Sunnah of the Prophet (S.A.W.), or the consensus of opinions among the learned (ijma'), or analogical reasoning (qiyas)" (Laldin, 2009).

Ibrahim (2016) discussed how the Wangarawa came from Malle (Mali) to Kano and spread Islam during the 14th century and it was spread to Katsina, Zaria and Gobir in the Northern part of

Nigeria. Later, the Jihad of Usman bn Fodio came, which was a revolutionary movement within a traditionally Muslim society, being revolutionary in ideology, in organization and in intellectual and emotional appeal.

The Islamic empire rose in 1804 and fell in 1903, and the leader of the Jihad was Shehu Usman bn Fodio who began his career as a teacher and preacher, and was able to establish a real Islamic system of life throughout Northern Nigeria, with the legal system and financial transactions being implemented in accordance with the Islamic injunctions.

The present dispensation to have some Northern Governors trying to implement the Shari'a legal system in their states is encouraging. But the problem is that some of them have politicized the issue (Ibrahim, 2016).

Chapra (2001) gave an account of how the Islamic teachings and views fit within the frame work of the new Global Economy. He argued that the philosophy ingrained in Islamic teachings and the writings of Muslim scholars consider the promotion of justice to be indispensable for achieving the desired integration of the world economics. He added that among other things the Muslim countries should strive for introducing greater justice in their own economies and also adopt a number of measures that would help them meet successfully the challenges of globalization.

Siddiqi (1996 as cited in Haron and Azmi, 2009) mentioned that efforts to instill Islamic ideas and values into the field of economics only started in the 1970's. However, it was viewed that if this is accepted it may imply that Islamic economic system was not in existence before then. It could be observed that the expression was meant to point out that; Islamic economics has been introduced as an academic discipline in a number of institutions of higher learning throughout the Muslim world and in the West since 1970's. Nevertheless, Islamic economic system had existed from the beginning of Islam. Perhaps he may be referring to re-actualization of the Islamic economic principles in the modern times.

An Islamic economy features centrally on; the "behavioral norms and moral foundations" derived from the Qur'an and Sunna, the collection of Zakat and other Islamic taxes, and the prohibition of interest (Riba).

Najeeb (2014) in his study "Trading in Islam: Shariah rules and contemporary applications in Islamic Financial transactions" comparatively highlighted on the various Islamic laws and guidelines which govern contracts of exchange involving selling of goods and trading of debts. The study introduced various Shariah compliant contracts and concepts, which are utilized by the modern Islamic financial industry to offer Shariah compliant financial solutions.

Sanusi (2011) highlighted on the financial modes and instruments, he gave brief explanations on; Murabaha (cost-plus sale contract), Ijarah (lease), Mudharaba (silent partnership), Salm (forward trade contract), Istisna' (partnership in manufacturing) and Musharakah (equity partnership).

Umar (2011) described the only Islamic finances facilities that are in accordance with the Shari'ah available on ground in the country are; only Ja'iz Bank -Islamic Banking, and Stanbic IBTC - Non-Interest (Islamic) Banking Window. Concerning Islamic Insurance (Takaful) there were Takaful

windows in Africa Alliance Insurance Plc, Niger Insurance Plc, and Halal Takaful, a division of Cornerstone Insurance Plc. Then on Islamic Capital Markets, there were: Lotus Capital Plc and Halal Fund of ARM. Therefore Islamic financial products opportunities are very rare for trading in the country.

Gumel, Yusha'u and Ali (2017) mentioned that Jaiz bank is the only full fledged non-interest bank but still the bank is facing numerous impediments in terms of regulation, people's patronage and competition with the fully established conventional banks in the country. Based on its findings the study recommended for an increase in enlightenment campaigns to create more awareness on the objectives and modalities of the Jaiz Bank and there should be intensive manpower training and development in the area of Islamic banking and finance in the country to provide proper Islamic finances for trading. This paper puts more emphasis on Shari'ah compliance of trading in the country.

The only study found mainly on Shari'ah compliance in Jigawa State of Nigeria was the study conducted by Gumel and Sani (2016). Conceptual approach was adopted to find out how Islamic Banking and Finance Products and Service could be utilized as alternative and sustainable means of financing Small and Medium Enterprises (SMEs) in Jigawa State. The findings revealed that Islamic Banking products are useful in SMEs financing. However, there is no single full fledged Financial Institution offering Islamic Banking Product and Services, hence the study recommended strong policy action that would bring about establishment of Islamic Financial Institutions especially Islamic Micro finance. It was quite evident that at several instances, the Government has implemented series of policies, programs and strategies aimed at promoting the SMEs. However, sustainable financing of SMEs which is critical to their growth is yet unaddressed, leaving the existing SMEs vulnerable and the potential ones un-established. The study mainly focused on the SMEs, while this study is focusing on the general trading activities in the country.

