

**THE OPERATION OF ISLAMIC BANKING IN NIGERIA: AN ASSESSMENT OF
JAIZ BANK, GOMBE BRANCH**

BY

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بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ

النبي اعلو السلام والصلاة

لكريم

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DEDICATION

I dedicate this work to my parents, Malam Bala Adamu and Malama Aishatu Alhaji Baba for their parental care, guidance, affection and prayers brought me where I am today.

LIST OF ABBREVIATIONS

PLC: Public Liability Company

PLS: Profit and Loss Sharing

SWT: *SubhanaHu Wa Ta'ala* (may He (Allah) be praised and may His transcendence be affirmed.

IDB: Islamic Development Bank

IBBL: Islamic Bank of Bangladesh

PBUH: Peace be upon Him

IFB: Islamic Finance Bank

AAOIFI: Accounting and Audit Organization for Islamic Financial institutions

ATM: Automated Teller Machine

POS: Point of Sale

NIFIs: Non-Interest Financial Institutions

SAC: Shari'ah Advisory Committee of Experts

KSS: Knowledge Sharing Session

RA: *Radiyallahu Anhu* (may Allah be pleased with Him)

HPPs: Home Purchase Plans

SAP: Structural Adjustment Program

GLOSSARY

Gharar: Risk/Uncertainty

Maysir: Gambling

Jaiz: Lawful

Takaful: Islamic Insurance

Qard al-Hassan: Benevolent loan

Rahn: Pledge/ Mortgage

Jahiliyyah: Pre-Islamic Period

Ribal Fadl: The Interest based on value

Riba al-Nasiah: The delayed interest

Sharia'h: Islamic Law

Zakkah: A yearly obligatory charity taken from Muslims possessing a fixed amount of wealth and distributed to the needy, poor and several other categories of recipients as contained in verse 60 of Surah al-Taubah

Ushr: 1/10

Waqf: Literally, it means detention, but its legal meaning is the dedication of a property for the benefit of others in form of charity

Musharakah: Partnership

Muamalat: Transactions

Wadi'ah: Safe keeping

Haram: Unlawful

Ijarah: Hiring/Leasing

Sahabah: (Single Sahabi) Companions of the Prophet ﷺ

Muzara'ah: Crop Sharing

Musharakah Mutanaqisah: Diminishing Partnership

Aqd: Contract

Fiqh: Means human understanding of the divine Islamic Law as revealed in the Qur'an and *Sunnah*

Istisna': Making of Something

Sukuk: Islamic Bond/ Investment Certificate

Waka'lah: Agency

Hadith: Prophetic Tradition

Hibah: Gift

Shubhah: Doubtful

Rabbul-Maal: Owner of Capital

Mudarib: Entrepreneur

Lajnatuddaa'ima Libuhus Al'Ilmiyyayh: The Council of Senior Scholars, Saudi Arabia

Infaq: Spending for the sake of Allah

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ABSTRACT

This dissertation is aimed at evaluating the operation of Jaiz Bank, Nigeria and its Gombe branch in Particular. In view of this, therefore, the objective of this research is to identity the *Shari'ah* Compliance through working modalities for the smooth operation of non-interest banking. The work has evaluated the products and services of the bank under the Islamic commercial jurisprudence. The research applied three methods. These are: field research, library and observatory. However, the research discovers that, the Jaiz bank adheres strictly to the *Shari'ah* in its operation; such as absence of *riba*, uncertainty and gambling. It also reveals that, the bank has *Shari'ah* Advisory Committee of Experts saddle with a responsibility of ensuring its operation to be in accordance with Islamic Law. The findings reveal that the bank adheres to dictates of the *Shari'ah* in its commercial operation. In the final note, this dissertation concludes by recommending that the Jaiz bank should organize workshop for Imams to easily reach the public on its operation. It also recommends that an independent legislation that would serve as a cornerstone of operation of non-interest banking in Nigeria should be made.

CHAPTER ONE

INTRODUCTION

1.0 Background of the Study

The Conventional Banking systems have failed to tackle the economic growth and human development due to its nature of exploitation, couple with Non-*Shari'ah* Compliance; that make Muslims and even some Non-Muslims to hate the systems. For example, in Nigeria, the former President Olusegun Obasanjo said: "All that we had borrowed up to 1985 was around 5 United States billion dollars, and we have paid about 16 U.S billion dollars. Yet, we are still being told that we owe about 28 U.S billion dollars. Those 28 billion dollars came about because of the injustice in the foreign creditor's interest rates; if you ask me, what the worst thing in the world is, I will say compound interest."¹

The conventional banks tried to ameliorate this situation by opening window of free Interest service in some of their branches such as Stanbic IBTC, so that to attract Muslim customers in order to achieve its worldly gain. Some people believe that once there is no interest in banking system a bank it becomes Islamic Bank. Islamic banking or Islamic finance in general is a way of doing financial transactions and banking while respecting Islamic law or *Shari'ah*.²

Banking may be viewed as a nationwide economic activity which provides an array of risk financial services, including the taking of financial decisions involving activities such as the acceptance of money deposits, mobilization, channelization and creation of money and credit. It also involves incurring financial obligations to acquire claims such as guarantees/bonds and

¹-<http://fightingpoverty.tumblr-com/> former President of Nigeria, Olusegun Obasanjo 2000, accessed on 22th, September, 2018.

²-<https://www.gfmag.com/> **Global Finance Magazine**, June, 2018 accessed on Sunday September, 2018

providing a debt clearing mechanism that ensures economic growth in industry and commerce.³ The banking has come in to existence to cater for the economic needs of the society and is, therefore, an offshoot civilization. Surely, there would be no need of a bank for a savage who lives on the wild roots and fruits. It is the increase of human needs which gives rise to the efforts of man. The history of civilization is in fact, the history of man's efforts for the satisfaction of his growing needs and he, thus, advances from stage to stage.⁴

According to Adebayo, many Muslims are not satisfied with the operation of the conventional interest-based banking which is against the spirit of their religion. Central Bank of Nigeria publicized the framework for the regulation and the supervision of non-interest in Nigeria in March 2009. The objective of the framework is to provide minimum standards for the operation of non-interest banking in Nigeria.⁵

The origin of banking system in Islam can be traced back to Prophet Muhammad ﷺ and his companions as well as pious Muslim leaders, For instance; during the advent of Islam when the Prophet carried out trading operation for his wife Khadijah, they had partaken a form of *Mudarabah* transaction and the profit earned is shared between them. Islamic bank is a banking system without interest which can be established by the people or government in accordance with Islamic injunctions. This banking system gives more emphasis on mutual help through trading with its customers or it can engage in the trading directly instead of extending any loan on interest-based.

³ - Nasiru Ahmad and Mansur Idris, ***the Principles and Practice of Islamic Banking***, Published by Benchmark limited Kano, Nigeria.2015, P. 2

⁴-Muhammad Muslehuddin, ***Banking and Islamic Law***.Adam Publishers and Distributors New Delhi-110002, India 2008, P. 11

⁵- Adebayo, Rafiu Ibrahim; **"A Study of the Legal and Regulation Issues of Non-Interest Banking"** in Nigeria, Journal of Islamic Banking and Finance, Vol. 28, Jan.-March 2011.

The major reform which began in 2004 when Charles Soludu was the Governor of CBN bank were mergers and acquisitions while the capital base of these banks rose from ₦2 billion to a minimum of ₦25 billion as directed by the CBN. This made the banks more financially robust to play their expected role of business financing. Soludu issued a draft framework for non-interest banking (Islamic banking) in March, 2009 which had an initiate intended as a platform for seamless and robust link to international financial market.⁶

Banks are established for the economics activities and development of each nation. Islamic banking is being accepted all over the world in general and Nigeria in particular due to its nature of *Shari'ah* compliant. Muslims in Nigeria have been watching these developments with great interest and aspire to establish an Islamic bank in the country where all banks are interest-based. The Central Bank of Nigeria (CBN) issued a banking license to Jaiz Bank PLC in 2011 to operate under the principles of Islamic Jurisprudence after several challenges such as Islam phobic tendencies and inadequate capital based. Prior to the Central Bank of Nigeria guidelines on non-Interest financial institutions, banks were based on interest. Interest cuts the very roots of human love, peaceful co-existence, brotherhood, fellow-feeling and undermines the happiness and welfare of human society. It is obvious that some conscious practicing Muslim community want to transact banking business with non-interest banks in order to avoid severe implication of interest rate chargeable on loans given to them. The origin of banking business in the world dates back to 2500 BC, when the early bankers were mainly the Jews in Italy who transacted their business on benches in market places. The name of bank was derived from an Italian word

⁶-Okeke and O.U. **"The Political Economy of the Proposed Islamic Banking and Finance in Nigeria: Prospects and Challenges"** Kuwait Chapter of Arabian Journal Business and Management Review vol.1, no. 7 march 2017. P. 19

“Banko” which means bench. However, the real banking started around the 16th century C.E in London by Italian Gold Smiths, when they started expanding their business to include safe keeping, valuables and money. Whenever valuables and money were deposited, receipts were issued to owners. As the reputation of the Goldsmiths grew, these receipts began to change hand in place of money and valuables and hence became the forerunners of our present day banking notes.⁷

1.1 STATEMENT OF THE PROBLEM

Islam as a *Din*, is a comprehensive and universal way of life that deals with all aspects, such as religious, political, social or economical e.tc. Therefore, Islam enters in to all nooks and crannies of human endeavors. The Qur'an 5:162-163 describes in detail that one's prayer, sacrifice, life and death belongs to Allah without partner. It could be understood that both rituals and worldly *mu'amalat* of Muslims should be in accordance with *Shari'ah*. Islam, prohibits a number of immoral acts such as fornication, adultery, homosexuality, consuming intoxicant and murder. However, the variety of discussion and extent of warnings for these acts are not of the same degree with those of taking interest. This, has led Sayyid al-Qutb (1999) to write: “No other issue has been condemned and denounced so strongly in the Qur'an as usury”.⁸

Islam also encourages merchants and wealthy people to be sympathizing with poor in to their day- to- day transaction so as to attain Allah's pleasure. Allah has prohibited contract with the involvement of interest, it went to the extent that Allah and his Messenger asked those who deal in interest to prepare for a war against those who engage in this type of transaction.

⁷-A Study of the Legal and Regulation Issues of Non-Interest Banking in Nigeria, Journal of Islamic Banking and Finance, Vol. 28, Jan.-March 2011.

⁸ -Qutb, S. In *The Shade of the Qur'an*, Mark field, Leicester, United Kindom, 1999, Vol.1, p.335

It has been observed that conventional banks are dealing with interest and other unlawful transactions which are against Islam; interest causes unemployment and inflation in several ways. When interest accumulation is high it makes cost of production also high causing fall in investment and in some cases closure of production unit. Some researchers have conducted research on Islamic banks as an alternative to modern conventional banks, and it has been proven that Islamic banking system deserves to be embraced and accepted in our economic system due to its nature of not dealing with interest in its operation and other day-to-day transaction.

For this reason, Islamic banking system emerged to serve as an alternative to modern conventional banks. The idea of establishing Islamic banks emanated from Arabs world, countries like Egypt, Saudi Arabia, and Kuwait. Later on, the idea spreaded to the community of Europe, Asian countries like Pakistan, Indonesia and Malaysia; Egyptian city of Mit Ghamar attempted limited interest free banking on a small scale in 1963. The Islamic bank in Malaysia, Bank Islamic Malaysia Berdhad (BIMB) was established in 1983 under the Islamic banking act of 1983. The bank offers services in line with principles of *Shari'ah*. Islamic financial system started in Thailand with the establishment of a cooperative society, Pattani Islamic Savings Cooperative in 1987. By end of 2001, four other Islamic Saving Cooperative societies were established in Southern part of Thailand. These cooperative societies have successfully established themselves as viable financial institutions in Managing and mobilizing Muslim funds in the country. Conventional commercial banks like citigroup and HSBC Commenced Islamic banking operations through subsidiaries named citi Islamic investment bank and HSBC Amanah. The other followed suit by opening dedicated Islamic banking branches like citi Islamic in Bahrain, Grindlays in Karachi and national commercial bank in Saudi Arabia.⁹

⁹ - MPRA Munchi, **Jaiz Bank Nigeria: A Case Study of Non-interest Bank**, 2015, P.16

In Africa also, some countries have established Islamic banking; such as Sudan, Kenya, Tanzania, Gabon and Nigeria. In Nigeria, Gombe emirate was not left behind for the branch of Jaiz bank has been extended to them to serve as an alternative to modern conventional banking. Islam has given Muslims opportunity to use their intellects and sense organs to think, ponder, investigate and acquire knowledge on their day-to-day activities. Therefore, there is need to evaluate the activities and operation of Jaiz Islamic bank Gombe branch to find out whether it adheres strictly to *Shari'ah* principles on Islamic commercial Jurisprudence, degree of satisfaction by customers, achievements from the bank, clients and customers from the time they have started operation to this moment.

1.2 RESEARCH QUESTIONS

- i. Does Jaiz bank adhere strictly to Islamic principles of commercial jurisprudence in its operation?
- ii. How can Jaiz bank products and service reduce poverty and unemployment among the youth in Gombe?
- iii. How Jaiz bank products and services can differs from conventional banking system in its operation?
- iv. Does Jaiz bank customers Gombe Branch are convinced with the products and services in its operation?
- v. What are the successes recorded or otherwise of Jaiz bank operational system in Gombe branch?

1.3 AIM AND OBJECTIVES

The aim of this research is to investigate the relevance of Islamic banking products and services in enhancing income generation and find out the success or otherwise of Jaiz bank operational system in Gombe State branch.

The objectives of this research could be outlined as follows:

- i. To examine on whether Jaiz bank's activities involves *Gharar* and *Maysir* (speculation) in their operations.
- ii. To investigate on the modes of operation which differs from conventional banks
- iii. To find out the challenges faced by the bank in order to operate within the range of Islamic rules of transaction.
- iv. To promote, foster and develop the application of the *Shari'ah* principles in to banking business transaction.
- v. To venture and participate in the growth of a steady economy and give equal opportunity to all.
- vi. To highlight the basic principles, products and services of Islamic bank; and to find out how Jaiz bank positively affect the social-economic wellbeing of the people.

1.4 SCOPE OF THE RESEARCH

The research examines the concept of Islamic banking *Shari'ah* compliance with reference to Jaiz bank Gombe branch. In Nigeria, there are three pilots branches of Jaiz banks: that is Jaiz Bank Kano, Jaiz Bank Kaduna and Jaiz Bank Abuja. But the researcher selects Jaiz Bank Gombe branch for this study. The time frame to be covered for this research is from the emergence of Jaiz bank in Gombe State from 2013-2017. Despite the fact that there are some conventional

banks that operate Islamic window, for example, Stambic IBCT is relevant to be evaluated, considering the Islamic window the bank opened and included their modes of operation. But due to limitation of time, this research will be concentrated and be restricted to operations, products and services of Jaiz Bank in branch State as well as the its *Shari'ah* compliance in to day to day activities.

1.5 CONTRIBUTION TO KNOWLEDGE

The research will useful and beneficial to Nigerian government, Muslims and Non-Muslims in various waywhich can be listed below:

- i. This research will be useful to the students of Islamic banking and finance, business administration, economics and upcoming researchers for furthering research on the assessment of Islamic banks in general and Gombe State in particular.
- ii. It will also give systematic information to government concerning Islamic Banking System in Nigeria in general and Gombe State in Particular.
- iii. The research helps the general public and the private sector on the methods and techniques of adopting the *Shari'ah* and abolishment of *riba* in conventional banks.
- iv. Avail Muslims especially manufacturers and other entrepreneurs to know the kind of bank services Jaiz provides as against what conventional banks provide.

1.6 SIGNIFICANCE OF THE STUDY

The research is relevance to our contemporary time, particularly Nigeria that is always facing challenges in its economy as a result of foreign debt that attracts un humanitarian interest rate in the Conventional Banking System. The followingsare some of the significance of the study:

- i. The study is important because it will give confidence to people both Muslims and Non-Muslims to patronize the products and services of Jaiz Bank considering the mutual benefit to be derived through profit and loss sharing or other lawful products the bank offers to its clients, creditors and government.
- ii. The study will be significant to government and its agencies as customers and regulators of the banking industry. For instance, Central Bank of Nigeria whose role is to act as regulatory agency of other banks and the staff of the central bank who may be directly supervising Islamic Banking Institutions would need to have a fair knowledge of how the system works.
- iii. This study will be among the sources of useful knowledge of the Islamic Banking system to be relied on by the Supervisory Committee assigned by C.B.N for checkmating the bank's operation.
- iv. The study highlights the assessments of Jaiz bank operation so that areas of weaknesses should be corrected and where it's on the right path should be encouraged.

1.7 METHODOLOGY

The research methodology is an important tool in the collection of data; it provides the basis for which data is to be assembled and analyzed. The researcher uses two methods for data collection:

Conventional: In this case, constant visits to library and research centers through reading the related books, internet sources, journals containing articles by academic writers were utilized and other relevant materials to this research topic in the library; understand, review and summarize the contents of the materials he has studied.

Fieldwork: This is a situation where by a researcher gathered data through the use of interview. The researcher has also designed categories of people to be interviewed which include customers, religious scholars and workers in Jaiz Bank Gombe. Some of questions to be asked are: How does the bank operate, what is the percentage or ration it adopts in *Mudarabah* contract transaction, the success and the challenges facing it

CHAPTER TWO

LITERATURE REVIEW

There are several researches conducted on the viability of Islamic banking in the world and Nigeria in Particular. Moreover; books, journals, academic research papers written on Islamic banking system exist. The researcher uses some selected and relevant materials for the literature review and fills the gap that previous researches were not able to touch due to some reasons. In the case of this research, the followings materials were studied and reviewed.

Review of Related Literature

Usman Sani Abbas (2014) in his Paper entitled **The Relevance of Islamic Banking to Socioeconomic Development in Nigeria** at Proceedings of the first International Conference Organized by the International Institute of Islamic Banking and Finance (IIIBF) Kano, discusses the comprehensive nature of Islam that deals with all part and parcel of human life religiously, politically, socially and economically. He traces the origin of Islamic Banking in Nigeria specifically. He further discusses the characteristic of Islamic Banking and made some clarifications on misconception about Islamic Banking. The writer discusses the relevance of Islamic Banking to socioeconomic development in Nigeria at large, while present research narrows' it to socioeconomic Development in Gombe.

According to Sani, (2012) In his Dissertation entitled *An Evaluation of the Operation of Non-Interest Banking Under the Existing Legal Frame work in Nigeria*, a dissertation Submitted to the school of postgraduate Studies, Ahmadu Bello University Zaria, Nigeria for the award of master in of laws degree L.LM, the researcher explains that non-interest practices embrace all persons in the sphere of economic growth and wealth distribution without social discrimination.

It also brings together those who save and those invest on investment arrangement. Success is certainly achieved as a result operating its Banking business in accordance with *Shari'ah* principles. The share holders' and depositors money could be safeguarded against any foreseeable legal risk. The research concurs with the present research in the overview of the Islamic bank's operation, as he has discusses the Islamic bank's operation under the existing legal frame work in Nigeria, but the present research will look at Islamic banking operation in Jaiz Bank Gombe branch.

Saiful Azhar Rosly (2010) in his book entitled ***Critical Issues on Islamic Banking and Financial Markets*** discusses the concept of scarcity from economist view by pointing scarcity arises when available resources are not sufficient to fulfill human wants. In other words, economist made two general assumptions about universe and mankind, limited resources of the universe and unlimited wants. However, from Islamic perspective there is no absolute scarcity in what human beings' consumption, because Allah has created everything in sufficient on earth as *Suratul Baqarah* describes. He also discusses Islam and risk management, risk management is about controlling of the possibility of losses arising from pure and speculative risk. The author discusses risk management generally in Islam, but has not specifically talk on risk management in Jaiz bank. The present research will find out how risk and liquidity are managed in Jaiz bank Gombe branch so as customers, clients and government will have more confidence in pooling their wealth for profitable transaction under loss and profit sharing model and be patronizing their products day-in-day out.

Ali and Sharilh (2017) in their article ***Nigerian Economic Recession: an Islamic Perspective*** discuss the economics worldview in to capitalism, socialism and Islamic economic system. Under capitalist economic system, the means of production and distribution of goods and

services belong to private individuals, where as socialism is system that means of production and exchange of goods and services owned by government. Islamic economic system is a *Shariah*compliant build the human welfare concept on both materials and spiritual dimensions. The research differs from the present on the world view of economics system and that is socialism and capitalism. But the research is similar to the present research having discussed on the Islamic economic system, But the author has not discussed the operations of Jaiz Islamic bank Gombe branch, whether it gives loan and over draft to the customers or not, if yes how do they manage charges since Islamic banks has prohibited interest. In this research, the researcher will be focusing his attention on the operations of Jaiz bank Gombe branch in order to find out the success or otherwise

According to Ibrahim, B.S (2010), in her M.Sc dissertation entitled *An Assessment of Perceived Viability of Islamic Banking in the North-West Zone of Nigeria*, submitted to the Department of Business Administration, Bayero University, Kano, for the award of MSc Certificate, the researcher discusses the nature of conventional banking transaction which is exploitative. She was able to find out the perceived need and viability of Islamic bank due to the high respondent opinion being expressed for the operation of savings and current account in Islamic Banking. This research is similar and related to the present research because of its Islamic nature of operation. The research is also relevant for it has discussed prohibition of interest not only from Islamic perspective, but in Christianity and Judaism. However, the research differs from the present; while the former discussed on the viability of Islamic Banking in the North-West Zone of Nigeria, the current research will discuss the practical operation of Jaiz bank Gombe branch.

Another book reviewed is *Principles and Practices of Islamic Banking* written by Ahmad and Idris. The authors discuss clearly with Qur'anic verses and Prophetic traditions on Interest and

the classification of interest. They classified interest in to two; *ribal Fadl* and *riba al-Nasia*. The authors have explained the practices of *al-Nasiah* or loan interest were among the prevalent practices of the Arabs of *Jahiliyyah* period. The period after the advent of Islam, the Qur'an addresses the prohibition of *riba* in a gradual manner to the extent that the Qur'an points out that it is not charging of the Interest that would increase the wealth of a person, but giving out charity will make the wealth of Muslim to grow and be blessed. They have pointed out that the important and style of Qur'anic verses on the prohibition of Interest on a gradual process. The authors have discussed some Prophetic traditions which show that interest is prohibited. This work is similar to the present research but it differs in terms of its scope and operation, because the authors have given the general overview of Islamic banking, the prohibition of interest in Qur'an and *Sunnah* and the operation of Islamic banking. However, the present will make reference to Jaiz bank Gombe in order to find out the practical activities of the bank and mutual relationship that exists between the bank, clients and the customers.

Doi (1983), in his book *Sharia'h the Islamic Law*, discusses the guidance from the Qur'an and *Sunnah* on Muslims to engage themselves in a lawful transaction on wide range of trade and commerce based on Islamic economic system. In order to be successful in trade, Muslims have been asked to undertake long journey seeking from Allah's bounties while others will remain at home. The author also explained that in *Suratul Juma'ah*, Muslims have been warned that their engagement in trade and the business must not make them negligence of their duties to Allah, their creator. As soon as the call for Friday's prayer is given, likewise call for other prayers as well, Muslims were asked to close their business and answer the call earnestly, loyally and submit to Allah. He further discusses the law of contract; circulation of wealth between rich and poor through institutions of *Zakat*, *Ushr*, *Khums*, *Fay*, *Waqf*, *Musharakah* and *Mudaraba*

transactions so that to bridge the wide gap that exists in modern conventional banking system which capitalized on usury and other exploitation in day to day transactions. This work is much relevant and similar to the present research that is why the idea of Islamic banking emerged which served as an alternative to the conventional banking system which is a cancer that is destroying individual's and the nation's economy. The present research will find out whether Jaiz bank has *Zakat* account, those that are responsible for taking care of the account and how do they manage it to grow for the benefit of the recipient.

Another book that has been reviewed is *Islamic Banking Practices From the Practitioner's perspective*, the author discusses in details on the prohibitions in *Muamalat*, after establishing that prohibited things are many in *Muamalat*, he selected the four major ones. They are amongst others, producing and selling impure goods that are of no use and therefore of no value; the existence of that is interest charging factor, *Gharar* which means ambiguity or uncertainty and *maysir* that means gambling or anything that involves betting and *gharar* are prohibited and invalid. The author also discussed *Shari'ah* contract of commodity, where he explained commodity *Murabahah* deposit as an Islamic fixed deposit product with a fixed profit rate of return via the buying and selling of commodities. Categories of *Mudarabah* and essential element of *Mudarabah*, *Wadi'ah* and its essential element were also discussed. The author further discusses the Islamic deposit, where he mentioned three and gives brief explanation on them starting with: Savings account, Current account and fixed deposit account. The research is similar to this research for it has discussed some of the operations Islamic bank in general, but has not discussed specifically the operation of Jaiz Bank Gombe branch.

According to Ahmad (1991) in his book entitled *Islam, Poverty and Income Distribution*, the author argues the Islamic approach of eradication of poverty and achievement of an equitable

distribution of income wealth is part of an overall scheme for the establishment of a just socio-economic order. He further explains the property right and obligation in Islam, where the real ownership of everything belongs to Allah. Man's ownership of any property is subject to basic principle of Islam. For example, in Surat al-Taubah of the Qur'an eight categories of people were mentioned to be the recipient of *zakat* so that to have circulation of wealth in the Muslim community without being concentrated in the hands of few. Islamic laws of inheritance are aimed at achieving a wide distribution of wealth among the relatives of the deceased. The idea of income or wealth distribution is to avoid having too much gap between rich and poor.

According to Ali (1994) in his book entitled *Accounting Issue in Islamic Banking*, the author posits that Islamic banks provide finance through a variety of modes, such as investment in ordinary shares through stock exchange. Islamic banks also invest funds on the leasing of assets, a lease can be either operating or financing. The operating lease involves providing assets such as a building, vehicles or machines on a specified rent. After the agreed period, asset returns to the bank for further leasing or final disposal. The author also discusses assets and liability. Assets are anything that is capable of generating positive cash flows or other economic benefits. Liability, on the other hand, is any obligation arising from a transaction or other event that has already occurred and that involves the Islamic bank in a probable future transfer of cash, goods or services for going of a measurable with reasonable accuracy.

A book written by Abdulgafoor (2000) entitled *Commercial Banking in the Presence of Inflation*, the author explains what is meant by inflation and how it is measured, and then he describes some popular indicators of inflation and its causes which include: if the need for goods exceeds its supply the price will increase. The inflation will be measured through the charging of price of goods we do buy day-in-day out.

Karwai (2017) in his paper entitled ***Islamic Finance***, posits that Islamic finance to mean any finance that Conforms to the *Shari'ah*. Similarly, he discussed the Islamic financing products where three areas have been outlined; that is investment (*Mudharabah* and *Musharakah*) trade (*Murabahah* and *istisnaa/bay bi thamanin ajal*) Lending to *Qardul Hassan*. More to that, he mentioned accounts available in Islamic banks which include savings account, current account and investment account; Mobilization of savings through individuals and Islamic organization for societal development were also analyzed. The research is relevant and related to the present research, but has not discussed Jaiz Islamic Bank Gombe branch.

A book entitled ***Non-Interest Bank How Far Have we Gone***, the author analyzes the operational procedures, mechanism, and function of non- interest banking. He stated that it is one of the functions of non-interest bank to provide an institutional framework for converting a charitable fund in to socially productive use intended for the common people. The theory has failed to consider the business goal for making profit. The author discusses the Islamic banks sources of fund through main two sources that is owner's equity and deposit. There is another special source for a special fund i.e, *Zakat*. Owner's equity or capital of bank is one of the components of banks' funds. Then, the most important component of the banks' funds is deposit from the customers through current deposit and profit- loss-sharing deposit. He further discusses other banking services they render such as foreign exchange transaction and renting safe for clients.

According to Taqi M.U (1999) in his book titled; ***An Introduction to Islamic Finance***. The author discusses the concept of *Musharakah*, *Mudarabah* and *Murabahah*; he further explains the management of *Musharakah* with its basic features and how the profit earns will be distributed between the bank and the client. Termination of *Musharaka* contract has also been discussed

when one of the partner wishes to quit, but this has to be done by given notice to his co-partner in order to have a successful termination either through liquidation or other lawful means.

Harmain, et al in their article, *Developing Islamic Economics Curriculum: Learning from the Faculty of Shari'ah, State Institute of Islamic Studies (IAIN) North Sumatra, Indonesia*. The authors discuss the Structure of Shari'ah Banking Study Program. The component of the curriculum provides students with relevant knowledge related to the economic aspects of *Shari'ah*; fiqh; Usul fiqh, qawa'id fiqh, tafsir and hadith. There are various Islamic economics they offer which includes Shari'ah Accounting and Finance, Shari'ah Management and Shari'ah Banking.

Murtala, A.A (1994) in his thesis entitled *Current Trends in the Implementation of Interest-Free Islamic Banking in Nigeria*, Submitted to the Department of economics, Faculty of Social Science and Administration, Usmanu Danfodio University Sokoto in Partial Fulfillment of the Requirement, for the award of B.S.c (Econs) Degree of the University. The researcher discussed the concept of Islamic Banking, formation of Islamic bank and Islamic Banking business which is relevant and related to the present research. He further explains the misconception about Islamic banking in Nigeria, Justification for Islamic banking in Nigeria, Islamic Banking and the Nigerian Economic growth were also discussed. But the researcher has not discussed the misconception of Jaiz Islamic Bank in Gombe State; the present research intends to find out whether there is misconception by Nigerians on Jaiz Bank Operation in Gombe branch.

From the above literatures that have been reviewed in this research, none has discussed the operation of Jaiz bank Gombe branch. Therefore, the present research intends to fill the gap that has not been filled by the previous researchers.

CHAPTER THREE

OPERATION OF JAIZ BANK IN NIGERIA

Jaiz bank is a private bank, just like many of the banks operating in Nigeria. It is the first Islamic bank in Nigeria and it offers financial services like other banks except that it does not charge interest on the money it lends out. The mode of its operation is strictly in compliance with *Shari'ah* Principle of Islamic Jurisprudence in order to earn their living in a lawful means.

3.1 Concept of Islamic Banking

There are numerous definition of Islamic Banking given by Islamic scholars and jurist. According to Yousir Islamic Bank is a banking institution that is committed to *Shari'ah* and its intents, thus mobilizes and provides financial resources on interest free basis, employs available resources directly or indirectly in *Halal* (permissible by *Shari'ah*) activities and projects in the best possible manner for the society. ¹⁰Thus, it is clear that Islamic bank is part and parcel of Islamic Economic System that all its activities are guided by *Shari'ah* compliance.

Similarly, Islamic banking has been defined by Masri to mean banking in consonance with the ethos and value system of Islam.¹¹ For Omar and Abdel-Haqq, Islamic banking system is that which avoids Interest and participates actively in achieving the goals and objective of Islamic Economy.¹² Islamic Banking refers to a system of banking or banking activity that is consistent with the *Shari'ah* (Islamic ruling) and its practical application through the development of Islamic economics. The principles which emphasize moral and ethical values in

¹⁰-Yousri, A.A, ***Al-Riba Wa Al-Faida***” (Riba and Interest), al-Dar al-Jame’ai Ibrahim, Alexandria, 1996

¹¹-Masri, Rafic ***Masaraf Al-Tamya Al-Islami***, Al-Resulah Foundation, Beirut, Lebanon, 1981

¹²-Abdul Haq, F.&M, ***Islamic Banking: Theory, Practice and Challenges*** ; Karachi, Oxford University Press.

all dealings have wide universal appeal. *Shari'ah* prohibits the payment or acceptance of interest charges (*ribah*) for the lending and accepting money, as carrying out trade and other activities that provide goods or services considered contrary to its principles.¹³

According Mabera, Islamic banking simply means a non-interest system of banking in which both profit and loss are shared equally between the creditors and the debtors. In this system of banking, all kind of illegal business transactions are strictly prohibited.¹⁴

Islamic banking is a non-conventional financial Institution that mobilizes financial banks in to profitable portfolio in an attempt to achieve pre-determined social and financial objectives, but in line with Islamic principles. This is because Islam prohibits transactions that are based on *riba* (usury or interest), gambling and other businesses that involved cheating, injustice and corruption. In Islamic Banking System, both savings mobilization and investment are managed in accordance with the principle of *Shari'ah*.

3.2 Emergence of Jaiz Islamic Banking in Nigeria

History has shown that banking system is among the most imperative aspects of any developed and thriving economy and financial system. A functioning banking system helps to create a more successful and efficient society. Banks facilitate in the transfer of resources from those with excess to those who requires extra resources to run their businesses. Banks like any other firm are in business to make money and banks major source of income or profit is the difference in

¹³ -Islamic-banking.com, **Institute of Islamic Banking and Insurance Vanguard Business Centre**, Unit 9, 2013

¹⁴-Yusuf Mabera H, ***Islamic Banking and Shari'ah Lawin the Bible***, Published by Sarumedia Publishers D.35 Dutsinma Road, opposite. Tipper Garage, Kasuwa Barci, Tudun Wada, Kaduna, 2011 p. 11

interest rates at which they pay to their depositors and the rate at which they lend to companies and entrepreneurs.

Islamic banking history in Nigeria is of only recent past. At the time of independence of Nigeria in 1960, Muslim Bank West Africa Limited was operating in Lagos. The bank was closed in 1962 after order by the then Minister of Finance, Okotie Eboh prior to two court cases to defend its existence. Habib bank was granted license to Operate Islamic banking window in 1996, but due to poor information and absence of framework for non-interest banking it could not register significance success.¹⁵

Sunusi Lamido Sunusi, the present Emir of Kano assumed office Central Bank of Nigeria in 2009, several non-interest banking products were launched. Zamfara State Government planned to establish an Islamic bank as part of its policy for application of full fledged Islamic law. However, it dropped the idea before it was implemented and supported a private player Jaiz international bank to successfully pool resources. Muslim in Nigeria have been yearning for its establishment to enable them transact banking business in line with the dictates of their religion. The first step in that direction was to secure the country's membership of the Islamic development bank (IDB) based in Jeddah, Saudi Arabia. That actually took quite some time as Nigeria formally joined the membership in 2005.¹⁶

Other efforts towards having Islamic bank and financial system in Nigeria include the convening of an international conference on Islamic economics organized by the Usmanu

¹⁵ - <http://islamicbanking.asia/wp-content/uploads>, Journal of Islamic Banking and Finance, 2014 12th April-June, pdf

¹⁶ - MPRA Munich Personnel, **Jaiz Bank in Nigeria: A Case Study of Non-interest Bank**, 2015 P.17

Danfodio Univeristy, Sokoto in1985. The Conference was part of the efforts aimed at sanitizing the public on the concepts Islamic economics. Central Bank of Nigeria, in January 2009, gave an approval for the apex bank (CBN) to join the international financial services board as full member. The IFSB is an international standard-setting organization for the Islamic financial services industry. The CBN, in august 2010, released the new banking model, which included non-interest bank among the specialized banks and will operate either at national or regional requirement of ₦10billion and ₦6 billion respectively.¹⁷

Jaiz Bank PLC was created out of the former Jaiz international plc which was set up in 2003/2004 as a special purpose vehicle (SPV) to establish Nigeria's first full-fledged Non-interest Bank. It is a quoted public company owned by 20,000 shareholders spread over the six geographical zones of Nigeria. Jaiz Bank plc obtained a regional license to operate as a Non-interest Bank from the Central Bank of Nigeria on the 11th of November 2011and began full operations as the first Non-interest Bank in Nigeria on the 6th of January, 2012 with 3 branches located in Abuja FCT, Kaduna and Kano. The regional license allows the bank to operate geographically in a third of the Country. Based on recommendations from Islamic Development Bank (IDB), which is also a shareholder of the bank, Jaiz Bank PLC has partnered with Islamic Bank of Bangladesh (IBBL) for technical and Management Assistance.¹⁸

Currently, Jaiz Bank is the only full-fledge Non-interest (Islamic) Bank in Nigeria. It started with only three branches in 2012 and had since then expanded its branch network with additional 24 which are fully operational as at the end of 2016. It has also been granted National

¹⁷ - MPRA Munich Personnel, **Jaiz Bank in Nigeria: A Case Study of Non-interest Bank** .2015, P.17

¹⁸-www.jaizbankplc.com, **Jaiz Bank fir Better Use**, 73, Relph Shodeinde Street, Kano House, Central Business Area Abuja, 2018, pp.1-2

operating Services which enable it to operate in all parts of the federation. The bank's ultimate objective is to expand beyond the shores of Nigeria in line with its vision.¹⁹

From the aforementioned, it could be understood that Jaiz Islamic bank had faced a lot of challenges which after overpowering some of the challenges it is now being fully established not only at regional level, but it has been granted license to operate at national level as well. However, the Jaiz bank has mission and vision:

Mission statement: To provide innovative, value-added non-interest financial services to our clientele employing the best people supported by technology; While Vision Statement: To be dominant non-interest financial services provider in Sub-Saharan Africa.²⁰

3.3 Principles of Jaiz Islamic Banking

Jaiz bank is built on the principles of *Shari'ah* and Islamic commercial system, which engender a high level of equity, fairness, sustainability and social welfare in all activities with ultimate aim of achieving a well-balanced society. The system which was founded strictly based on the principles of *Shari'ah*, absolutely prohibits receipts or payment of any predetermined, guaranteed rate of return thereby closing the gate to the concepts of interest and usury in all financial dealings. These principles of Islamic banking and finance are established in the Qur'an, which Muslims believe are the exact words of Allah revealed to Prophet Muhammad ﷺ. The followings are major principles of Jaiz Islamic bank.

¹⁹-Jaiz Bank for Better Life Annual Report and Accounts, 2016

²⁰ - <https://www.jaizbank.com>, Our Mission and Vision Values-Jaiz Bank, accessed on 28th April, 2018

3.3.1 Prohibition of Interest

The first principle of Islamic Banking and finance, which also is the main driving force behind its development, is prohibition of Interest and usury, known as *ribah* in Islamic terminology. *Ribah* is a term which literally means "an excess" and is interpreted as "any unjustifiable increase of capital whether in loans or sales" or "any positive, fixed, predetermined rate tied to maturity and amount of principal regardless of the performance of the investors."²¹ Explaining the rationale for prohibition of Interest, Iqbal, Askari and Mirakhor (2009:12) wrote:

Prohibition of *ribah* is based on argument of social justice, equality, and property rights. Islam encourages the earning of profits, determined ex post, symbolized successful entrepreneurship and creation of additional wealth whereas interest, determined ex ante, is a cost that accrued irrespective of the performance of the business and may not create wealth if there are losses. The argument is that social justice demands that borrower and lenders equitably share rewards as well as losses and that the process of wealth accumulation and distribution in the economy be fair and representative of true productivity.²²

Under *Shari'ah*-compliant system therefore, it is forbidden to charge, pay or receive interest. The system does not recognize the value of money where money gives birth to money by charging interest through lending activities, rather, money must be used to create real

²¹-Ahmad Dogarwa, B. ***Reading in Islamic Banking and Finance***, published by International Institute of Islamic Banking and Finance, Bayero University, Kano, Benchmark Publishers Limited, 2013.p. 61

²²-Iqbal, Askari and Mirajhor, cited by Ahmad Dogarawa, B. ***Reading in Islamic Banking and Finance***, published by International Institute of Islamic Banking and Finance, Bayero University, Kano, Benchmark Publishers Limited, 2013, pp.61-62

economic value and it is only permissible to earn a return from investing it in *Shari'ah*-permissible commercial activities that will make the financier or investors take some commercial risk. The Qur'an condemned Interest (*ribah*) in unequivocal terms. Looking at the Qur'anic verses on *ribah* sequentially, one would see that in Q30:39, charity is preferred to given gift with the hope to an increase in return. According to the verse, the former multiplies in blessing and reward while the latter attracts no blessing. Allah the Most High says: "And that which you give in gift²³ (to others), in order that it may increase (your wealth, by expecting to get a better one in return) from other people's property, has no increase with Allah; but that which you give in countenance, then those they shall have manifold increase. *SuratAl-Rum* 30:39

Allah the Most High condemned the Jewish practice of eating *riba* despite the clear prohibition on that. He says:

فَبِظُلْمٍ مِّنَ الَّذِينَ هَادُوا حَرَّمْنَا عَلَيْهِمْ طَيِّبَاتٍ أُحِلَّتْ لَهُمْ وَبِصَدِّهِمْ عَنْ سَبِيلِ اللَّهِ كَثِيرًا وَأَخَذَهُمُ الرِّبَا وَقَدْ نُهُوا عَنْهُ وَأَكْلِهِمْ أَمْوَالَ النَّاسِ بِالْبَاطِلِ وَأَعْتَدْنَا لِلْكَافِرِينَ مِنْهُمْ عَذَابًا أَلِيمًا

For the wrong doing of the Jews, we made unlawful for them certain good foods which had been lawful for them - and their hindering many from Allah's way. And their taking of *riba* (usury) though they were forbidden from taking it, and their devouring of men's substance wrongfully (bribe). And we have prepared for the disbelievers among them a painful torment" (Qur'an 4:160-1)²⁴

A strong warning was given to believers to desist from interest or face the consequence of being thrown into the hellfire that was prepared for the disbelievers. Allah the Most High says:

²³-This is interpretation of Abdullah Ibn Abbas, Mujahid, Dahhaak, Qataadah, Ikramah and others. See Ibn Kathir 's commentary for detail.

²⁴-Abdullahi Yusuf Ali: *The Glorious Quran, Text, Translation and Commentary*. Beirut/ Dar Al Arabia,

يَا أَيُّهَا الَّذِينَ آمَنُوا لَا تَأْكُلُوا الرِّبَا أَضْعَافًا مُضَاعَفَةً وَاتَّقُوا اللَّهَ لَعَلَّكُمْ تُفْلِحُونَ

O you, who believe, do not consume interest, doubled and multiplied, but fear Allah that you may be successful. (Qur'an 3:130-131).