Below is a conceptual framework of a shari'ah compliant trading which is arrived at through trading under rules and regulations of the financial transactions that is under the laws of transactions (fiqh al-mu'amalat) in Islamic Jurisprudence, which is one of the three components of the shari'ah:

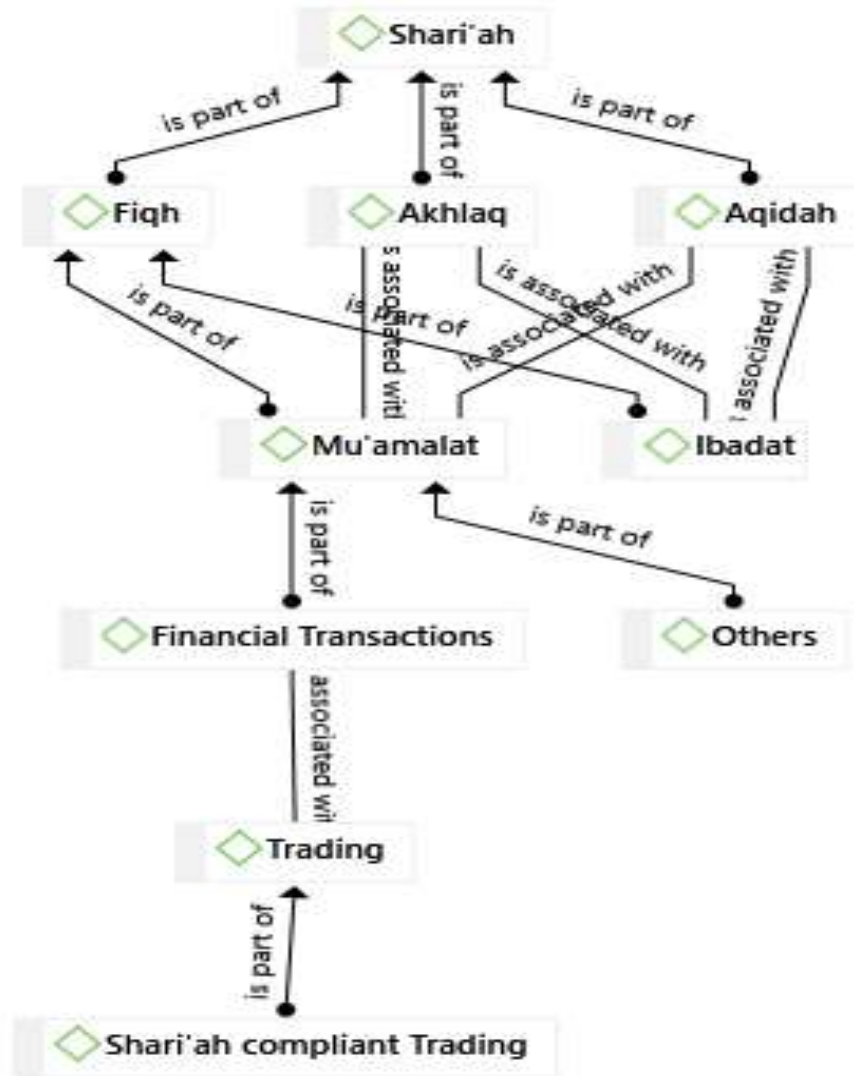


Figure: 1
 Source: Laldin (2009)

Methodology

The study adopts a conceptual approach to review and analyze the current *shari'ah* compliance of trading in Nigeria. The methodology of the paper was by collecting data using the document analysis method through consulting specific stakeholders from Nigeria and analyzing relevant literature on *shari'ah* compliance. The paper utilizes the secondary data generated through library materials for the purpose of literature review. Despite the fact that documented researches in the field were rarely conducted, however, the available primary data would be utilized. Relevant secondary data such as books, journal articles, proceedings and others were sourced for the study.

Results and Discussion

We can realize that Islam intends for trading to be conducted for productive purposes in the economy in line with what is permitted, through fair and honest dealings.

The historical root of trading in Islam can be traced back to the basic Islamic concepts of transactions and extends to the various structures of Islamic financial products and overall planning. Shari'ah defines five (5) necessities as necessary and basic for human existence, and it is the duty of every society to preserve and protect the five (5) necessities: religion, life, intellect, progeny and property. Hence this explains the need to manage wealth in accordance to Shari'ah. (Insight Report: Islamic Wealth Management Growing Stronger Globally, P7, 2016).