The Qur'an declares that those who eat *riba* are like the insane person who resorts to all kinds of immoderate acts due to his state of mind. It further makes it clear that *ribah* is different from legitimate business transactions and that the former is destroyed while the latter receives increase from Allah. Allah says

الَّذِينَ يَأْكُلُونَ الرِّبَا لَا يَقُومُونَ إِلَّا كَمَا يَقُومُ الَّذِي يَتَخَبَّطُهُ الشَّيْطَانُ مِنَ الْمَسِّ ذَلِكَ بِأَنَّهُمْ قَالُوا إِنَّمَا الْبَيْعُ مِثْلُ الرِّبَا وَأَحَلَّ اللَّهُ الْبَيْعَ وَحَرَّمَ الرِّبَا فَمَنْ جَاءَهُ مَوْعِظَةٌ مِنْ رَبِّهِ فَانْتَهَى فَلَهُ مَا سَلَفَ (وَأَمْرُهُ إِلَى اللَّهِ) وَمَنْ عَادَ فَأُولَئِكَ أَصْحَابُ النَّارِ هُمْ فِيهَا خَالِدُونَ يَمْحَقُ اللَّهُ الرِّبَا وَيُزِيلِ الصَّدَقَاتِ وَاللَّهُ لَا يُجِبُ كُلَّ كَفَّارٍ أَثِيمٍ

Those who consume interest cannot stand (on the day of Resurrection) except as one stands who is being beaten by Satan in to insanity. That is because they say, 'Trade is (just) like interest.' But Allah has permitted trade and has forbidden interest. So whoever has received an admonition from his lord and desists may have what is past, and his affairs rests with Allah. But whoever returns (to dealing in interest or usury) those are the companions of the fire; they will abide eternally therein. Allah destroys interest and gives increase for charities. And Allah does not like every sinning disbeliever. (Qur'an: 2:275-276)

More so, In the Q2:278-279, Allah declares that those who take *riba* are at war with Almighty Allah and His Messenger (peace and blessings of Allah be upon him), and call such people to repent if they are truly believers. And (the most High) says:

يَا أَيُّهَا الَّذِينَ آمَنُوا اتَّقُوا اللَّهَ وَذَرُوا مَا بَقِيَ مِنَ الرِّبَا إِن كُنتُمْ مُؤْمِنِينَ فَإِن لَّمْ تَفْعَلُوا فَأْذَنُوا بِحَرْبٍ
مِّنَ اللَّهِ وَرَسُولِهِ وَإِن تُبْنُوا فَلَكُمْ رُءُوسُ أَمْوَالِكُمْ لَا تَظْلِمُونَ وَلَا تُظْلَمُونَ وَإِن كَانَ ذُو عُسْرَةٍ
فَنَظِرَةٌ إِلَىٰ مَيْسَرَةٍ وَأَن تَصَدَّقُوا خَيْرٌ لَّكُمْ إِن كُنتُمْ تَعْلَمُونَ

O you, who believe, fear Allah and give up what remains of interest, if you should be believers. And if you do not, then be informed of a war from Allah and His Messenger. But if you repent, you may have your principal Sums – (thus) you do no wrong (to others), nor are you wronged (Qur'an 2: 278-80)

One can infer from these verses, those that are devouring *ribah* (interest) Allah has challenged them to come out and wage a war with Allah and His Messenger due to the degree of its prohibition. Therefore, evil act of such nature has to be clearly understood, its root, causes and the branches so that it is avoided and have Allah's mercy. In addition to these Qur'anic verses, the Prophet (peace and blessings of Allah be upon him) made a number of statements concerning the prohibition of interest. The following are some of the statements on interest recorded in different books of hadiths with authentic chains of narration:

Avoid the seven destructive sins: associating partners with Allah, sorcery, killing a soul which Allah has forbidden-except through due course of the law, devouring interest, devouring the wealth of orphans, fleeing when the armies meet, and slandering chaste, believing, innocent women." ²⁵

It has also been described in hadith, interest has seventy gates the worst of which is one to marry or to have sex with his biological mother. ²⁶

He further warned us on the evil of taking interest, and he said:

²⁵-Ahmad ibn Aliyu ibn Hajar A, **Fathu Al-Ba'riy bi Sharhi Saheeh Al-Bukhari**, Published by Daru al-Salam Riyad, 1997, no: 2766 ,Vol. 4, P.10

²⁶ - Al-Zahabi, I.H. *Kibab al-Kaba'ira*, published by Dar El-fikr S.A.L Beirut-Lebanon, 2007,P.46

One coin of interest that is knowingly consumed by a person is worse in Allah (peace and blessings of Allah be upon him) cursed the one who takes interest, the one who pays interest, the witnesses to it and the recorder of it. Then he said, they are all the same."

Moreover, in another hadith:

Narrated by Abu Said al-Khudri that Once Bilāl brought *Barni* (i.e., a kind of dates) to the Prophet, and the Prophet asked him, "From where have you brought these?" Bilāl replied, "I had some inferior type of dates and exchanged two *Sa'* of it for one *Sā'* of *Barni* (dates) in order to give it to the Prophet to eat." Thereupon, the Prophet said, "Beware! Beware! This is definitely *Ribāh* (usury)! This is definitely *Ribah'* (usury). ! Don't do so, but if you want to buy (a superior kind of dates), sell the inferior kind of dates for money and then buy the superior kind of dates with that money."²⁷

It is in the light of the above Qur'anic verses and statements of the Prophet (peace and blessing of Allah be upon him) many scholars warn against involvement in interest more so stringent that it cannot equated with warnings against other immoral acts such as fornication, adultery, homosexuality, consuming alcohol and murder. In fact, Jamaluddeen even quoted Sayyib Qutb as saying, "No other issue has been condemned and denounced so strongly in the Qur'an as has usury"²⁸

²⁷ - Ahmad ibn Aliyu ibn Hajar A, **Fathu Al-Ba'riy bi Sharhi Saheeh Al-Bukhari**, Published by Darul al-Salam Riyad, 1997 Vol. 3, P. 101, no: 2312

²⁸- **Interest and its Role in Economy and Life**, p.7 available at <http://www.islamreligion.com>

Ribah is an odious earning, prohibited, disastrous and an ill gotten property lacking of any good and blessing. Rather, it brings about harm and deficiency in the *Deen and* worldly affairs, in the present and in the future everyone who partakes in it.²⁹ Therefore, *ribah* has numerous evils both in this world and the hereafter which include the followings:

Firstly, it is disobedient to Allah and His Messenger: Because the one who deals with *riba* or supports it specifically opposes what has been reported from Allah and His Messenger, Allah - the exalted said in the glorious Qur'an:

فَلْيَحْذَرِ الَّذِينَ يُخَالِفُونَ عَنْ أَمْرِهِ أَنْ تُصِيبَهُمْ فِتْنَةٌ أَوْ يُصِيبَهُمْ عَذَابٌ أَلِيمٌ

...then let those beware who withstand the Messenger's order, lest some trial befall them, or a grievous penalty be inflicted on them (Qur'an 24:63).

In the Saheehal-Bukhari, it is reported from the Prophet ﷺ that: "All of my *Ummah* will enter paradise except the person who rejects. It was said: who will reject, o Messenger of Allah? Anybody who follows me will enter the paradise and anybody who disobeys me has rejected."³⁰

Secondly, rejection of supplication: Allah does not grant the supplication of the one who consumes *riba*. It is reported from an authentic hadith that Prophet ﷺ

"Mentioned a man who had travelled long distances disheveled and dusty, raising his two hands to the heavens (sayings): O lord ... and his food (from something)

²⁹ - Abdullah Bin Saalihi Al-Qusayyir, **A Reminder of the Evils of Riba its Essence, Forms and Harms**, Published by Dakwah Corner Bookstore Makkah Commercial Centre, 2012, P. 51

³⁰ - Ahmad ibn Aliyu ibn Hajar A, **Fathu Al-Ba'riy bi Sharhi Saheeh Al-Bukhari**, Published by Darul al-Salam Riyad, 1997: no. 6851, Hakim: 7626 and other

prohibited, his drinks is (from something) prohibited his dress is (from something) prohibited and he is nourished with something prohibited; how will that be answered"³¹

Thirdly, to be deprived of blessings of life and earnings; the evidence of that is His saying:

يَمْحَقُ اللَّهُ الرِّبَا وَيُزِيلُ الصَّدَقَاتِ وَاللَّهُ لَا يُحِبُّ كُلَّ كَفَّارٍ أَثِيمٍ

Allah will deprive usury of all blessing, but will give increase for deeds of charity: For He loveth not creatures ungrateful and wicked. (Qur'an 2:276)

This noble verse warns of the disastrous consequences of *riba* on its consumer from every angle. Allah will overtake him with the means of lowliness and ruin of drowning or burning or (been attacked by) thieves or oppressive systems which will take from him what it takes in oppression and disgrace. Allah-Glorious is He, can completely take it (i.e, the ill-gotten wealth) away from him and nothing will remain with him. The people have seen many rich people who are consumers of *ribah* or those whose business are from *ribah* and are based on it, after a few years, what they had were destroyed such that they got entangled in debts, their mortgages were taken over, disgraceful Punishment overtook them and they became hangers who depended on people.³²

Forthly, being turn away from Allah's good deeds; in most cases-from good deeds being nice to people with good loans, and granting respite to the one in difficulty till he finds ease and taking his distress to seek the face of Allah. For the one who gives loan based on interest, he finds it

³¹ - Muhyiddin al-Nawawi, **Minhaj Sharhi Saheeh Al-Muslim**, Published by Dar-el-Marefah, 2003 no: 1015, Vol. 3, P. 85

³² - Abdullah Bin Saalihi Al-Qusayyir, **A Reminder of the Evils of Riba its Essence, Forms and Harms**, Published by Dakwah Corner Bookstore Snd Bhd, 2012, Pp.54-55

difficult to give any one without specifying interest as condition. This is because; they calculate the 'gains' of the wealth within specific periods in a manner that makes them forget the profit of good deeds for the hereafter. They may not be granted the success of doing good deeds even if they remembers it and knows its beneficial results.³³ Allah indeed said the truth:

أُولَٰئِكَ الَّذِينَ اشْتَرُوا الْحَيَاةَ الدُّنْيَا بِالْآخِرَةِ فَلَا يُخَفَّفُ عَنْهُمْ الْعَذَابُ وَلَا هُمْ يُنصَرُونَ

These are the people who buy the life of this world at the price of the Hereafter: their penalty shall not be lightened nor shall they be helped (Qur'an 2:86)

Fifthly, Interest on Loan affects a Country's Currency: The happening nowadays have made all right thinking people to understand that transaction with loan on interest causes devaluation of a currency, more especially to the countries that incurred such external debt. We take example of our country Nigeria, people are wandering on how the currency of Nigeria (Naira) is always falling in value; it is known before 1983, Naira had more value than US dollar because by then it was only 75k to exchange for one dollar, but due to accumulated foreign debt on Nigeria has caused the value of the currency to fall in 1985 to the extent that three naira fifty kobo was exchanged for one dollar. This made the Nigerian government to introduce the Structural Adjustment Program (SAP), but Alas! The value of Naira continues to falling. In short, in 1991 one has to give twelve naira to bank for the exchange of one dollar.³⁴

³³ - Abdullah Bin Saalihi Al-Qusayyir, **A Reminder of the Evils of Riba its Essence, Forms and Harms**,

Published by Dakwah Corner Bookstore Snd Bhd, 2012, Pp.60-61

³⁴ -Yahaya Tanko **Islamic Banking Interest-Free**, Manifold Publishing Co. Ltd, 2005, Pp. 13-14

The Naira continues falling down to the extent that today one has to give ₦306.43 and ₦356 for the exchange of one US dollar in government price and marketers respectively³⁵. That has negatively affected the economy of Nigeria as an importing country.

Sixthly, Interest on loan causes inflation: Any country where banks and other financial institutions that advance loans based-on-interest are many in number cannot be devoid of inflation on essential commodities, more especially if the country is getting the loan from outside (foreign debt). Let cite an example with Nigeria, people will see that since 1984 inflation on essential commodities is always on the increase, these include foodstuffs, clothes, building materials, rent, fuel, transportation (fares) etc. For example, on the foodstuffs, people will see that in 1983 one measure of rice was not more than two naira fifty kobo (₦2.50) and flour was one naira thirty kobo (₦1.30). But within seven years only everything has multiplied about ten times for example rice in 1991 (₦22.00-25.00) per *mudu*(measure) and flour twenty five naira.³⁶ It continues due to foreign debt and IMF policy.

Prohibition on Speculation

Under Islamic banking and finance, profit-making from speculation or gambling (*mayseer*) activities are not permissible. Generally, *Mayseer* involves easy acquisition of wealth by chance or game of chance in which one gains at the cost of others. It follows under this prohibition that

³⁵- Arewa Radio FM 93.1 Report on exchange rate, 1st May, 2019. And Sham'um Abdulkadir An interview conducted via phone call 1st May, 2019

³⁶ - Tanko Y, **Islamic Banking Interest-Free**, Pp.14-15

Shari'ah-compliant transaction must be free from speculation. Parties engage in such transaction cannot predetermine a guaranteed profit.³⁷

The prohibition on gambling is clearly stated in Qur'an and stands immutable (Qur'an 2:219; 5:90-1).

يَسْأَلُونَكَ عَنِ الْخَمْرِ وَالْمَيْسِرِ قُلْ فِيهِمَا إِثْمٌ كَبِيرٌ وَمَنَافِعُ لِلنَّاسِ وَإِثْمُهُمَا أَكْبَرُ مِنْ نَفْعِهِمَا
وَيَسْأَلُونَكَ مَاذَا يُنْفِقُونَ قُلِ الْعَفْوَ كَذَلِكَ يُبَيِّنُ اللَّهُ لَكُمْ الْآيَاتِ لَعَلَّكُمْ تَتَفَكَّرُونَ

They ask thee concerning wine and gambling say: "In them is great sin, and some profit for men; but the sin is greater than the profit." They ask thee how much they are to spend; Say: "What is beyond your needs." Thus, doth Allah Make clear to you His Signs: In order that ye may consider (Qur'an 2: 219)

While in another verse, Almighty Allah says:

وَلَا تَأْكُلُوا أَمْوَالَكُمْ بَيْنَكُمْ بِالْبَاطِلِ وَتُدْخِلُوا بِهَا إِلَى الْحُكَّامِ لِيَأْكُلُوا فَرِيقًا مِنْ أَمْوَالِ النَّاسِ بِالْإِثْمِ
وَأَنْتُمْ تَعْلَمُونَ

And do not eat up your property among yourselves for vanities, nor use it as bait for the judges, with intent that ye may eat up wrongfully and knowingly little of [other] people's property (Qur'an 2:188).

The Prophet ﷺ in Hadith:

Abu Hurairah narrated that the Messenger of Allah ﷺ Says:

Whoever takes an oath in which he (forgetfully) mentions Al-Lat and 'Al-Uzzah, should say: '*La ilāha illallah*' (none has the right to be worshipped but Allah). And whoever says: 'Come

³⁷-Ahmad Dogarawa, B. **Reading in Islamic Banking and Finance**, Published by International Institute of

along, let us gamble,' must give in charity (as expiation for his sin).³⁸

This proscription is not only limited to gambling for the purpose of entertainment and recreation (Qardawi, 1985).³⁹ If one's involvement in a game-of-chance even for relaxation is forbidden, the same prohibition becomes easily grasped in cases of gambling to attain profit at the expense of other. Hence, the application of this position extends, therefore, also to the process of passing similar judgments on the speculative stock market transactions.⁴⁰

One can deduce that gambling (*mayseer*) causes hatred for consuming the wealth of a Muslim brother without due cause, and its distance people from Allah's remembrance.

3.3.2 Avoidance of Uncertainty (*Gharar*)

The Arabic word *Gharar* is a fairly broad concept that literally means deceit, risk, fraud, uncertainty or hazard that might lead to destruction or loss. *Gharar* in Islam refers to any transaction of probable objects whose existence or description are not certain, due to lack of information and knowledge of the ultimate outcome of the contract or the nature and quality of the subject matter of it. For example, the Prophet ﷺ has forbade the purchase of the unborn animal in the mother's womb, the sale of the milk in the udder without measurement, the purchase of the spoils of war prior to distribution, the purchase of charities prior to their receipt,

³⁸ - Ahmad ibn Aliyu ibn Hajar A, **Fathu Al-Ba'riy bi Sharhi Saheeh Al-Bukhari**, Published by Daru al-Salam Riyad, 1997, no:2860

³⁹-Yusuf Al-Qardawi, ***Al-Halalwa al-Haramfi al-Islam (The Lawful and the Prohibited in Islam)***. K. El- Helbaywy, M.M Siddiqui and Syukry (Trans.). Shorouk International , London 1985

⁴⁰ -Hussin bn Salama etal, ***Speculation: The Islamic Perspective***; A Study on Al-Maisir Mediterranean Journal of Social Sciences MCSER Publishing, Rome-Italy, Vol. 6,No. 1 s1, 2015, p. 374

and purchase of the catch of the diver.⁴¹ Mustafa Al-Zarqa' defines *Gharar* as the sale of probable items whose existence or characteristic are not certain, due to the risky nature which makes the trade similar to the gambling.⁴²

Islam has clearly forbidden all business transactions, which lead to exploitation and injustice in any form to any of the parties of a contract. It seeks protecting the different parties of a contract from deceit and ignorance forbidden *Gharar* in any commercial exchange contracts that are not free from hazard, risk, or speculation about essential elements in the transaction to either party, or uncertainty of the ability of one party to honor its rights and obligations. It requires that all Islamic financial and business transactions must be based on transparency, accuracy, and disclosure of all necessary information so that no one party has advantages over the other party. Allah says in Qur'an:4:29

يَا أَيُّهَا الَّذِينَ آمَنُوا لَا تَأْكُلُوا أَمْوَالَكُمْ بَيْنَكُمْ بِالْبَاطِلِ إِلَّا أَنْ تَكُونَ تِجَارَةً عَنْ تَرَاضٍ
مِنْكُمْ وَلَا تَقْتُلُوا أَنْفُسَكُمْ إِنَّ اللَّهَ كَانَ بِكُمْ رَحِيمًا

O you who believe! Eat not up your property among yourselves in vanities: but Let there be amongst you Traffic and trade by mutual good-will: Nor kill [or Destroy] yourselves: for verily Allah hath been to you Most Merciful!(Qur'an 4:29).

Moreover, a key requirement for any transaction under Islamic banking is avoidance of uncertainty (*gharar*) or hazard that may lead to destruction or loss. *Gharar* occurs when a party ventures in to transaction blindly without sufficient knowledge. In simple term, it refers to a lack of knowledge about or lack of control of the outcome of any transaction, which will consequently result in an outcome that could be detrimental to one party. This lack of knowledge

⁴¹-<http://www.financialislam.com/> **Prohibition of Riba, Maysir and Gharar-Financial Islam-Islamic finance**

⁴² - Ahmad Sodikin Kasimin, A Mini Guide to Islamic Banking and Finance, Mashi publication Sdn Bhd 2013

or control may stem from misrepresentation, mistake, fraud, duress, or terms beyond the knowledge and control of one of the parties to the contract.

In practice, *gharar* relates to issues such as pricing, delivery and quantity of assets that are transactional based and would therefore affect the degree or quality of consent of the parties to the contract. Examples of uncertainty in business transactions are:

1. Selling of goods that the seller is not in a position to deliver
2. Selling known goods against unknown price
3. Selling unknown goods against known price
4. Make a contract conditional on an unknown event.⁴³

Adhering to this principle strictly, will create peaceful co-existence, love and tranquility in day to day business transactions where everything will be manifested clearly on the price, time and goods without hiding defect so that no one can cheat one another.

3.3.3 Sanctity of Contracts

Islamic banking activities are based on the sanctity of the contracts. A necessary code of conduct for Islamic banks is they deal in only *halal* (legally permissible) activities and avoid *haram* (unlawful/impermissible) activities. According to scholars, a general principle under Islamic jurisprudence is that all ways and means are permissible except where otherwise declared with clear, unambiguous texts. Transactions that involved the following are considered *haram* in Islam: Interest, exploitation of the poor, manipulation of price, game of chance, creating artificial scarcities and dealing in unlawful products such as alcohol or illegitimate

⁴³-Ahmad Dogarwa, ***Reading in Islamic Banking and Finance***, Published by International Institute of Islamic Banking and Finance, Bayero University Kano, Benchmark Publishers Limited, 2013, p.66

profession such as prostitution. Accordingly, under Islamic banking, banks are not allowed to lend to individuals or invest in companies involved in activities considered to have a negative impact on society. For example, gambling, pornography, cinema, etc or that are illegal under *Shari'ah* such as buying of shares in interest-based financial institutions including conventional insurance companies, and financing construction of a plant to make alcoholic beverages or tobacco and pork business.⁴⁴

Allah says in the Qur'an:

هُوَ الَّذِي خَلَقَ لَكُمْ مَا فِي الْأَرْضِ جَمِيعًا ثُمَّ اسْتَوَىٰ إِلَى السَّمَاءِ فَسَوَّاهُنَّ سَبْعَ سَمَاوَاتٍ وَهُوَ بِكُلِّ شَيْءٍ عَلِيمٌ

It is He Who hath created for you all things that are on earth; Moreover, His design comprehended the heavens, for He gave order and perfection to the seven firmaments; and of all things He hath perfect knowledge (Qur'an 2: 29).

This verse indicates that everything one sees on earth it has been created for him to make good use of and benefit from it, this includes day to day business activities except where the prohibition is clearly stated and spelt out. While on the new issues emerging due to advancement in the area of information communication technology, it is the Muslim jurists who will give verdicts on its permissibility or not based on what they have extracted from the Qur'an and Sunnah.

3.3.2 Promotion of Social Justice

⁴⁴-Ahmad Dogarwa, B. **Reading in Islamic Banking and Finance**, Published by International Institute of Islamic Banking and Finance, Bayero University Kano, Benchmark Publishers Limited, 2013, pp.67-68

One of the key elements of Islamic banking is promotion of socio-economic justice. This is because the religion of Islam is dedicated to universal brotherhood, social and economic justice. In its efforts to ensure the distributive justice, it incorporates *Zakah* in its system accelerating distribution of income and wealth in the society. *Zakah*, which stands for the determined share of wealth prescribed by Allah to be distributed among the categories of those entitled to receive it, helps generate a flow of the funds to the economically disadvantaged members of the society, and assists in Promoting religious and social services. Allah says in Qur'an:

إِنَّمَا الصَّدَقَاتُ لِلْفُقَرَاءِ وَالْمَسْكِينِ وَالْعَامِلِينَ عَلَيْهَا وَالْمُؤَلَّفَةِ قُلُوبُهُمْ وَفِي الرِّقَابِ وَالْغَارِمِينَ وَفِي سَبِيلِ اللَّهِ وَابْنِ السَّبِيلِ فَرِيضَةً مِّنَ اللَّهِ وَاللَّهُ عَلِيمٌ حَكِيمٌ

Alms are for the poor and the needy, and those employed to administer the[funds]; for those whose hearts have been [recently] reconciled [to Truth]; for those in bondage and in debt; in the cause of Allah; and for the wayfarer: [thus is it] ordained by Allah, and Allah is full of knowledge and wisdom (Qur'an9: 60).

To promote social justice and circulation of wealth among humanity, Allah has decreed to Muslims to give *zakah* not only to Muslims poor and needy but even non-Muslims are to be among the beneficiaries of *Zakah*. Under Islamic banking, banks are expected to promote social welfare through *Zakah*, which they collect and manage on behalf of investors and shareholders. Other means by which Islamic bank promotes socio-economic Justice is *waqf* and *Qardul hasan* (benevolence) account. On the other hand, *waqf* stands for holding an asset and preventing its consumption for the purpose of repeatedly righteousness and/or philanthropy for as long as its principal is preserved, which provides the material infrastructure and creates a source of revenue for use in, among others, social welfare enhancing activities both in family, community and State levels. On the other hand, *Qardul Hasan* refers to a type of interest-free benevolence loan that

Islamic banks grant to people who are in need of it, to be able to cater for necessities such as food, shelter and medical bills.⁴⁵

Therefore, Allah in his wisdom created human beings and distinguished them from one another in many respects; some are poor while others are rich, leaders and followers, weak and strong e.t.c. If Allah makes human beings in the same status the life would have become difficult, but it is like that so that we can benefit from one another because nobody will live in isolation. All the five pillars of Islam including the *Shahadah* encourage Muslims on the promotion of social justice, unity brotherhood and brotherliness.

3.3.4 Compliance with Moral Ethical Values

Islam advocates a free economic system guided by socially acceptable code of ethics, which is a built-in concomitant to safeguard and discipline human behaviour in both economic and social activities lest it goes astray. It gives individual complete freedom to pursue economic activities through lawful means under the Islamic System, an individual may start, manage and organize any business enterprise of his choice; provide service in exchange for the pay; or engage in any chosen trade to earn livelihood provided he respects the code of conduct prescribed for the profession, which broadly means choosing lawful and shunning unlawful things.

Rightly from its emergence, Islam strongly emphasizes the necessity of ensuring the validity of all business transactions with a view to avoiding all types of fraud for the selfish interest. As a matter of principle, it strongly prohibits all activities that may cause harm either to traders or customers, it encourages free market arrangement that enables people earn their

⁴⁵ -Ahmad Dogarawa, **Reading in Islamic Banking and Finance**, Published by International Institute of Islamic Banking and Finance, Bayero University Kano, Benchmark Publishers Limited, 2013, P.67

sustenance, and put in place certain measures to eliminate injustice and check unethical practices and unlawful operations in the market. It makes adequate provisions that cover the moral issues in doing business and all economic transactions so as to provide business activities.⁴⁶ Trade through mutual consent is a necessary condition for the validity of the business transactions, Allah says:

يَا أَيُّهَا الَّذِينَ آمَنُوا لَا تَأْكُلُوا أَمْوَالَكُمْ بَيْنَكُمْ بِالْبَاطِلِ إِلَّا أَنْ تَكُونَ تِجَارَةً عَنْ تَرَاضٍ مِنْكُمْ وَلَا تَقْتُلُوا أَنْفُسَكُمْ إِنَّ اللَّهَ كَانَ بِكُمْ رَحِيمًا
 "O you who believe, Do not wrongly eat up property among you except it be trade among you, by mutual consent"... (Qur'an 4: 29).

Honesty in business dealing is also move up in Islam; there should be clear dealing between a seller and a buyer. If the seller sells his goods or thing on fake basis then he will be guilty for that. Islam condemns all fraudulent business dealing. Allah says:

وَيْلٌ لِّلْمُطَفِّفِينَ الَّذِينَ إِذَا اكْتَالُوا عَلَى النَّاسِ يَسْتَوْفُونَ وَإِذَا كَالُوهُمْ أَوْ وَزَنُوهُمْ يُخْسِرُونَ أَلَا يَظُنُّ أُولَٰئِكَ أَنَّهُمْ مَبْعُوثُونَ

Woe to those that deal in fraud,-Those who, when they have to receive by measure from men, exact full measure, But when they have to give by measure or weight to men, give less than due. Do they not think that they will be called to account? (Qur'an 83: 1-4).

Humanity will only coexist in peace, harmony and to earn Allah's blessings and mercy once Islamic principles of financial transactions are respected, this could only be achieved through knowledge and practical sign of Islamic system in to day to day transactions.

⁴⁶ -Ahmad Dogaraw, **Reading in Islamic Banking and Finance**, Published by International Institute of Islamic Banking and Finance, Bayero University Kano, Benchmark Publishers Limited, 2013, P.68

3.4 Products of Jaiz Islamic Bank

Jaiz bank offers different products such as profit and loss sharing (*Mudarabah*) Products, safekeeping (*Wadi'ah*) products, joint venture (*Musharakah*) products, and leasing (*Ijarah*) Product. The followings are the model for the Jaiz bank operation which is centered on profit and loss sharing, unlike conventional bank that is centered on the interest (*Ribah*).

3.4.1 *Musharakah* Based Banking Products

Musharakah (equity participation or limited partnership): This is financing techniques in which the bank provides additional finance to individual or company, which already has some funds for investment. It can also come in form of bridging finance or support facilities in the banking system. *Musharakah* can be assimilated into investment in quoted stock as well the conversation and convertible loans. Another version of *Musharakah* involves a limited partnership in which the bank and the entrepreneur pool their capital to finance a specific project. In any form of *musharakah*, the business is on Profit and Loss Sharing (PLS) basis, and the pro-rata distribution of profit is stated in the contract and losses are shared according to capital contributed. The bank may participate in the management order to avoid moral hazard problem on the part of the entrepreneur. The institution of *Sharikah* has got its legal backing from the Qur'an:

وَكَذَلِكَ بَعَثْنَاهُمْ لِنَتَسَاءَلُوا بَيْنَهُمْ قَالَ قَائِلٌ مِنْهُمْ كَمْ لَبِئْتُمْ قَالُوا لَبِئْنَا يَوْمًا أَوْ بَعْضَ يَوْمٍ قَالُوا
رَبُّكُمْ أَعْلَمُ بِمَا لَبِئْتُمْ فَابْعَثُوا أَحَدَكُمْ بِوَرِقِكُمْ هَذِهِ إِلَى الْمَدِينَةِ فَلْيَنْظُرُوا أَيُّهَا أَزْكَى طَعَامًا فَلْيَأْتِكُمْ
بِرِزْقٍ مِنْهُ وَلْيَتَلَطَّفْ وَلَا يُشْعِرَنَّ بِكُمْ أَحَدًا

Such [being their state], we raised them up [from sleep], that they might Question

each other, Said one of them, "How long have ye stayed [here]?"

They Said:

We have stayed [perhaps] a day, or part of a day." [At length] they [all] said, Allah [alone] knows best how long ye have stayed here ... Now send ye (139) the one of you with this money of yours to the town: let him find out which is the best food [to be had] and bring some to you, that [ye

may] satisfy your hunger therewith: And let him behave with care and courtesy, and let him not inform any one about you. *Suratu al-Kahf* 19.

In fact, the Prophet ﷺ not only categorically permitted it but also practiced it. His *Sahabah* companions were equally partners in different kinds of business associations.

It is reported from Sa'id al-Makzumi, may Allah be pleased with him, who said:

That he was a partner with the Prophet in some kind of business association at the beginning of Islam. Soon after the *Makkah* was opened he came the prophet and said; "You were my partner; what a nice partner you were for you did not cheat me nor concealed the important matters (of the business)" Abu Dawud and Ibn Maja.⁴⁷

Musharakah has some derivatives and it can be financially engineered. Nonetheless, the assimilation of *musharakah* into derivatives and financial engineering are subjects of contention in the classical Islamic banking.

i. Derivatives of *Musharakah*: *Musharakah* has numerous derivatives. *Muzara'ah*, for example, is special partnership in farming; whereby one or more individuals enter into agreement to invest in an agricultural business. *Musaqah* is another derivative of *Musharakah* in agricultural enterprise. It is a business arrangement between the bank and the farmer, wherein the bank provides the orchards and other party provides the labour and expertise for irrigation services. A pre-determined share of the output to be given for labour will be clearly stated in the contract.⁴⁸

ii. Financial Engineering in *Musharakah*: *Musharakah Mutanaqisah/Musharakah Mutahiyah bi al-tamlik* (Diminishing *Musharakah*) is a variant of *Musharakah*. It is an Islamic

⁴⁷ - Nasiru Ahmad and Mansur Idris, **Principles and Practice of Islamic Banking**, Published by the Benchmark Publishers Limited, Kano, Nigeria, 2015, Pp. 45-46

⁴⁸-Gulaid, 1995. As cited in Karwai Sulaiman A. **Islamic Economics a Book for Reading**, Published by IIIT Nigerian office Kano, Bayero University, Old, Campus Central Mosque, 2012 p. 140

financing technique whereby the stake of Islamic bank in the business declines over time to zero. This is a suitable substitute for loan or operating lease in the *riba*-based banks. The end result of the contract in projects is similar to that under the Build-Operate-Transfer (BOT). In the agricultural sector, agricultural machinery could be provided for him and each party's share of the operating profit will be stipulated in the contract. Additionally, certain portion of the profit of the farmer will be given to the bank as installment payment of the principal, which will be progressively diminished overtime until, at maturity; the machinery becomes the property of the farmer. Nonetheless it should be noted that Diminishing *Musharakah* is a classical example of Islamic financial engineering, which may not be free from divergence of opinion.⁴⁹

Some Basic Rules of *Sharikah*

Muslim jurists have evolved certain rules from the authorities of the glorious Qur'an and Sunnah in order to make *Shari'ah* a mutual contract in such a manner that is not used as a means of exploitation by a partner against his co-partners. The first rule requires that the partnership agreement should be entered freely and mutually and the partners must satisfy all the requirements dealing with the formation of valid contract (*aqd*) under *Shari'ah*. Jurists have added another requirement that each partner must enjoy the capacity of a principal in one hand and of agent on the other. The second rule pertains to the raising of capital of *Sharikah*. Each partner is to contribute his own share to the capital of the share; in spite of the divergent opinions of the jurists, a member can make his contributions in cash or currency and through valuable commodity.⁵⁰

⁴⁹-Obaidullah and Wilson, 2005. p.141

⁵⁰- Nasiru Ahmad and Mansur Idris, ***Principles and Practices of Islamic Banking*** Published by Benchmark Publishers Limited, Kano, Nigeria 2015 Pp. 46 -47

According to Abu Hanifah and Imam Ahmad, the ratio of profit may differ from the ratio of investment according to the agreement of the partners, but the loss must be divided between them exactly in accordance with the ratio of the capital invested by each one of them. While on the termination of *Musharakah*, every partner has right to terminate the *Musharakah* any time after giving his partner a notice to this effects; whereby the contract will come to an end. In this case, if the assets of *Musharakah* are in cash form, all of them will be distributed pro rata between the partners. But if the assets are not liquidated, the partners may agree either on liquidation of the assets or on distribution or partition between partners as they are.⁵¹

It is these rules and regulations that will make the *Musharakah* contract relevant and partners enjoy the business so that no party will cheat or be cheated.

3.4.2 *Mudarabah* Based Banking Product

Mudarabah according to jurists, is a contract whereby one gives his property to another to carry on business therewith and the profit to be shared between them according to the spelt terms such as 1/2 of the profit or 1/3 and so on. It is important to note that *Mudarabah* is generally considered a contract of partnership whereby both the partners share profit and loss equitably, but it is not so. The entire loss is always attributed to and deductible from the capital *Mudarib* or agent has nothing to lose except his labour.⁵² *Mudarabah* has its basis in Qur'an, Allah says:

عَلِمَ أَنَّ سَيَكُونُ مِنْكُمْ مَرْضَىٰ وَآخَرُونَ يَضْرِبُونَ فِي الْأَرْضِ يَبْتَغُونَ مِنْ فَضْلِ اللَّهِ
وَأَخَرُونَ يُقَاتِلُونَ فِي سَبِيلِ اللَّهِ فَآفَرُّوا مَا تَبَيَّنَ مِنْهُ

He knows that there may be [some] among you in ill-health; others are travelling through the land, seeking of Allah's bounty; yet

⁵¹- Taqi Muhammad, U. *An Introduction to Islamic Finance*, 1999 PP.25-28

⁵²-Muhammad Muslehuddin, *Banking and Islamic Law*, Adam Publishers and Distributors, 1542,Pataudi House, Darya Ganj New Delhi-110002,INDIA, 2008 p.67

others fighting in Allah's Cause, read ye, therefore, as much of the Qur'an as may be easy [for you]...Qur'an 73: 20

Mudarabah is a type of company accepted by Islamic law. Two or more people can come together to establish it. Someone will provide the capital while the other will transact with the money. Whenever there is profit, they share equally half each, or one will take two-thirds and the other one-third. This type of company was in existence in the dark ages of the Arabs (before the advent of Islam). Later, Islam considered it. History has confirmed that the Prophet ﷺ traded with goods of Khadijah (R.A) to Syria under this arrangement ⁵³

Mudarabah is not only allowed by Islam but it has even recommended; it has urged and encouraged Muslim benefits of the wealth, not only the owners. Through this, wealth can circulate amongst people. Already, Islam has condemned the hoarding of wealth without putting in any productive use. It could be noted among the rich people who have little knowledge of business. Likewise, there are those people that are enterprising but lack the capital. So the two groups can come together and benefit from the wealth at their disposal Islam allows this type of agreement. Hence, business agreement based on Interest could be avoided; the agreement in which always the creditor benefits without any loss, while the loss is borne by the debtor only.

This type of joint business has some conditions that are necessary to be taken care of, before it would be legally recognized. The conditions are as follows:

The entrepreneur will conduct or transact the business without interference of the financier but if he interferes, the *Mudarabah* is invalidated. But this does not mean the financier will not interfere when he has observed some irregularities. It is necessary that both the financier and the

⁵³-From **Al-Islamu Wal-kadiya al-Ijtima'iyya al-Hadisa** p.31

entrepreneur divided the profit earned in the ratio they have agreed upon earlier. That is, they should either divide equally or on any ratio they agreed upon. It means here that it is not allowed for any one of them to specify the amount of Naira he will be given out of the profit to be obtained. Because it is not known how much the profit will be. It can even turn out to be loss.

It is necessary that whatever the entrepreneur would get should be out of the profit, his share should not come from the capital. Unless the entrepreneur has no other means of sustenance except the business (he can use part of the capital to sustain himself), in that case a refund will have to be made out of his share of the profit. But in case no profit is obtained he will not refund the money provided it is not caused by his carelessness. But if the business will carry him from one town to another it is allowed to eat and clothe himself (from the capital) from the time he left home up to his return. It is allowed with four conditions. Firstly, the journey should be specifically for the business. Secondly, he should not be hosted by his wife in new destination, or contract a new marriage and dwell there, but if he has gone with his wife it is allowed for him to cater for them. Thirdly, the capital should be a large sum such that it can should the above mentioned expenses without any harm to it.

3.4.3 *Murabahah* Based Banking Product

Most of Islamic banks and financial institutions are using "*Murabahah*" as an Islamic mode of financing, and most of their financing operations are based on *Murabahah*. That is why this term has been taken in the economic circles today as method of banking operations, while the original concept of *Murabahah* is different from this assumption.

Murabahah is in fact, a term of Islamic *Fiqh* and it refers to a particular kind of sale having nothing to do with financing in its original sense. If a seller agrees with his purchaser to

provide him a specific commodity on a certain profit added to his cost, it is called a *Murabahah* transaction. The basic ingredient of *Murabahah* is that the seller discloses the actual cost he has incurred in acquiring the commodity, and then adds some profit thereon. This profit may be in lump sum or may be based on a percentage. For example, A purchased a pair of shoe for ₦1000 he wants to sell on Murabaha with 10% mark-up, the exact cost is known therefore the contract is valid. The payment in the case of *Murabahah* may be at spot, and may be on a subsequent date agreed upon by the parties. Therefore, *Murabahah* does not necessarily imply the concept of deterred payment, as generally believed by some people who are not acquainted with the Islamic jurisprudence and who have heard about *Murabahah* only in relation with the banking transactions *Murabahah*, in its original Islamic connotation, is simply means a sale. The only feature distinguishing it from other kinds of sale is that the seller in *Murabahah* expressly tells the purchaser how much the cost he has incurred and how much profit he is going to charge in addition to the cost.⁵⁴

Basic Features of *Murabahah* Financing

The followings are some of the basic features of *Murabahah* Financing which includes:

Firstly, *Murabahah* is not a loan given on interest; it is the sell of a commodity for a differed price which comprises an agreed profit to the cost.

Secondly, *Murabahah* cannot be used as mode of financing except where client needs funds to actually purchase some commodities. For example, if he wants funds to purchase cotton on the

⁵⁴-Muhammad Taqi U, *An Introduction to Islamic Finance*, ISBN, 1999, Pp.65-66

basis of *Murabahah*. But where the fund required for some other purposes, like paying the price of commodities already purchased by him or the bills of electricity or other utility for paying the salaries of his staff *Murabahah* cannot be effected.

The problem in *Murabahah* financing is that if the client default in payment of the price at due date, the price cannot be increased. Interest-based loans, the amount of the loans keeps on increasing according to the period of default. But in *Murabahah* financing, once the price is fixed it cannot be increased. This restriction is sometimes exploited by dishonest clients who deliberately avoid paying any additional amount on account of default.⁵⁵

Some people are questioning this method of financing, whether it is in compliance with Shari'ah or not. In the subsequent chapter (chapter four) the researcher will discuss its permissibility based on how Jaiz bank Gombe branch partake in such transactions and how does it deals with defaulters customers that refused to pay their money in *Murabahah* transaction within the specified time agreed.

3.4.4 *Istisna'* Based Banking products

Istisna' is a *Shari'ah* mode of financing widely used by Islamic banks and financial institutions to finance different kind of projects: construction of buildings, plants, roads and manufacturing of aircraft, ships, machine etc. It can also be used for export financing as well as to meet working capital requirement in the industries where sale orders are not received in advance. Banks may undertake financing based on *istisna'* by getting the subject of *Istisna'* manufactured through

⁵⁵ - Taqi Muhd U, *An Introduction to Islamic Finance*, ISBN, 1999, P. 73

another such contract. Accordingly, they can serve both as manufacturers and purchasers. However, *istisna'* cannot be used for natural things or products that are not manufactured.⁵⁶

Istisna' contract is legalized by the *Shari'ah* on the basis of a report from

Nafi'u who said:

That Abdullah Ibn Umar has reported that Prophet Muhammad requested for the manufacturing of a golden ring for him (al-Tirmidhi).⁵⁷

Jurists require a formal contract of *istisna'* covering the specifications of the subject matter (commodity) to be manufactured, the time of the delivery of the commodity and its price and the mode of payment of the price.⁵⁸

It means to order a manufacturer to manufacture specific commodity for the purchaser. If the manufacturer undertakes to manufacture the goods for him with the material from the manufacturer, the transaction of *Istisna'* comes in to existence. But it is necessary for the validity of *Istisna'* that the price is fixed with the consent of the parties and that necessary specification of the commodity (intended to be manufactured) is fully settled between them. The contract of *istisna'* creates a moral obligation on the manufacturer to manufacture the goods, but before he

⁵⁶ - <http://www.financilaislam.com/istisnaa.html>, **Islamic Finance**, uploads/1200820jpg, accessed on Wednesday 15th August, 2018 by 11:00am

⁵⁷ -Nasiru Ahmad Mansur I, ***the Principles and the Practice Islamic Banking***, Benchmark publishers limited Kano Nigeria P.73

⁵⁸ -Nasiru A M, ***Reading in Islamic Banking and Finance***, Published by International Institute of Islamic Banking and Finance, Bayero University Kano,Benchmark Publishers Limited, 2013, 73

starts the work, any one of the parties may cancel the contract after giving a notice to other.⁵⁹

However, after the manufacturer has started the work, the contract cannot be cancelled.