Islamic Wealth Management involves creation of wealth through business, profession or trade and/or savings with financial institutions, the enhancement of wealth to generate returns, the protection of wealth through risk management, takaful and trusts, and the distribution of wealth through gifts (hibah), wills and trusts. As such Islamic Wealth Management is concerned with providing end-to-end solutions using products and services throughout the wealth management cycle which are in compliance with Shari'ah. The range of activities comprises financial analysis, Shari'ah compliant asset and securities selection, investment planning and ongoing monitoring of investments, as well as estate planning. So, it is a comprehensive Shari'a-based service (Idris & Lawan, 2013 & Insight Report: P5, 2016).

It is very clear how important trading in accordance with the Islamic law could be to a Muslim majority country like Nigeria, which when implemented properly would drive a lot of benefits to the country in general. Umar (2011) outlined some of the benefits of Islamic Financial Services on the Nigerian Economy, thus:

1. Financial market deepening: new market and institutional players will be introduced e.g. Islamic Money Market, Islamic asset management companies, Takaful, etc.
2. Financial Inclusion: a large number of Muslims in the country that had hitherto steered away from the organized conventional financial services due to their aversion to interest and interest-based products will be integrated in the formal economic sector, which will in turn lead to replacement of informal markets with formal and regulated ones.
3. Enhanced product offering from an array of asset-backed instruments of finance as alternatives and complements to the conventional ones.
4. New competition in the banking industry which is expected to engender a concomitant reduction of interest rates.
5. Enhanced oversight and regulation through an added component of corporate governance, which is the Shariah supervisory board/committee.
6. Enhanced investment in the critical sectors of the economy through the use of Sukuk, a new financing instrument.
7. Development of the real sector of the economy through its asset-backed financing which will avail funds only to production and real investment activities (Umar, 2011).

Shari'ah compliance of trading in Nigeria is so vital, considering the nature of the Muslim majority population and the responsibility on them to practice their life in accordance with the Islamic injunctions.

Globally, Islamic finances have developed and some Islamic and non-Islamic countries are already benefitting from the system, as such the Nigerian Muslims should also join the progress. Carboni (2017) suggests that with the challenges humanity is facing, whether it be geopolitical, climate change, extreme poverty, resource scarcity, or inequality in all its forms, green projects, their products, and services will play a critical role in the advancement of this paradigm shift and the halal economy is a critical factor in success. He mentioned that recent research indicates that project-based work is increasing and recent research indicates that project-based work is increasing and now represents on average 30% of the global GDP and is as high as 45% in some countries.

Presently there are very few mechanisms on ground to nurse the development; as such efforts should be made to extend the little achieved in some parts of the country, and further the development.

Some Northern States in the country have been implementing just some parts of the Shari'ah-law, in which only the Hisba, Zakat and Shari'ah boards were constituted, which do not have enough legal backing and machinery to bring into practice and implement the modern Islamic financial mechanisms.

Even the areas where some modern Islamic finances have started in the country, some steps have to be taken for better regulations and expansions as indicated by Sanusi (2011)

- a. The establishment of more Islamic banks as part of the institutional arrangements to kick-start the Islamic financial services industry in Nigeria
- b. Greater inter-agency and international collaboration to facilitate the growth and development of the nascent industry.
- c. Enhanced capacity development to facilitate effective regulation and supervision of licensed Islamic financial institutions by the CBN.
- d. The global visibility of Nigeria as an emerging regional hub for Islamic banking and finance in Africa.
- e. The Muslim domination in the Northern States would have been an opportunity for smooth takeoff and implementation of the system upon the things that could be done locally, while further efforts are to be made nationally.

Recommendations and Conclusion

It is recommended to the Northern States Governments and people to start taking appropriate steps of Islamizing their financial activities to cope with Shari'ah compliance in trading activities. The States should go ahead in making laws and regulations within their capacity and jurisdictions then facilitate the efforts being made in developing the system and its regulations within the country. Academic researches should also be conducted frequently and productively to come up with suggestions and recommendations that would be duly adhered to.

The paper highlighted on the history of Islam in Nigeria, and how it spread widely in the Northern part of the country, which has an overwhelming majority of Muslim population that supposed to be conducting their businesses in accordance with Islamic financial reforms that developed globally. It also discussed the present status on the level of Shari'ah compliance of trading in the country, with some recommendations on the need to strive harder in developing the situation. Further research and documentation on the issue is also recommended.

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