3.4.5 leasing (*Ijarah*)

Ijarah Hiring: Hiring is contract granting use of property during a specified period in exchange for a specific rent.⁶⁰ This is one of the Islamic modes of financing which deals with a contract for the use of rental assets or properties (tangible) for specific period of time, at fixed rent. This type of contract is divided into two; equity lease purchase and equity hire purchase. **Equity Lease Purchase:** a lease under this contract may obtain finance from the bank (IFB) for the purchase of assets which are depreciable in nature such as vehicles computers, machineries and equipment. Whenever the asset is purchased for a lease, it will be under the ownership of the IFB and in possession of the leasee on lease. The amount of rent will be fixed after surveying the market. When the full cost of asset is recovered by means of rent, the IFB will offer the assets to the leasee at the market value/depreciated value.

Hire Equity Purchase: In this contract, the IFB will provide customer with facility to purchase on the installment basis an assets of variable nature such as land, houses, shops and factories. The client will be able to take possession of the assets on the rent as soon contract is signed. The client will be required to pay full value of the assets within a stipulated period.

⁵⁹-Ibn Abidin, **Radd al-Muhtar**, As cited in: An Introduction to Islamic Finance, by Muhammad Taqi U. Ibid, 1999 pp. 136-137

⁶⁰- Abou Bakr Jaber el-Jazaery, **Approach of the Muslim** published by Dar Al-Kotob Al-Ilmiyyah-Beirut, 2012, P.542

Islamic banks may employ funds specifically for the hospitals, housing, shops, dairy farms, poultry farms, and other enterprises which will enhance income to society.⁶¹

The contract is legitimated according to the Saying of Allah in the story of Prophet Musa when he met two girls at Madyana.

فَجَاءَتْهُ إِحْدَاهُمَا تَمْشِي عَلَى اسْتِحْيَاءٍ قَالَتْ إِنَّ أَبِي يَدْعُوكَ لِيَجْزِيَكَ أَجْرَ مَا
سَقَيْتَ لَنَا فَلَمَّا جَاءَهُ وَقَصَّ عَلَيْهِ الْقِصَصَ قَالَ لَا تَخَفْ نَجَوْتَ مِنَ الْقَوْمِ
الظَّالِمِينَ قَالَتْ إِحْدَاهُمَا يَا أَبَتِ اسْتَأْجِرْهُ إِنَّ خَيْرَ مَنِ اسْتَأْجَرْتَ الْقَوِيُّ الْأَمِينُ

Afterwards one of the [damsels] came [back] to him, walking bashfully. Shesaid: "My father invites thee that he may reward thee for having watered [ourflocks] for us." So when he came to him and narrated the story, he said: "Fear thou not: [well] hast thou escaped from unjust people." Said one of the [damsels]: "O my [dear] father! Engage him on wages: truly the best of men for thee to employ is the [man] who is strong and trusty" (Qur'an 28:25-6.)

In another verse Allah says:

فَانْطَلَقَا حَتَّى إِذَا أَتَيَا أَهْلَ قَرْيَةٍ اسْتَطْعَمَا أَهْلُهَا فَأَبَوْا أَنْ يُضَيِّفُوهُمَا فَوَجَدَا
فِيهَا جِدَارًا يُرِيدُ أَنْ يَنْقُضَ فَاقَامَهُ قَالَ لَوْ شِئْتَ لَاتَّخَذْتَ عَلَيْهِ أَجْرًا

Then they proceeded: until, when they came to the inhabitants of a town, they asked them for food, but they refused them hospitality. They found there a wall on the point of falling down, but he set it up straight. [Moses] said: "If thou had wished, surely thou couldst have exacted some recompense for it! (Qur'an:18:77)

Allah also says in the glorious Qur'an on leasing (*Ijarah*):

فَإِنْ أَرْضَعْنَ لَكُمْ فَآوُوهُمْ أَجُورَهُمْ وَأَتِمُّوا بَيْنَكُمْ بِمَعْرُوفٍ وَإِنْ تَعَاسَرْتُمْ فَسْتَزِيعُ لَهُ أُخْرَى

...and if they suckle your [offspring], give them their recompense: and take mutual counsel together, according to what is just and

⁶¹-Gambo Babandi G. **Reading in Islamic Banking and Finance**, published by IIIT Bayero University, Kano,

reasonable. And if ye find yourselves in difficulties, let another woman suckle [the child] on the [father's] behalf (Qur'an 65:6)

Ijarah (leasing) has some basic rules which includes the followings:

1. Leasing is a contract whereby the owner of something transfers its usufruct to another person for agreed period, at an agreed consideration.
2. Subject of lease must have a valuable use; therefore things having no usufruct at all cannot be leased for Islam has prohibited that.
3. It is necessary for a valid contract of lease that corpus of the leased property remains in the ownership of the seller, and only usufruct is transferred to the leased.
4. As a corpus of leased property remains in the ownership of the lessor, all the liabilities emerging from the ownership shall be borne by the lessor, but the liabilities referable to use of property shall be borne by lessee. For example A has leased his house to B. The taxes referable to the property shall be borne by A, while the water tax, electricity bills and all expenses referable to the use of the house shall be borne by B, the lessee.
5. The period of leased must be determined in clear terms and the lessee cannot use the leased asset for any purpose specified in agreement.
6. The lessee is liable to compensate the lessor for every harm to the leased asset caused by any misuse or negligence on the part of the lessee.⁶²

Leasing is one of the products of Jaiz bank that operates in accordance with principles of *Shari'ah* and sometimes helps lessee to purchase the assets or house being leased to him through installment basis.

3.4.6 Salam

Bai'ul Salam sometimes referred as *Bai'ul Salaf* is a contract of sale where the price of a specified commodity, which is not available at the time of the contract, is paid but the commodity is to be delivered at the later determined date. In this type of contract, a certain type of commodity or asset which is not available at the time of making the contract is made the subject matter of the contract. The agreed price of the commodity or asset is paid by the buyer to the seller immediately after the contract was made between the seller and the buyer. The delivery of the

⁶²- Muhammad Taqi U, **An Introduction to Islamic Finance**, ISBN, 1999, PP. 111-112

commodity or asset contracted upon is in future date as agreed between the two parties to the contract.⁶³

The Islamic ruling of *Salam* contract is permissible, according to the Messenger of Allah ﷺ saying:

Whoever pays money in an advance in any thing (to be delivered later) should pay it for known measure, known weight and known term⁶⁴

The Messenger of Allah came to Madinah and found its people trading by "*Asal'm*" in fruits for one, two and three years. Setting the term in a time when commodity usually exist; it is not permitted to buy dates *Asal'm* during the spring or grapes during the winter because this will cause arguments among the Muslims. If the contract does not mention the place of handing the commodity over, the commodity must be handed over in the place of signing the contract. But if the contract mentions the place of handing over, the commodity must be handed over in therefore mention place.⁶⁵

He further proposed how the *salm* contract will be completed: " So and so... has approved that he cashed and received (something) from so and so... buying and selling in *Asalm*(e.g. wheat, mentioning the type, and the measure of the city). The price is to be paid after two complete months from that time in the mentioned in place. The buyer has approved that he is

⁶³ -Nasiru Ahmad A. and Mansur Idris, ***Principles and Practices of Islamic Bank*** published by BenchmarkNigeria Limited, Kano, pp.74-75

⁶⁴ - Ahmad ibn Aliyu ibn Hajar A, ***Fathu Al-Ba'riy bi Sharhi Saheeh Al-Bukhari***, Published by Daru al-Salam Riyad, 1997, no: 2240, Vol.3, P.85

⁶⁵ -Abou Bakr Jabeer El-Jazaery, ***Approach of the Muslim***, Dar Kotob Al-ilmiyyah, 2012, P.528

able to abide by the contract and has cashed the capital (the amount...) of the legal *Asalm* in the contract place in (date).⁶⁶

3.4.7 Sukuk

Sukuk refers to an investment certificate representing an indivisible part ownership in a specific asset. The organization of *Sukuk* typically involves the packaging of pools of Shari'ah-compliant assets with or without credit enhancement into securities. It is structured based on the specific contract of exchange that can be made through the sale and purchase of an asset based on deferred payment, leasing of specific asset or participation in joint-venture business. Unlike the conventional bonds, the issuance of *Sukuk* requires an exchange of *Shari'ah*-compliant underlying asset for financial consideration through the application of various *Shari'ah* principles such as *Ijarah*, *Mudharabah*, *Musharakah* and others.⁶⁷

The Accounting and Audit Organization for Islamic Financial institutions (AAOIFI) in its *Shari'ah* standard 17(2), defines *Sukuk* as "certificates of equal value representing undivided shares in the ownership of tangible assets, usufructs and services asset of particular projects or special investment activity." ⁶⁸*Sukuk* are asset based, hence, the *Sukuk* structured is based on the type underlying asset. The following are types of *Sukuk*:

Debt Based *Sukuk*: *Sukuk* can be structured on a debt structured model, which is based on contracts of exchange. These exchange contracts are sales contracts, which allow transfer of a

⁶⁶ - Abou Bakr Jabeer El-Jazaery, **Approach of the Muslim**, Dar Kotob Al-ilmiyyah, 2012, P. 530

⁶⁷ - Adamu Umar P.106

⁶⁸ - AAOIFI, 2008 as cited in Idris Umar, **Principles and Practices of Islamic Bank** published by Benchmark Nigeria Limited, Kano, P.111

commodity for another commodity on the transfer of the commodity for money following Islamic principles. Debt based *Sukuk's* underlying asset is securitizing of Islamic receivables which are generated from Islamic finance contracts such as *Ijarah* etc.

Murabahah Sukuk: *Murabahah* is a contract that refers to the sale and purchase transaction for the financing of an asset whereby the cost and profit margin (mark-up) are made known and agreed by all parties involved. The settlement for the purchase can be either on a deferred lump sum basis or on an installment basis.

Istisna' Sukuk: *Istisna' Sukuk* are generally practiced for the financing large scale infrastructure and manufacturing projects such as power plants, ships aircrafts, turbines etc. *Istisna'* is a contract whereby a party undertakes to produce and sell a specific product to be made by according to agreed-upon specifications at a pre-determined price. *Istisna' Sukuk* are certificates which are issued by the manufacturer (supplier/seller), the subscribers are the buyers of the intended products, while the funds realized from subscription are the cost of the product. The features of *Istisna'* includes: it represents ownership of the item/asset or selling price of the manufactured item/asset to be constructed based on the mutually agreed terms and conditions (specification, price expected delivery dates etc) under *Istisna'* contract.⁶⁹

3.4.8 Rahn-Pledge/Securitization

Many words such as pledge, security, pawn, and mortgage can be used to describe the term *Rahn*. *Rahn*, simply means to deposit some property value to the creditor by the debtor as a security for the payment of the loan or debt. Where the debtor defaults in the payment of loan or debt, the pledge property could be disposed off and the proceeds from the sale of the property are

⁶⁹ - Abdurrahim Kamil and Mohammed Ali, **Understanding Sukuk**, Kaula Lumpur IBFIM, 2014 Pp.20-24

used in settling the debt.⁷⁰ The legality of *rahn* contract is provided in the Qur'an where Allah says:

وَإِنْ كُنْتُمْ عَلَى سَفَرٍ وَلَمْ تَجِدُوا كَاتِبًا فَرِهَانٌ مَقْبُوضَةٌ فَإِنْ أَمِنَ بَعْضُكُم بَعْضًا فَلْيُؤَدِّ الَّذِي أُؤْتِمِنَ أَمَانَتَهُ وَلْيَتَّقِ اللَّهَ رَبَّهُ وَلَا تَكُنُمُوهَا الشَّهَادَةَ وَمَنْ يَكْنُفْهَا فإِنَّهُ آثِمٌ قَلْبُهُ وَاللَّهُ بِمَا تَعْمَلُونَ عَلِيمٌ

And if you are on journey and cannot find ascribe, then make pledge with possession((Qur'an 2: 283)

The essential rules of *rahn* contract include the formation of the contract between the mortgagor and mortgagee. The contract should spell out issues relating to the debt, pledged property, period covered, redemption and circumstances under which the pledge property will be sold away. The subject matter of the pledge-the property securing the loan, must be valuable and which is capable of being valid subject matter of sale. It should also be owned by the mortgagor who remains its owner. While the pledged property is in the hands of mortgagee, he holds it in trust until the final determination of the *rahn* contract. As trustee, the mortgagee is not responsible for the loss or damage of the pledged property. He is only accountable where he found negligence or fraudulent.⁷¹

Therefore, there is need to have trusted mortgagee so as to avoid negligence on the pledge property during the period of the contract.

⁷⁰-Nasiru AhmadA, andMansur Idris, **the Principles and the Practice Islamic Banking**, Benchmark Publishers Limited Kano, Nigeria, Pp.90-91

⁷¹ - Ahmad N. M. I, **the Principles and the Practice Islamic Banking**, Benchmark Publishers Limited Kano, Nigeria, Pp.90-91

3.4.10 *Wadi'ah* (Safe Keeping)

The term *Wadi'ah* is derived from the verb *Wada'a* which means to leave or deposit. *Wadi'ah*, in its literal sense means leaving something in someone else's custody. As technical term, the word has been defined by scholars as follows:

Wadi'ah is an empowerment given to someone for keeping by the owners of wealth explicitly or implicitly (the Hanafis), representation in keeping the private goods in a specific way (the Shafi'i and Maliki) or assets given to someone for safekeeping without any return.⁷²

In light of the above definitions, it is clear that *Wadi'ah* in the legal sense signifies a thing entrusted to the care of another. The proprietor of the thing is known as *mudi'* (depositor), the person deposited with asset is known as *Mustauda'ah* (custodian) and the deposited asset is known as *Wadi'ah*. Allah says in the Qur'an regarding permissibility of *Wadi'ah* contract:

...فَلْيُؤَدِّ الَّذِي أُؤْتِمِنَ أَمَانَتَهُ وَلْيَتَّقِ اللَّهَ رَبَّهُ وَلَا تَكْتُمُوا الشَّهَادَةَ

And if one of you deposits a thing on trust with another, Let the trustee [Faithfully] discharge His trust, and let him fear his Lord. Conceal not evidence (Qur'an 2:283)

He also says in another verse:

إِنَّ اللَّهَ يَأْمُرُكُمْ أَنْ تُؤَدُّوا الْأَمَانَاتِ إِلَىٰ أَهْلِهَا وَإِذَا حَكَمْتُمْ بَيْنَ النَّاسِ أَنْ تَحْكُمُوا بِالْعَدْلِ إِنَّ اللَّهَ نِعِمَّا يَعِظُكُمْ بِهِ إِنَّ اللَّهَ كَانَ سَمِيعًا بَصِيرًا

Allah doth command you to render back your Trusts to those to whom they are due; and when ye judge between man and man, that ye judge with justice: Verily how excellent is the teaching which He giveth you! For Allah is He Who heareth and seeth all things. (Qur'an 4:58)

⁷² - Achene Lahsasna, *Shari'ah Issues in Contemporary Islamic Banking and Finance*, Kuala Lumpur:

Wadi'ah is a safekeeping contract based on the principle of trust hence; it is not subjected to any liability except in cases of negligence or misconduct. The safekeeping is done without any materials return or compensation because the nature of this contract is based on the goodwill of the keeper who entrusted to keep the property for the depositor. Jurists collectively maintain that the custodian is not liable for compensation or damages in the event of loss or damage to the deposit unless the damage is a result of negligence or transgression on the part of the custodian.

This view was based on the hadith of the prophet ﷺ that says:

Whoever keeps his property for safekeeping, there is no compensation on him" (Narrated by Ibn Majah) However, they differ in the criteria of determining whether a particular act is due to negligence, transgression or otherwise.⁷³

The *wadi'ah* contract is written as " So and so... admits that he had received from so-and-so... an amount of money that equals ... on legal depositing and he committed to keep that deposit and put it in a safe (where the depositor asked him to keep), and he mentioned the depositor has attended and acknowledge that legal contract."⁷⁴

3.5 Services of Jaiz Islamic Bank

The bank offers a lot of services for benefit of the customers, which aids for the smooth running of the business transaction in various human endeavors. The services include:

⁷³ - Achene Lahsasna, ***Shari'ah Issues in Contemporary Islamic Banking and Finance***, Kaula Lumpur: IBFIM, 2014, P. 24

⁷⁴ - Abou Bakr Jabeer El-Jazaery, ***Approach of the Muslim***, Published by Dar al-Kotob al-Ilmiyyah, Beirut, 2012, P.572

Account: means savings or current (Naira or Foreign Currency) account(s) maintained by the customer with the bank, and includes term/fixed deposit relation between customer and bank.⁷⁵

3.5.1 Automated Teller Machine:

(ATM) services mean services offered by the bank to the account holders which includes master card. Master card is naira denominated debit card issued in partnership with master card worldwide, it is the denominated to settle purchases in other major currencies. It is accepted as a means of payment for goods and services. The Jaiz bank master card is linked online, real-time to your Current and Savings account; all transactions done using this card are reflected on the account instantly.⁷⁶

TheJaiz verve debit card gives a customer access to funds in account anywhere in Nigeria; it is linked with account and can be used to make purchases for goods and services at local merchant outlets (POS, Web) and cash withdrawals at any ATM within Nigeria.⁷⁷

3.5.2 Cheque Books:

Cheque book will be issued on request by the customer and may be collected by the customer or his authorized representative from bank's concern branch within thirty days of being notified about its availability by the bank, after which the cheques shall be destroyed as part of measures to safeguard the customers' from fraud and forgery.⁷⁸

⁷⁵ -Document from Jaiz bank Gombe branch i.e, Account Opening Form

⁷⁶ -<http://jaizbankplc.com/master card>, **About Jaiz Bank PLC**, 73, Relph Shodeinde Street, Kano House, Central Business Area Abuja on 20th April, 2018

⁷⁷ -<http://jaizbankplc.com/master card..>, 20th April, 2018

⁷⁸ - Document from Jaiz bank Gombe branch i.e. Account Opening Form

Therefore, customers are expected to collect their Cheque books in order to intensify the Jaiz bank effort toward safeguarding customers' accounts from fraud or forgery.

3.5.3 Internet Banking Services:

In order to be able to use the internet banking service, the customer must select the appropriate option at the time of completing the account opening form and provide required information in respect thereof. In case a customer wants to avail the internet banking service at any time after opening the account, he can do so by following the instructions set out at the relevant page of the bank's website. In case of addition, he agrees that any use by the bank for the internet service shall constitute his acceptance of the terms relating to internet service.⁷⁹

There numerous are banking services which ease the transaction against involving risk while making business with a bank; this includes telephone by the bank to notify its customer on the happening of their contracts.

⁷⁹ -Jaiz Account Opening Form Terms and Conditions Gombe Branch

CHAPTER FOUR

AN ASSESSMENT OF JAIZ BANK OPERATION IN GOMBE BRANCH

4.1 Brief History of Gombe State

Many cities and towns in the world almost have wisdom or reasons behind naming that particular place; Gombe State is not an exception. There are two different versions concerning the origin of Gombe. One of the reasons behind naming the place is that Gombe is shortened form of the nineteenth century capital of the emirate; Gombe-Abba-built in the 1824/25 on the right bank of Gongola river by Bubayero, the *Jihad* leader in the area.⁸⁰

After Bubayero had returned from Ribadu, he went to Sokoto to inform Sheikh Uthman bin Fodio about the Success of the *Jihad*.⁸¹ Sheikh Uthman bin Fodio told Buba-yero to look for a place to settle for the upliftment of Islam. He urged him not to settle with the *Habe*, and to

⁸⁰-Aishatu Abubakar K. **Matrimonial Life in the Muslim Community: A Case Study of Incessant Cases of Divorce in Gombe Town**, Being A Thesis Submitted to the Department of Islamic Studies Through the Post-graduate School Bayero University, Kano, August, 2008, P.10

⁸¹-Usman, Shehu: **Tarihin Jihadin Bubayero**, 1990 (nd) P. 56 as cited in Aishatu Abubakar K. P.10

choose a place in between a river and a hill to settle, (for military strategy) After coming back, he informed his people he then moved from Dukku to Gombe-Abba between the years 1825-1827.⁸²

The reasons for the choice of Gombe-Abba, which remained the capital of the emirate throughout the Nineteen century, can be explained as follows: Firstly, from a military point of view, since Kalam the most Influential Bolewa centre was conquered and incorporated, it was reasonable to move further away from it. This is likely to have been done, not only gradually to render the centre drive insignificant, but also to avoid subsequent future attempts to re-capture it or to drive the Jihadist out of the area. Secondly the new base was in a strategic location, as far as the military defenses of the time could permit. East of the site are two sets of high hills that must have provided suitable observation points of the area up to Dukku, Kalam, and for a radius of about twenty kilometers. To the immediate West is the river Gongola. Thirdly, it was not possible to make Dukku capital, probably because of the need to have a new site reasonably far away from conflict over land for farming and particularly for grazing. There was also the fact that Dukku had, and still have serious problems over its water Supply.⁸³

When Buba-Yero reached that area, he met some (*Habe*) tribes on the hill at the eastern part of the area. Those tribes have their king who had the tradition of sitting under a tree call "Gambe" in their language (Bolewa); which means cedar tree. It is argued that due to his habit of sitting there, it was called in this local language 'Gambe mamu siri' which means 'the cedar of a prominent person' When Buba-Yero heard that the name is meaningful, he decided to call his

⁸²-Usman..., S. P. 10

⁸³ -Aishatu Abubakar Kumo. **Matrimonial Life in the Muslim Community: A Case Study of Incessant Cases of Divorce in Gombe Town.**, P.11

area too with that same name-Gombe. Therefore, in order to differentiate between Gombe of Buba-Yero and that of 'Siri'; the Gombe of Buba-Yero was called Gombe Abba.⁸⁴

Another version of the Story is that the new settlement was established very close to a large mahogany tree called 'Gombe' by local Bolewa. Buba-Yero capital soon after began to be called Gombe by the Bolewa. But we do not know if the followers of Buba-Yero began to call the settlement Gombe (from Gambe) Abba: Abba is a traditional name (among the fulbe) given to a head of the family or clan whose actual name is not called as a mark of respect.⁸⁵

Gombe State was created on 1st October 1996 out of the former Bauchi State and is located in north-east geopolitical zone of Nigeria. The State is situated right within the expansive savannah region and has eleven local government areas which include Akko, Balanga, Billiri, Dukku, Funakaye, Gombe, Kaltungo, Kwami, Nafada, Shongom and Yamaltu Deba. The State which used to be part of the old Bauchi was created by late Sani Abacha and nicknamed 'Jewel in the Savannah'. There are a number of investment opportunities in agriculture, water supply, power generation, solid minerals, industries, housing and tourism development in Gombe State. The State comprises many tribal or ethnic groups among which are the Hausa, Tangale, Terawa, Waja, Kumo, Fulani, Kanuri, Bolewa, Jukun, Pero/Shongo, Tula, Cham, Lunguda, Dadiya, Banbuka etc. and Hausa is the common language of the people.

Farming is the main occupation of the people of the State and crops produced include cassava, yam, rice, maize, guinea, corn, beans, soya beans and millet. The state is blessed with

⁸⁴-Kumo, A A, *Matrimonial Life ...*, P. 11

⁸⁵-Kum, A A, **Matrimonial Life in the Muslim Community: A Case Study of Incessant Cases of Divorce in Gombe Town**, P.11

precious mineral resources like columbite, coal and aquamarine. Gombe State has an area of 20,265 square kilometers with a population of about 2.4 Million and it shares borders with Borno, Taraba, Adamawa and Bauchi. Gombe has two distinct climates, the dry season between April and October and rainy season between May to September with an average rainfall of 450mm.⁸⁶

4.2 Introduction of Islam to Gombe

Generally, the spread of Islam to various places in the world beyond Arabian Peninsula was realized during the caliphate of Umar Ibn Al-Khattab when he dispatched many companions to various provinces to disseminate the message of Islam. Like Abdullahi bin Amr Ibn Al-As to Egypt in the year 640 C.E, Uqbah Ibn Nafi who proceeded up to North Africa. It was through this effort that Islam came down to the areas of Gombe emirate on this ground, two major accounts were recorded in the introduction of Islam in Gombe, one of such accounts states that, Islam was first introduced via Nafada town, between fourteenth centuries by a group of travelers from Mali to, during the eastward Movement of Fulani pilgrims from Mali on their way to Saudi Arabia for pilgrimage.⁸⁷ The other tradition has it that, the existence of trade links between North Africa region was Islamized in the seventh century C.E was causative factor that led to the introduction of Islam in to Borno and Ghana. It might be possible that Islam came into being in the eighth century C.E and by the eleventh century. The ruler of the Borno made it easy for the people of Gombe to become Muslims in the fourteenth century.

⁸⁶-<https://www.cometonigeria.com/region/nort-east/gombe-state>, **Gombe State History, Attractions and Tourism**, by Ademeyi Adisa, 18th March, 2011

⁸⁷-Abba S. Gombe State, *A History of Land and People*, Kaduna, Nadabo Printing Production, 2000, Pp. 1-2

However, beside the Fulbe who were found all over Gombe areas and who were mostly Muslim the only Muslim groups in the area were the Bolewa of Biri and Nafada communities. It has been claimed that two hundred years before the *Jihad* of Bubayaro, the ruler of Birin Bolewa named Malam gave his daughter in marriage to a ruler in Borno and they were blessed with a son Jibrilla who returned to the Biri and subsequently became the Mai of Biri. He, therefore, converted his people to Islam and built a *Jumaat masjid* there. In addition to the fulbe and Bolewa of Biri, the Kanuri mostly found in Nafada, the Hausa traders and hunters who settled in the region were also Muslims. Even though, their number (Kanuri) might have been very insignificant compared to that of the Hausa, they were probably mostly on transit or in the area as itinerant traders.⁸⁸

4.3 Jaiz Bank in Gombe: Its Products and Services

The bank is located in No 8, new market road commercial area Gombe, Gombe State Nigeria. An Islamic Non-Interest Bank has commenced operations in Gombe State by year 2013 with a plan to be at State Capital of the Federation in the next four years. The Chairman of the Board of Directors of the Bank, Alhaji Umaru Mutallab, at the commissioning ceremony of the Gombe office said the bank plans to be in all the 36 states of the federation in the next four years. In his words, he assured everyone that the bank is open to all irrespective of race or religion and would identify to promote all the very positive ideals that Gombe State is known for.⁸⁹

The products and services of Jaiz bank are based on ethical principle of justice, transparency, fairness, and objectivity. Jaiz bank offers almost all the services offered by

⁸⁸-Abba S. Gombe State, *A History of Land and People*, Kaduna, Nadabo Printing Production, 2000, P.3

⁸⁹-<http://www.nairaland.com>, "**Jaiz Bank Resumes Operations in Gombe**" by Adesiji on 28th April, 2013,

conventional banks except that they do not give or receive interest, nor finance anything that is harmful to society like alcohol, gambling, tobacco, adultery and fornication etc. It also seeks to avoid *Gharar*-speculation, uncertainty deception and the like. The Jaiz bank Gombe branch employs experts in various fields in Islamic finance for an effective utilization of products and services such as cashiers, marketers, accountants etc. The bank has different departments which include risk management department, human resources management, facility management and admin officers. Muslim and Non-Muslim are also given an opportunity to be employed once they have what is required by the bank and make sure to be Shari'ah compliances in its operation which is guided by the Shari'ah Advisory Council.⁹⁰

The bank basically earns its income through a range of products and services which includes: Sales-based contracts, partnership-based contracts and lease-based contracts.

The bank operates an investment account through the use of *Mudarabah* Principles to operate a joint investment account in which a customer deposits money with the bank and authorizes bank to select a suitable investment or projects he is interested in for investment. The customer becomes like a lender to the bank, while the bank becomes the investor investing on behalf of the customer and where the profit is made it is shared according to agreed ratio between the bank the depositor. Equally, where loss is made from the investment is shared between the bank and the depositor in proportion to the contribution of each part. There is also specified investment account operated by the bank, in this case, the bank receives money from the customer who deposits his money with the bank. The bank will act as an agent of the customer/depositor who authorizes the bank to invest in a specified project. The bank will invest

⁹⁰- An interview with Hassan Inuwa Jaiz Bank Manager in his office on 11th June, 2018

in such project and where profit is made it is shared between the bank and the customer/depositor according to agreed ratio.⁹¹

4.3.1 Jaiz Bank *Murabahah* Mode of financing

This is one of the Jaiz bank model of financing where by a commodity is sold for a profit, the seller (bank) is obliged to tell the buyer the cost price and the profit is made by him. For example in this kind of business, if a customer wants to buy a car and he has no money, the bank will buy the car for him on the basis of *Murabahah*; the bank will assign him to look for a car of his choice in a company he wishes for pricing. After he negotiates price, the invoice and account number of that company will be brought to Jaiz bank so that it can send the money through the account and the customer will be paying the amount of the car sold to him by the bank with the profit charged by the bank through an installment within a specific period of time. Jaiz household appliances (refrigerator, plasma television, generator e.t.c) based on the Principle of *Murabahah* and *bai Muajjal* (sale on credit) it is a convenient asset acquisition scheme which enable customers to acquire items without the burden of instant payment; the payment period is structured over an agreed period usually on monthly basis.

Jaiz auto finance: The Jaiz auto finance is designated for salary structure holders in public, private and other reputable organizations. It operates under the principle of *Murabahah* (Cost Plus Mark-up). The bank purchases the vehicle and sells to customers with a reasonable mark-up (otherwise called a profit). The payment is structured under an agreed deferred period which could be in lump sum or by fixed installment. When bank buys a car (fairly use) will be

⁹¹- Jaiz Bank PLC Joint Investment Account. Available at <http://jaizbankplc.com/personal/banking/investment-accounts.aspx>

paid within three years, but if the car is new the payment will be within four years and the Minimum of committed deposit of 20% fairly use car while 10% for new cars. In the case bank provides household's appliances to its customers, the percentage to be taken in his salary will not exceed 1/3 which could be completed within the period of two years.⁹²

Now, what will happen if the car is destroyed through accident e.t.c, will the bank shoulder the loss or both the bank and customer? In this situation, both the two shoulder the risk because there is an established Jaiz Takaful Insurance Company aimed at helping the customers affected with disaster on the principle of *Tabarru* (donation) saddle with a responsibility of managing and distributing the proceeds to the affected customers in line with Islamic Injunctions. The detail of Takaful Insurance Company will be discussed in the below sub-heading.

Here one can see that the bank helps customers to do what will be profitable and beneficial in to their transaction by taking not more than 1/3 of their earning monthly so that life will be little bit easier; unlike in conventional banks that are capitalists in nature where if the customer will mistakenly default to pay his loan within specified period the bank charges him interest over what it have charged him initially that is called compound interest. Both the simple and compound interests are prohibited in the Qur'an and *Sunnah* of Prophet Muhammad ﷺ

Moreover, on the issue of overdraft, conventional banks offer facility of overdrawing from account of the customers on interest. But in the case of Jaiz bank Gombe branch, overdraft is not accepted because it is not *Shari'ah* compliance as it has been stated by the Jaiz bank Manager Gombe branch.⁹³

⁹²-Jaiz bank staff an interview conducted in their office Gombe Branch on 18th June, 2018

⁹³-An interview with Hassan Inuwa Jaiz Bank Manager in his office on 11th June, 2018

This is one of the financing Jaiz Gombe branch is doing where by both the bank and the customers are benefiting from each other, because without financing there will be no production, without production there will be scarcity which finally leads to unemployment. This mode of financing has substituted the conventional system which is built up with not only ordinary interest but compound Interest to those customers that failed to pay their loans within prescribed period; which is highest form of injustice.

Safe keeping of Money/ Items: The bank charges a fee on money or Items kept by the bank. This is because all Value Added Services there are standard charges for them which is remitted to the Central Bank, and the percentage of Value Added Tax which is guided by the Central Bank. Moreover, with regard to whether Jaiz bank Gombe branch has *Zakat* account? The manager responded by saying they have, but it has not been functioning therefore they don't have⁹⁴

4.3.2 Jaiz *Takaful* Insurance

Takaful is derived from the Arabic root-word "*kafalah*" a verb, which means guarantee, bail, warrant or an act of securing one's need; therefore, whereby a group of participants agree to mutually guarantee each other against a defined loss.⁹⁵

Jaiz *Takaful* Insurance was incorporated on 31st January, 2014 to transact family *Takaful* and the *Halal* option of pension schemes and transact in all classes of Non-life insurance such as Marine (Cargo, Hull and liabilities), Fire, Motor, Accident, Aviation, Engineer, Property, Oil and Gas, Health, Micro-Insurance among others. *Takaful* refers to cooperation among a group of

⁹⁴-An interview with Hassan Inuwa Jaiz Bank Manager in his office Gombe branch on 11th June, 2018

⁹⁵- Ali Engku Rabi'ah, **A Mini Guide to Takaful (Islamic Insurance)** by Mashj Publication Sdn Bhd 2010, P.

individual to mutually guarantee and aid each other in order to meet certain needs as agreed among them.

The *takaful* company adopts model based on the *tabarru* and *waka'lah*. Under the concept of *tabarru*, the *takaful* participants agree to relinquish all or portion of their contribution as donation to aid other *takaful* participants who suffer particular losses or difficulties. Under *wakala* contract, the *takaful* participants will appoint the *takaful* operator as their agent to manage the *takaful* fund, which covers the management of investment and payment of claims, technical reserved and management costs. In return, the *takaful* operator will receive a commission or fee for the services rendered. The fee may be charge as a fixed amount or according to an agreed ratio based on the investment profit or surplus in the *takaful* fund. *Takaful* has basis in a prophetic tradition I as much as the premium is contribution not as sell contracts. Just like what happened in Madinah with the Yemen clan, Prophet ﷺ praised them because when they were on a journey or in Madinah, after they realized their provision is about to finish; they asked people to bring their contribution after which they will share it equally. The Prophet ﷺ said I am of them and they are of me⁹⁶

Based on this *hadith*, one realizes that they practiced for the benefit of less privilege among them. In another *hadith* the prophet ﷺ said:

Whoever removes a worldly hardship from a believer, Allah will remove him one of the hardships of the hereafter. Whoever alleviates the needy person, Allah will alleviate from him this world and the next.⁹⁷

⁹⁶ -Ahmad ibn Aliyu ibn Hajar A, ***Fathu Al-Ba'riy bi Sharhi Saheeh Al-Bukhari***, Published by Daru al-Salam Riyad, 1997, no: 2486 , Vol. 3, P.138

⁹⁷-Muhyiddin al-Nawawi, ***Minhaj Sharhi Saheeh Al-Muslim***, Published by Dar-el-Marefah, 2003, no: 6250

About Bakr Jabeer El-Jazaery on the position of Islamic Insurance, he opines that: "There is no blame when the good Muslim residents of the country establish a fund which they share with a percentage of their monthly returns or as they agree upon a certain share (that is equal for all of them), provided that this fund is to be a special endowment for all partners. So, anybody, who faces a disaster such as a fire, losing money or a body injury, is to be given some money that relieves his disaster."⁹⁸

However, it should be noted that the contributor must seek the blessings of Allah when he shares his money in the fund. Determining the amount of money that is given to the people who are having disasters as well as determining the shares of contributors, provided the quality is a must there is no blame in investing the fund's money in a speculation, real state contracts and permissible industrial businesses.⁹⁹

To ascertain the *Shari'ah* Compliance of *Takaful* contract, the researcher was able to have an interview with Sheikh Abdulwahab Abdullah Muahammad one of the Jaiz Advisory Committee of Experts who said "*takaful* is in line with *Shari'ah* because partners are contributing money with the intention of donation for the benefit of the partners that encounter a trial, will be assisted with that money being contributed" He further added that conventional insurance is *haram* (unlawful) because of some reasons:

1. The intention of contributing money is to get something in return

⁹⁸- About Bakr Jabeer El-Jazaery, **Approach of the Muslim** Published by Dar Al-kotob Al-Ilmiyyah-Beirut, 2012, P. 524

⁹⁹- About Bakr Jabeer El-Jazaery, **Approach of the Muslim...**, P. 524

2. One may contribute hundred one thousand naira, and get one million naira, so there is no balance between what he contributed and what he earns

3. One may contribute one hundred thousand naira and at the end of the day gets nothing that his money has gone on vein. And Allah prohibited devouring wealth without justice¹⁰⁰ Allah said in Qur'an:

يَا أَيُّهَا الَّذِينَ آمَنُوا لَا تَأْكُلُوا أَمْوَالَكُمْ بَيْنَكُمْ بِالْبَاطِلِ إِلَّا أَنْ تَكُونَ تِجَارَةً عَنْ تَرَاضٍ مِنْكُمْ وَلَا تَقْتُلُوا أَنْفُسَكُمْ إِنَّ اللَّهَ كَانَ بِكُمْ رَحِيمًا

(O you who believe, Eat not up your property among yourselves in vanities: But let there be amongst you Traffic and trade by mutual good-will: Nor kill [or destroy] yourselves: for verily Allah hath been to you Most Merciful!) (Qur'an 4: 29)

Therefore, *Takaful* insurance is based on assisting one another which is recommended in Qur'an, Allah says:

وَتَعَاوَنُوا عَلَى الْبِرِّ وَالتَّقْوَىٰ وَلَا تَعَاوَنُوا عَلَى الْإِثْمِ وَالْعُدْوَانِ وَاتَّقُوا اللَّهَ إِنَّ اللَّهَ شَدِيدُ الْعِقَابِ

(..Help one another in righteousness and piety, but help not one another in sin and rancor...) (Qur'an 5:2).

Unfortunately, some common confusion and myths on the concept and practice of *Takaful* persist among the public. Further explanations are attempted below, in order to refute the said misconception:

¹⁰⁰-An interview with Sheikh Abdulwahab Abdullah Muhammad one of the Jaiz Advisory Committee of Expert, the interview was conducted in his house at Sharada, Kano.

Firstly, *takaful* is not meant to deny the divine pre-destination (*qada* and *qadar*). While acknowledging that no one can prevent or change divine destiny, *takaful* attempts to reduce or remove the harm and hardship when the pre-destined event occurs. This is actually in line with the practice of the second Caliph of Islam, Umar bin al-Khattab in imposing travelling bans to certain territories of the Islamic State in order to contain the cholera epidemic that plagued the Muslim at that time. He said in justifying the act:

"We run from one divine destiny to another".¹⁰¹

Secondly, *takaful* is not a form of gambling or game of chance because its nature is mutual cooperation, and not enrichment at the expense of others. Thus, there is no loser or winner in a *takaful* scheme. Both the donor and the donee benefit from the mutual indemnity scheme together.

Thirdly, in *takaful*, the issue of uncertainty (*gharar*), is acknowledged that even in *takaful* arrangement, uncertainty still remains because nobody knows when the peril or hazard will happen, or the actual extent of the peril if it were to occur. However, in a *takaful* arrangement such uncertainty or *gharar* is tolerated because *takaful* involves charitable or gratuitous contracts (*tabarru;at*). Finally, there is no buying and selling of policy; rather it is a contribution by way of donation by the participants to the pool funds for the purpose of mutual indemnity among the participants if the prescribed peril/s were to occur.¹⁰²

¹⁰¹-Muhyiddin al-Nawawi, **Minhaj Sharhi Saheeh Al-Muslim**, Published by Dar-el-marefah 2003, no: no:5504

¹⁰²- Ali Engku Rabi'ah, **A Mini Guide to Takaful (Islamic Insurance)** by Mashi Publication Sdn Bhd 2010, Pp. 30-31

4.3.3 Qard al-Hassan

Qard al-Hassan: It is to give an amount of money to someone to benefit from it, and then return it back after an appointed time. Its example is that a person in a bad need asks someone to lend him an amount of money or property or animal for a period of time, on condition he will return it to him, and he accepts to do.¹⁰³

Jaiz Bank does financing to its customers, the bank collects deposit from customers in the form of *Qard al-Hassan* in rare cases and the bank does collect collateral from a customer to avert non-compliance of the agreement and condition of the contract between bank and the customers. The relationship between bank and the customers holding foreign currency current accounts is based on the principle of *Qard*; no profit or loss shall be accrue to their balances in the said accounts. The bases of *Qardal-Hassan* came from the Qur'an and the Prophetic *Sunnah*. Allah says:

مَنْ ذَا الَّذِي يُقْرِضُ اللَّهَ قَرْضًا حَسَنًا فَيُضَاعِفَهُ لَهُ وَلَهُ أَجْرٌ كَرِيمٌ

Who is he credit that will loan to Allah a beautiful loan?
For (Allah) will increase it manifold to his credit, and he
will have (besides) a liberal reward... (Qur'an 57:11)

¹⁰³-Abou Bakr Jabir el-Jazaery, Approach to the Muslim published by Dar al-kotob Al-ilmiyyah,-Beirut,2012, Pp.

According to scholars of *tafsir*, the term *qardal-hassan* in the context of the above verse refers to acts of contributing for the sake of Allah the almighty (*infaq*). The term *qard*, literally, means loans and not *infaq*. Nevertheless, the scholars of *tafsir* stated that the term used in this verse is intended to dignify the status of mankind using common and understandable vocabulary. The permissibility of *qard* in the context of the loans is based on the literal meaning of the above verse since Allah (s.w.t) will not probably mention and equate commendable matters. This indicates that *qard* is permissible.¹⁰⁴ Additionally, in a Prophetic *hadith*, Prophet Muhammad Said:

He who will help his brother in overcoming a problem of this world, will find Allah reward him with helping in overcoming a trouble of the day of Resurrection.¹⁰⁵

Its judgment in respect of a debtor is permissible, because it is recorded that the messenger of Allah lent a small camel and repaid it with a big one, saying the best among the people is he who repays his debt in the best handsome manner.¹⁰⁶

The Jaiz Bank Manager clarifies that customers with current account will not benefit from any profit sharing and no any money will be given to him as *Hibah* (gift) due to using of his wealth to avoid any form of interest (*riba*) because it has over seventy ways. It is only considered

¹⁰⁴- Ahcene Lahsassa, *Shari'ah Issues and Resolutions in Islamic Banking and Finance*, Kuala Lumpur: IBFIM, 2014 P. 42

¹⁰⁵-Muhyiddin al-Nawawi, **Minhaj Sharhi Saheeh Al-Muslim**, Published by Dar-el-Marefah 2003, no: 2699, Vol.8, P. 71

¹⁰⁶-Ahmad ibn Aliyu ibn Hajar A, **Fathu Al-Ba'riy bi Sharhi Saheeh Al-Bukhari**, Published by Daru al-Salam Riyad, 1997, Vol. 3, P. 116, no: 2392

as *Qard al-Hasan* (Benevolent loan)¹⁰⁷ Despite the fact that some are of the opinion that one may decide willingly to give *hibah* (gift) to the person that lend money for him, but the stand of Jaiz bank Gombe branch is that nothing will be giving to a customer with a current account so that to avoid any thing that leads to *Shubhah* (doubtful) and *riba*-interest.

4.3.4 Jaiz Bank Risk Management

Jaiz Bank has implemented a comprehensive Enterprise Risk Management platform and process with effective Board and senior management oversight to identify, measure, evaluate, monitor, report and control or mitigate all material risks on a timely basis. The Bank takes an integrated 'Bank-wide' perspective of risk exposure, encompassing its individual business lines and business units with the aim of optimal protection of the wealth of its shareholders and interest of all stakeholders in line with the mandate of Non-Interest Financial Institutions (NIFIs). The mandate considers a holistic approach in ethically managing assets and liabilities including assessment of the adequacy of capital and liquidity in relation to the risk profile, market and macroeconomic conditions. The process takes into account appropriate steps to comply with Shari'ah rules and principles in all of the risk management activities.¹⁰⁸

The manager Jaiz bank Gombe branch mentioned that they manage risk of business transaction through appraisal that is through evaluating a customer whether he has capability and capacity by looking at his statement of account whether he can withstand the finances he needs, some time a customer is assess by the bank through trusted and tested customers before he will be among the

¹⁰⁷ -Hassan Inuwa Jaiz Bank Manager Gombe, the in view was conducted in his officice, 11th June, 2018

¹⁰⁸ -Jaiz Bank Annual Report and Accounts, 2016, P. 34

beneficiaries of Jaiz bank financing. It also manages its risk by investing in Jaiz Takaful insurance company and other lawful profitable venture.¹⁰⁹

The bank has unique and *Shari'ah* compliance way of managing risk so as to achieve its desired goals of promoting, justice, fairness and the nation economy through embarking on the lawful business transaction. Unlike how conventional banks manage their risk through advancing loans that bring interest on either short or long term deposit to C.B.N which there is a certain amount of interest to be added over the principal they deposited.

4.3.5 Beneficiaries of Jaiz Bank Financings:

The bank financings have not only been restricted to salary earners, but have gone beyond that where everybody can get financing: an individual or company once the customer has fulfilled the requirement; for individual must have account with the bank and in the case of company must be registered with Cooperate Affairs Commission (CAC). The bank does risk analysis for it to testify the integrity and character of a customer. If he has not possessed the quality to be financed, then he will not be given chance to be their partner. So, investigation is very relevant for the successful banking activity.¹¹⁰ Evaluating the integrity of person is in accordance with what Allah says in Qur'an, Suratul Hujrat.

يَا أَيُّهَا الَّذِينَ آمَنُوا إِن جَاءَكُمْ فَاسِقٌ بِنَبَأٍ فَتَبَيَّنُوا أَن تُصِيبُوا قَوْمًا بِجَهَالَةٍ فَتُصْحَبُوا عَلَىٰ مَا فَعَلْتُمْ
نَادِم

O you who believe! If a wicked person comes to you with any news, ascertain the truth, lest ye harm people unwittingly and

¹⁰⁹-Annual Report..., 2016 P.34

¹¹⁰-An interview with Hassan Inuwa Jaiz Bank Manager in his office on 11th June, 2018

afterwards become full of Repentance for what ye have done
(Qur'an 49: 6)

Islam attaches more emphasis on investigation in whatever one intends doing. If this verse was revealed during the life time of Prophet ﷺ and to his companion despite the fact that they were considered as the best generation whom Allah is pleased with and they were pleased with Him were ordered to investigate, then we that are living in present time are expected to do more so as to avert many problems of a fake, fabricated and unreliable stories that will affect the liquidity of the bank in its transactions with such kind of customers. Therefore, ascertaining the integrity is worthy and is in accordance with *Shari'ah*.

4.3.6 Mortgage Jaiz Bank Financing

This is one of the products of Jaiz bank Gombe, where the bank will cooperate with a customer who wants to own a house but has no money; the bank will buy the house after a certificate of occupancy of the house is presented to the bank. Then the bank will ask the customer to bring 10% of the money as the deposit so that the bank pays the remaining percent to enable him own the house; for example if the house is priced 1million, the customer will bring ₦100000 (Hundred Thousand Naira) as deposit and the bank will pay ₦900000 (Nine Hundred Thousand Naira); after which Jaiz will add its profit over the principal it paid; while the customer will be paying through installment monthly till he becomes the real owner of the house after the completion of the payment. From there, the bank will give him that certificate of occupancy of the house to become true owner.¹¹¹

¹¹¹- An interview with Hassan Inuwa Jaiz Bank Manager in his office Gombe Branch on 11th June, 2018

It could be understood that through Mortgage financing the bank assists individuals to own house by an installment payment. Owning of house is one of the basic necessities of life that human beings need for their comfort ability; to accomplish this, the Jaiz bank brings simple way for customers to own houses through mortgage based on *Shari'ah* compliance.

It is also narrated by Qatadah that:

Anas and I went to the Prophet A with barley bread having some dissolved fat on it. The Prophet had mortgaged his house to a Jew in Al-Madinah and took from him some barley for his family. Anas heard him saying, "The household of Muhammad ﷺ did not possess even a single *sa'* of wheat or food grains for their evening meal, although he has nine wives (to look after)"¹¹².

There are three models of home purchase plans (HPPs): *Ijarah*, which means lease in Arabic; *Musharakah*, which means Partnership and *Murabahah*, meaning Profit. Depending on the model the lender will levy rent or add profit to the amount one pays back instead of charging interest. An *Ijarah* is a leased-to-own HPP: the bank purchases the property you want then lease it out to you. At the end of the term the bank transfers ownership to the customer.¹¹³

¹¹²-Sahih Al-Bukhari, Published by Dar al-Kotob al-Ilmiyyah-Beirut Lebanon, 2002, Vol.3, P.56, no: 2069

¹¹³-Shari'ah Compliant Mortgages are here and they're not just for Muslims www.thegurdian.com uploaded by huma quraishi on 28th June, 2008

4.3.7 Bonds and Guarantee:

The product is tailored to customers that are contractors of government and major companies that require guarantees such as (Advance Payment, Guarantee, and Performance Bond etc) the surety is provided under the concept of *kafalah*, whereby the bank agrees to guarantee the liability of the applicant. The contract which is being given must be legitimate and with flexible collateral. This contract allows the customer to bid for more contracts; quick and fast processing.¹¹⁴

It is one of the services of Jaiz bank Gombe branch to finance bonds with its customers. This is a situation where by a contractor needs money for a contract with either company or government, he along has no capacity to do the contract, therefore the bank will write an official document (bonds) to a Company or Government that the bank will finance the project. After has been permitted to go ahead on that project, the Jaiz bank will charge him not more than 1% of the total Value of the bonds. Likewise, in the case of guarantee, the bank will write introductory latter to a company or government guaranteeing it that the contractor looking for contract is their reputable customer and he has capacity to do that project and he can withstands any transaction of 7 digit for example. Both the bonds and guarantee, the Jaiz manager Gombe branch said they are charging not more than 1% of the bonds and guarantee.

4.4 Shari'ah Compliance of Jaiz bank operations in Gombe branch

Islam discourages and condemns hoarding of savings and appreciate for the productive use of money. It is the bank that mobilizes idle savings and put them in productive uses. Therefore, the bank takes that savings to per take in business on the bases of *Mudarabah*, *Musharakah* , *Qard al-Hassan* e.t.c and to make sure its operation is in line with Shari'ah. To achieve this, the bank

¹¹⁴ -<http://Jaizbankplc.com/bonds-and=guarantee/> accessed on 6th September, 2018

established *Shari'ah* Advisory Committee as part of its governing structure and shall operate as an independent body; so as to make Jaiz bank transactions to conform with *Shari'ah*.

The managements are responsible for ensuring that Jaiz bank operates in accordance with the Principles of Islamic law as the *Shari'ah* Committee of Expert advises regularly on *Shari'ah* application and their observations of the bank operations, as well as preparation of report for them. The Shari'ah Advisory Committee of Expert (SAC) reviewed the products used and the contract relating to transactions, application and practices made by the Jaiz bank Plc; with shareholders, investors, customers and others during the year ending December 31, 2016. They have selected random samples of such transactions through the Internal Shari'ah Audit. They have also made due diligence to determine their opinion regarding whether Jaiz bank has committed to the principles and rules of Shari'ah as well as their advisory opinions and directives. The report of Advisory Committee of Expert shows that the reviewed contracts and transactions conducted by Jaiz bank during the year ending by 31/12/2016 were in accordance with the principles of *Shari'ah*. The distribution of profits on the investment accounts were in line with the bases adopted and approved by the ACE according to the rules and principles of Islamic law. During the maiden meeting of the Advisory Committee of Expert of Jaiz bank PLC held on the 19th and 20th of October, 2011, it was resolved that an independent "*Waqf*" type foundation be established in which present and future interest accruals will be transferred as a full-fledge owner. Annual donations from the profit of the bank will also be made available for the foundation. This gave rise to the formation of Jaiz charity and development foundation on the 2nd April, 2012.¹¹⁵

¹¹⁵-<https://mpra.uba.un-muenchen.de/papers/2015/2018>, **Jaiz Bank in Nigeria: A Case Study of Non-interest Bank**, 2015 No: 2018, P. 9

All the gains made from *Haram* (prohibited by Shari'ah rules) sources have been set aside in a separate account called "Jaiz Foundation" for charitable purposes.¹¹⁶ In addition to various interventions by Jaiz Foundation, the sum of N 9,380,000 was expended on various humanitarian and social welfare issues. The Bank will as deliberate policy, continue to intervene where needed to provide succor to the underprivileged and the needy.¹¹⁷

Now, the question arises, what are the Islamic rulings on using interest for donating to poor and other humanitarian activities? For the unlawful interest money that has accumulated in ones past in ignorance of Allah's laws, a person has two choices: One may leave it in the bank or take it and disposed it. Some scholars like Sheikh Binbaz are of the opinion that it does not help the cause of the believers to leave the interest in conventional banks for at best it helps them to generate more interest, and at worst, they may dispose it to an institution which might work against the cause. In cases where one has already accumulated interest money in ignorance of Islamic law, and Allah has guided them, and they now wish to dispose off that illegal money, the scholars are of the opinion that one may take this interest with the intention that he wants to rid himself of this evil thing, and give it away to some charity without seeking any reward from Allah for this spending. His only intention should be to getting rid of this unwanted and illegal money, and thus purify himself from the evil of *ribah*. The believer who does this only because he fears the accounting of Allah will be rewarded for keepings himself pure from the evils of *ribah*. The spending of illegally and unlawfully earned wealth does not have any worth in the sight of Allah; for Allah is good and pure, and He accepts only what is good and pure.

¹¹⁶-Jaiz Bank Annual Report and Accounts, 2016

¹¹⁷-Annual Report and Accounts, Jaiz Bank P. 76

The issue with the illegally and unlawfully accumulated money is not how best to spend it, but how soon can one rid himself of this illegal and unlawful wealth. His only intention in giving this money away should be to purify oneself and get rid of the evil that is with him. This illegal and unlawful money earned from interest can be compared to a burning coal; his only intention is to get rid of the burning coal from his hand! When one unintentionally and accidentally holds a burning coal, his only intention is to get rid of it, the burning coal from his hand; not where best to place it so that it can be of some benefit!¹¹⁸

According to Muhammad Hassaan Mustapha, it is not permissible to give Zakat or Sadaqa with the wealth gotten from interest with the expectation of getting reward. Because Prophet Muhammad ﷺ Said: “O mankind! Allah is pure and he accepts not but pure”...¹¹⁹

He further said, our contemporary scholars are of the view that one should not leave the interest with the bank, because it will continue to accrue the liquidity of conventional banks through that *riba*, therefore, giving it out for charity is better despite the fact that no reward is being promised for that act.¹²⁰ That is more desirable to give to needy or poor than leaving it with bank.

¹¹⁸- www.islamqa.info, "Getting Rid of *Ribah* by Giving it to poor" by Sheikh Muhammad Salih al-Munajjid, 1997-2019, pp.1-2

¹¹⁹- Muslim ibn Hajjaj, **Sahih Muslim**, Vol.3, P.85, no: 1015

¹²⁰- Muhammad Hassaan Mustapha al-Adwiy a Fatawa on a video clip Published 3th Feb, 2014

Moreover, the same question was asked by Sheikh Bin Baz and He said: "...if interest is paid to one without any condition or agreement, there is nothing wrong with taking it for charitable projects such as helping poor and so on not to own or benefit from it..."¹²¹

According to Isah Ali Ibrahim Pantami an Islamic Scholar and one of the Jaiz Bank member advisory committee of expert when he was asked on what is supposed to be done with usury (*riba*) gotten from bank? He said, according *Lajnatuddaa'aima Libuhus al-ilmiyyayh* when one has gotten usury in the conventional banks which has no option but to transact with it, taking the usury is strictly prohibited; but the easiest way is to take the money and give out to whom responsibilities is not on him (Family and relatives) e.g poor and IDPs (Internally Displaced Persons). But this is not charity because Allah is pure and He accept not but Pure. Now scholars said what are the benefits of the one who has not used the money but has given it out? They said, it is expected that Allah will have mercy on him and be pleased with him, because of fear of Allah he has to purify his wealth from *Haram*, and Allah to be pleased with one is even much better than reward.¹²²

While interviewing the Jaiz Bank Manager Gombe branch, on the mechanism of sharing what has been earned through Non-*Shari'ah* compliances, the manager said: They use to send it to Jaiz charitable foundation for donation and sponsorship which is an independent body from Jaiz bank, and if there is need for a donation in Gombe State, they use to write a memo to the Jaiz charitable foundation on them after which they will send money to settle the need of less

¹²¹- <https://binbaz.org.sa/fatwas/18248> accessed on September 2nd, 2018 by 4:13pm

¹²²- Isah Ali Ibrahim Pantami Gombe, a video clip on 1st August, 2016

privilege people; According to him, so far, three to four both individuals and organizations have benefited in Gombe Metropolis.¹²³

In its efforts to reduce poverty and unemployment the Jaiz Charitable Foundation donated ₦8 million to people of Gombe State with the designed format on how the money will be distributed to the beneficiaries across the State which includes: empowerment, health, education and Internal Displace Persons (IDPs). A Committee of twelve people was constituted for the selecting and distributing the materials/ items to the beneficiaries under the leadership of Sheikh Tahir Inuwa Ibrahim the Chief Imam of Central Masjid Gombe State University. The Committee adopted the following mechanism while distributing the donation; 40% of the money was allocated for empowerment where forty sewing machine, two knitting machine, two water pumping machine and almost thirty grinding machine among others were provided and distributed across the eleven Local Government of the State. The beneficiaries were asked to fill forms for proper record and documentation; while on the health aspects, 10% was allocated where eleven patients suffering from different diseases one from each Local Government benefited. For example Ahmad Isah Idris from Balanga Local Government was given ₦150,000 for his medical charges (leg amputation) and a woman called Mairo from Deba L.G.A got ₦40,000 to pay for her medical charges. On the education sector, 20% was allocated where annual payment of school fees of some orphans in all the L.G.A in the State were settled; for example Abba Muhammad and Hafsat Sani Bashir from Manara Academy Talase of Balanga L.G.A the sum of ₦12,000 was paid as their yearly school fees. Lastly, on the IDPs one of the beneficiaries benefited with ₦500,000 which gave him opportunity to get back to his home town

¹²³ -Hassan Inuwa (Jaiz Bank Manager Gombe Branch) the interview was conducted in his office on 11th June 2018

Dambuwa for his daily life and the other one benefited with ₦300,000. Out of the said amount, the foundation allocated ₦500,000 on logistics to the committee¹²⁴

Generally, on the commissioning day at the Multi-purpose Hall Gombe State University the chairman of the committee said 286 have benefited from this donation.¹²⁵

Any Islamic financial system is expected to assist in running the economy by providing the following services grouped in two headings. First, Savings mobilization from savers to entrepreneurs and second; provision of general utility service including transfer of funds, facilitation in an international trade, consultancy services, safekeeping of valuables and other services for a fee. There is no restriction on provision of such services by Islamic Financial Institutions for the service is not against the *Shari'ah*.¹²⁶

The sharing of profit and loss in the case of those with *Mudarabah* or *Musharakah* accounts, will only be done after experts have gone through the transactions took place and separated the profit gotten through non-*Shari'ah* which is going to be taken in to the Jaiz Charitable Foundation before sharing.

4.4.1 Profit and Loss Sharing Mechanism

There are differences of opinion among the Muslim Jurists on how the profit and loss should be shared in *Musharakah* transactions. In view of Imam Malik and Imam Shafi'i, it is necessary for

¹²⁴- Nura Mustapha one of the committee member for Selecting the beneficiaries, the interview was conducted in house on 9th April, 2019

¹²⁵- Sheikh Tahir Inuwa Ibrahim a Video clip, 11th April, 2019 Multi-purpose Hall Gombe State University

¹²⁶-Muhammad Hanif; **Differences and Similarities in Islamic and Conventional Banking**, International Journal of Business and Social Science, Vol. 2, No. 2, February 2011.

the validity of *Musharakah* that each partner gets the profit exactly in the proportion of his investment. Therefore, if A has invested 40% of the total capital, he must get 40% of the profit. Any agreement to the contrary which makes him entitled to get more or less than 40% will render the *Musharakah* invalid in *Shari'ah*. On the contrary, the view of Imam Ahmad is that the ratio of profit may differ from ratio of the investment if it is agreed between the partners with their free consent. Therefore, it is permissible that a partner with 40% of investment gets 60% of the profit only 40% or 30%.

The third view is presented by Imam Abu Hanifah which can be taken as a via media between two opinions mentioned above. He says that the ratio of profit may differ from the ratio of investment in normal conditions. However, if a partner has put an express condition in the agreement that will never work for the *Musharakah* and will remain sleeping partner throughout the term of *Musharakah*, then his share of profit cannot be more than the ratio of his investment.¹²⁷ But in the case of loss, all the Muslim Jurists are Unanimous on the point that each partner shall suffer the loss exactly according to the ratio of his investment. Therefore, if a partner has invested 40% of the capital, he must suffer 40% of the loss, and any condition to the contrary shall render the contract invalid.¹²⁸

In every bank, there is a credit department which deals with all financing of the bank and monitoring its transactions; and there are financial controls that are responsible for doing allocation. Therefore, the mechanism for sharing profit and loss depends on the products, so they

¹²⁷ - Al-Kasani, *Bada'i al-Sana'i*, 6: PP. 162-163. Cited in ***An Introduction to Islamic Finance***,

by Mufti Muhammad Taqi Usman

¹²⁸ - Ibn Qudamah, *Al-Mughni*, 5: P. 147. Cited in ***An Introduction to Islamic Finance***, by

Mufti Muhammad Taqi Usman

will look at portfolios i.e., how many customers fall under Savings accounts, what is the total deposit and what is the formula for sharing.

The Jaiz Bank Manager describes that the bank collects deposits and deploys the same in a pool for investment in a permissible ways. The relation between the bank and customers holding Savings account and/ or deposit account shall be based on the principles of *al-Mudarabah*-*Mudlaqah*, where the bank shall be *Mudarib* and customer shall be *Rabbul-maal*. The formula for sharing the profit is 30% goes to the customer while 70% goes to the bank. The profit and loss shall be calculated on the monthly basis, this will be done monthly after calculating the expenses, bank maintenance and salary of staff e.t.c the profit earned will be distributed to the respective accounts of the customers. In case of those customers that opened their accounts in the *Musharakah* (Joint venture) the percentage or formula for sharing profit depends on the negotiation and sometimes based on the amount one contributed; for example the partners that contributed 10 million naira each, their sharing formula will be 50% each. In some cases the sharing is based on the expertise, for example Mr. A may contribute 9 million naira and Mr. B may contribute only 1 million naira, but the sharing formula will be 60% (9million) and 40% (1million) this is considering Mr. B is good and expert in managing their pool on business transactions than his business partner. The relationship between bank and the customers holding foreign currency current accounts is based on the principle of *Qard*; no profit or loss shall accrue to their balances in the said accounts.¹²⁹

¹²⁹- Muhammad, Hanif; **Differences and Similarities in Islamic and Conventional Banking**, International Journal of Business and Social Science, Vol. 2, No. 2; February 2011.

Looking at the profit and loss sharing mechanism adopted by Jaiz bank, it varies based on what accounts one operates and also the amounts contributed in the case of partnership business transaction. Therefore, it is not necessary for sharing profit or loss to be equal between partners, but is based on the agreement because "Muslims are on their condition" but then Islam asks us to deal with human beings justly.

According to Jaiz bank staff, in its efforts (Jaiz bank) to ensure *Shari'ah* compliance in its day to day transaction, the bank gives consistent training (Quarterly) to its staff not only on *Shari'ah* compliance but generally on every aspect related to Islamic banking. There is currently a Knowledge Sharing Session (KSS); which holds every Friday to familiarize all key players of *Shari'ah* compliance on other vital aspects of Islamic banking. Jaiz bank is based on the principles of no-interest in banking. Therefore, it is based on the facility development which doesn't involve issuing cash to a customer, rather; buy construct or erect the aforementioned facility. In the same vein, some customers deserve non-interest loan in rare circumstances; this is referred to as *Qardal-Hassan* (Benevolent loan) which is issued to either woe some customers or to support consistent customer in dire need. Its collateral, most importantly is trust and the confidence of the bank in a customer as well as some assets (worth the value). Moreover, the bank is designed in a way of getting mutual benefit for both the bank and the customer, for example the bank doesn't give interest (*riba*) rather adopts profit sharing to deserving customer, the bank doesn't charge (deductions) on customer's account due to their transactions, unless ₦50 which is charged by Central Bank of Nigeria on any deposit. It also does not engage in unlawful businesses with customers deposit e.g gambling, alcohol trading, adultery and fornication etc

and it is guided by the teachings of the glorious Qur'an and *Sunnah* as well as other sources of Shari'ah; that is consensus of Islamic jurists and analogical deduction.¹³⁰

However, some Staff in the bank affirmed that there are a lot of business owners or investors who have through Jaiz bank grown rapidly in terms of infrastructure and capital. It has also been observed that on daily basis new customers' are trooping in to the bank to acquire information or procedures of acquiring these services; despite the fact that most conventional banks are expanding, developing and advancing their services consistently due to competition by their colleagues; but Jaiz bank is the only Islamic bank in Nigeria now, by the time other Islamic banks come up it will automatically advance the sector.¹³¹

4.4.2 Jaiz Bank Collects Collateral

Some people thought that collecting collateral is not in conformity with *Shari'ah* principles of Islamic jurisprudence. In response to this, the Jaiz Bank Manager said, the bank does collect collateral and there is nothing wrong, it is just a peoples' perception for example if a customer needs facility the bank will ask for a man that will guarantee him when he refused to pay the money bank it will go after him. It is the same thing with collateral taking as a pledge after several follow up by the bank and the customer turns a deaf ear, an arbitration committee shall be appointed to resolve the dispute according to Islamic law principles and Islamic commercial jurisprudence. A member of this Committee shall be selected by each party and the two members shall select the third. At least, one of them must be known to have an experienced in Islamic commercial jurisprudence and financial transaction, one with laws and customs governing

¹³⁰-Jaiz bank Staff (Adamu Ya'u, Faisal Salihu, Adamu Muhammad Usman, Fatima Ibrahim Abbagana and Abdullahi Ningi) an interview conducted in their office on 18th June, 2018

¹³¹-Staff of Jaiz Bank..., Abdullahi Ningi, Adamu Ya'u Faisal et al, on 18th June, 2018

banker-customer relationship. The decision of the arbitration committee shall be binding on both parties. This is in agreement with what Allah said on dispute resolution between husband and wife by inviting an arbitrator on each party, once they mean good Allah will provide way out for them. Allah says:

وَإِنْ خِفْتُمْ شِقَاقَ بَيْنِهِمَا فَابْعَثُوا حَكَمًا مِنْ أَهْلِهِ وَحَكَمًا مِنْ أَهْلِهَا إِنْ يُرِيدَا إِصْلَاحًا يُوَفِّقِ اللَّهُ بَيْنَهُمَا إِنَّ اللَّهَ كَانَ عَلِيمًا خَبِيرًا

If you fear a breach between them twain, appoint [two] arbiters, one from his family and the other from hers; if they wish for peace, Allah will cause their reconciliation: For Allah is all-knowing and cognizant.(Qur'an 4: 35)

It also happened in the battle of Siffin between Ali bin Abi Talib (R.A) and Muawiyah bin Abi Sufyan (R.A) where Amr bin Al-As and Abi Musa al-Ash'ari served as arbitrators. Finally, it became binding on both the followers of Ali and Muawiyah. .The position of collecting collateral in Islam has its basis in Qur'an and *Sunnah*. Allah Says:

وَإِنْ كُنْتُمْ عَلَى سَفَرٍ وَلَمْ تَجِدُوا كَاتِبًا فَرِهَانٌ مَقْبُوضَةٌ فَإِنْ أَمِنَ بَعْضُكُم بَعْضًا فَلْيُؤَدِّ الَّذِي أُؤْتِمِنَ أَمَانَتَهُ وَلْيَتَّقِ اللَّهَ رَبَّهُ وَلَا تَكُونُوا الشَّاهِدَةَ وَمَنْ يَكْتُمْهَا فَإِنَّهُ آتَمٌ قَلْبُهُ وَاللَّهُ بِمَا تَعْمَلُونَ عَلِيمٌ

(If you are on a journey, and cannot find a scribe, a pledge your goods[against the loan] And if one of you deposits a thing on trust withanother, Let the trustee [Faithfully] discharge His trust, and let him fear hisLord. Conceal not evidence; for whoever conceals it, - His heart is tainted withsin. And Allah is aware of all you do (Qur'an 2: 283)

4.4.3 Jaiz Bank and Central Bank of Nigeria Relation

Nigeria government has established Central Bank to serve as central banks for Nigerians, that is to say banker of all banks. Banks used to keep money in C.B.N as deposit, while taking back the money that has been deposited by banks; C.B.N will give certain percentage as interest over what has been deposited. Jaiz bank also is not an exception because there is monetary relation

between them. Where Jaiz bank used to deposit money to the Central Bank of Nigeria, now, the question here is that does Jaiz bank collect interest from C.B.N?

Sheikh Abdulwahab, one of the Jaiz bank Advisory Committee of Experts has confirmed that Jaiz bank does receive that interest because it is C.B.N rules and guidelines which they have no option but to adopt. He further added that the Jaiz bank look at what to do with that interest. An independent body called Jaiz Charitable Foundation account is opened for all transactions and money gotten through unlawful means the money will be transferred to that account for charity, donation and sponsorship. He further highlighted that before getting license from C.B.N after people have contributed money with the intention of opening Islamic bank, the money was kept in the conventional bank, by the time Jaiz bank got license they got up to 1 billion naira as interest for the money kept, so with that interest charitable account was formed for donation and sponsorship.¹³²

4.5 Customers Satisfaction with Jaiz Bank in Gombe Branch

Jaiz bank was established on the principles and foundations of Shari'ah and Islamic commercial and financial practice, which engender a high level of equity, fairness, sustainability and social welfare in all activities with the ultimate aim of achieving a well-balanced society. It has also core values that guide its operations which include: Quality service-customer first, team spirit, respect for the individual, ethics, trust, partnership and entrepreneur. The customer's satisfaction is growing rapidly because their service satisfaction is a measure of the bank's performance over the last twelve months compared to the preceding year. As a result, even with the growth in all

¹³²-An interview with Sheikh Abdulwahab, Abdullah Muhammad one of the Jaiz Bank member Advisory Committee of expert, the interview was conducted in his house Sharada, phase two Kano Nigeria on 22th, July, 2018

areas of our service to customers due to availability of more channels, products and branches, our total customer complaint has dropped by about 34% (from 9,261 in 2015 to 6,066 in 2016). Not only has the total number of customers' complaints dropped, but also we have improved the efficacy of resolving these complaints to the satisfaction of our customers. Out of the total cases received in 2016, 99% (6,008) were resolved by end of December, 2016 (2015:84%).¹³³

The researcher was able to conduct an interview with some customers to find out their satisfaction or otherwise on the *Shari'ah* compliances of Jaiz bank operational system. According to one customer; while interviewing him, he decided to open an account with Jaiz bank because of two reasons: firstly, because based on what he heard that the bank is a non-interest bank in its transactions and secondly they have private school that is bearing almost the same name "Jaiz Academy". The customer further confirmed his satisfaction with the bank; for example their *Muamalat* in accordance with *Shari'ah*, this because of what he has witnessed on *Shari'ah* Compliance and they are applying the teaching of the verse where Allah said that He has honored the son of Adam...

وَلَقَدْ كَرَّمْنَا بَنِي آدَمَ وَحَمَلْنَاهُمْ فِي الْبَرِّ وَالْبَحْرِ وَرَزَقْنَاهُمْ مِنَ الطَّيِّبَاتِ
وَفَضَّلْنَاهُمْ عَلَى كَثِيرٍ مِمَّنْ خَلَقْنَا تَفْضِيلًا

We have honored the sons of Adam; provided them with transport on land and sea; given them for sustenance things good and pure; and conferred on them special favors, above a great part of our creation (Qur'an 17: 70).

¹³³-Jaiz Bank Annual Report, 2016, pp.28-29

This happened as a result of misunderstanding that occurred between him and a Jaiz bank staff, he went and met the manager reporting what his staff has done to him, the manager with full of respect pleaded and instantly left his office from second floor and came down to first floor and met that staff after he has found out that the fault was from the staff, he warned him on how he will be relating with customer and finally both the manager and that staff pleaded once again promising us that something of that nature will never happen again.¹³⁴

He further said, the bank doesn't give loan (cash) to customer, but it only buys commodities and the payment will be done in an installment with a specific and reasonable profit that will not make one feel cheated. This style of transaction provides an avenue of having a mutual benefit and does away with all form of interest *gharar* and exploitation. Therefore, based on what he had seen and experienced while transacting with the bank, it adheres to Shari'ah compliance in almost all aspects except the dress code of one of their female staff some time is not 100% Islamic.

Jaiz bank operates on Islamic principles, demonstrates the application of *Shari'ah* and it gives response when needed. Therefore, the customers are satisfied because it recognizes banking only on Islamic platform and we are optimistic it will continue to be a bank that will attend to customer's satisfaction not negating the Islamic ideas it was set upon.¹³⁵

Generally, based on the interview the researcher conducted with some customers, majority of them are satisfied with Jaiz bank operation and very insignificant number said they are not satisfied with bank operation and this happened usually on two reasons:

¹³⁴-Isah Adam (customer) an interview conducted in the *Masjid* on 18th June, 2018

¹³⁵-Muhammad Babayo Uba (Customer) an interview conducted in his house on 15th July, 2018

Firstly, Customers will go to the bank looking for a loan (cash). The bank does not give cash loan which make them not satisfy, while the bank does financing to customers through *Murabahah*.

Secondly, the bank mode of financing on *Murabahah* where, for example, the bank will buy a car and add a mark-up profit which some customers look at as if the bank is taking interest like conventional banks are doing.

While looking for clarification on *Shari'ah* Compliance on this mode of financing, one of the *Shari'ah* Advisory Committee of Expert Said " If the increase is on the money in whatever case is *Riba*, but this is business because it is not loan (cash) Jaiz bank gives, therefore, this transaction (*Murabahah*) is lawful and it is in compliance with *Shari'ah*"¹³⁶

4.6 Successes of Jaiz Bank Operation

The bank has recorded lot achievements not only in Nigeria generally and Gombe branch in particular. This is based on the statement Jaiz Chief executive officer made it clear on the success of bank when he was given delivering a report of 2016; he said:

This success is manifested in the latest set of results, which shows strong growth in financing

Assets (38%), strong deposit inflows (30%) and over new current accounts opened. These figures are the result of a consistent and sustained focus on the needs of our customers and the employees

¹³⁶-An interview with Sheikh Abdulwahab Abdullah, one of the Jaiz Bank member Advisory Committee of Expert on 22th, July, 2018

that serve them, through the provision of excellent service; great products and continued investment in the knowledge set that underpins our kind of banking model.

Our underlying profit of N343million is the culmination of our performance over the past twelve months and the customer loyalty that we have formed over preceding years within our short period of existence; stood by our customers' financing needs through the difficult business environment occasioned by the recession experienced by the nation's economy in 2016. Our robust risk management system made it possible for us to do so - in an era where banks are shying away from lending to real sector and come out with one of the least nonperforming risk assets ratio in the industry. Our capital ratio (33%) has further improved and is comfortably three times ahead of current regulatory requirements (10%) and broadly in line with our best understanding of the kind of capital we would require over the medium term to support our rapid growth. Our strong prudential health enables us to be secure and to invest in the future for the benefit of shareholders today and tomorrow.

Notwithstanding, the fact that there is no compliant Interbank Money Market for us to participate in, your Bank for yet another year, maintained one of the highest liquidity ratios (23%) in the industry. Our goal has consistently been to deliberately build solid foundations for a bank that shall sustainably be profitable and whose prudential health is based on sound realism. We are conscious of the fact that such action may in the short-run come at the expense of high profitability but in the long – run, be rest assured of having a bank with growing profitability without compromising sound financial health. As the new Chief Executive Officer, my job will be to build on current success as well as chart a clear direction for us to take into the future. As the results show, Jaiz Bank is not in need of any radical reform, but rather all it needs is time to lay the foundation for its future growth while constantly challenging itself on

ways it can improve and offer an enhanced level of service to its customers and value to its shareholders.¹³⁷

Another success recorded by the Jaiz bank is its financial status where there is an improvement in Cash and Balance with Central Bank of Nigeria as it can be seen in the table below:

Financial Summary of Year 2015/ 2016

Jaiz financial statement (cash and balance with C.B.N Nigeria)	Year 2016	Year 2015
Cash in Hand	2,580,732	2,078,306
Current Account with the Central Bank of Nigeria	6,301,422	7,057,056
Deposit with Central Bank of Nigeria	12,624,6999	9,032,864
At 31 December	21,506,853	18,168,226

Source: Jaiz Bank Annual Report and Accounts P.102

¹³⁷-Jaiz Bank Annual Report Accounts, 2016

Cash in hand constitutes the aggregate cash balances in the vaults of the Bank branches. While deposits with the Central Bank of Nigeria represent Mandatory Reserve Deposits (as prescribed by the CBN) and are not available for use in the bank's day-to-day operations.¹³⁸

Moreover, the bank witnessed yet another year of remarkable growth with total assets moving in double by about 24% (from \$ 33.9 Billion in 2013 to \$ 42. Billion in 2014) total earning assets grew by about 114% (from \$ 11.56 to \$ 24.5 Billion) While total income increased by 220% (from 0.91 billion to 2.9 billion). In 2014 the bank operated within the context of a local and global economy in which growth was lower than expected. World economic growth remains affected by the fragile recovery in the advanced economies while Nigeria in which growth was adversely affected by the dwindling oil prices and the growing insurgency.¹³⁹

The Jaiz bank manager Gombe branch has acknowledged the contribution of private sector toward increase in their bank liquidity that is an individual personal savings. He further added that the bank adopts different marketing strategy for publicizing and advertising their products which includes programs in media couple with marketers' role.

4.9 Difference Between Jaiz Bank Operation and Conventional Banks Operations

On a general note, based on this research, it could be understood that Jaiz bank is trade products financing by investing in to joint profitable ventures through manufacturing of goods and services which helped in promoting the economy. Conventional banks on other hand are mostly capitalized on interest based; because of not partaking in to business that will boost the economy. This happened as a result of recycling the credit from government to banks and vice versa; banks

take government money as deposit and government takes money from banks as loan just to get interest. That make some of the conventional banks systematically and practically dead, this is because money is producing money without making production, trading and manufacturing.

However, despite the fact that both Jaiz bank and Conventional banks deposit money with Central Bank of Nigeria which accrues interest; but Jaiz bank is not making use of that interest in order to maintain its position of being *Shari'ah* Compliance rather it opened an account "Charitable Foundation" for donations and sponsorship etc. Jaiz bank does not give cash loan rather it finances through *Murabahah* (cost plus) otherwise called profit, while Conventional banks give cash loan which attract not only ordinary Interest but compound interest if a customer default to pay his loan on a time stated, interest will be redistributed on both the principal and the interest again.

Moreover, the Jaiz bank risk is shared between the, investors, customer and the bank in its daily transactions; whereas once conventional banks issue loan to a customer, the whole risk falls on a customer only. Conventional banks are dealing with Insurance Company for the smooth running of its business transaction which paves way for devouring one's wealth without justification through under paying, over paying or not even paying at all due to injustice arrangement; Jaiz bank adopts *takaful* Islamic Insurance which based on the principles of *Ta'awun* and *Tabarru*, that is built and centered on the donations and contributions of members who encounter with a difficulty in life. Jaiz bank promotes ethics and morals in its transaction for the benefit of humanity at large; any trading and investment that is against the Islamic teachings is null and void; unlike conventional banks that are capitalized in nature through encouraging social vices as such financing the company that are processing alcohol, pork, gambling etc, once it can gets money every one will be financed.

In Islamic Banking, profit making from speculation/gambling activities is not permissible. The system does not recognize the time value of money where money gives birth to money by charging interest through lending activities, rather, money must be used to create real economic value and it is only permissible to earn a return from investing it in *Shari'ah*-permissible commercial activities that will make the financier or investor take some commercial risk. While in Conventional Banking system profit making from speculation and gambling is considered as permissible; and mostly the commercial risk is fall on customers.

4.7 The Challenges Jaiz Bank Faces in itsOperation

At every human effort, there will be shortcomings, weaknesses and challenges. Jaiz bank also faces some challenges in its daily transactions which include the following:

- i. Law/Statutes Guiding the Banking Industry: Nigeria is not using Islamic law as its constitution; therefore, Islamic banking is facing so much difficulty complementing and resisting the challenges posed by the law.
- ii. The Diverse Nature of Nigeria: A completely complicated nation, this challenge manifested since before the acquisition of the license from Central Bank of Nigeria thinking that the main aim of establishing the bank is to Islamize Nigeria.
- iii. Awareness/Acceptability: Due to lateness of our institution in to banking sector, most Nigerians are more used to conventional banking, therefore, becoming acceptable is a challenge and at the same time creating awareness on their goods and services is also difficult.
- iv. Knowledge Gap Especially in the mode of Islamic finance: Lack of proper knowledge to people towards non-interest financial institution.

- v. Jaiz bank is faced with challenges ranging from frequent network failure; inability to meet general standard: in terms of the interbank transfers, ATM card issue, mobile banking, among others.
- vi. Some Muslims and Non-Muslims do not seem to understand the difference between Islamic banking and conventional banking. In reality however, Islamic banking is not just about banking without interest but also in accordance with the dictates of *Shari'ah*.
- vii. The bank is passing through its age of infancy. It has to work under a large number of constraints; therefore, some of its transactions have not been able to comply with the requirement of *Shari'ah*. For example, the bank and C.B.N relation is not 100% Islamic.

4.8 Jaiz Bank Accounts Gombe Branch

As discussed above, the bank financing could be either *Musharaka*-based product, *Murabahah* financing product and *Mudarabah* based product; for one to be among the beneficiaries of Jaiz financing must have opened an account with the bank. The followings are some of the accounts it operates.

Jaiz Savings Account:

This account is designed specifically to meet the requirements of customers who authorized the bank to invest their cash deposits. Customers can deposit or withdraw money at the time they wish. The bank allocates the funds received from the customers to a deposit pool; funds from the pool are invested on ethical and responsible manner.¹⁴⁰ The relation between the bank customers holding Savings and any/or term deposit account shall be based on the principle of *al-Mudarabah al-Mutlaqah*, where the bank shall be *Mudarib* and customers shall be *Rabbu al-*

¹⁴⁰-Jaizbankplc.com/Jaiz-salary-current-account

Maal. Funds deposited by you in savings and/or Term Deposit Accounts shall be collected in pool(s). The bank may at her sole discretion invest or disinvested in business(s).¹⁴¹

Jaiz Salary Current Account:

This is an account designed for the salary earners to provide easy and convenient access to their funds while enjoying host of the professional services from the bank. This will help them to have access to the bank's finance facilities and the quick easy processing.

Current account operates under the principle of *al-wadi'ah/ad-dhamanh* (Trust Agreement). The customer and the bank enter in to deposit arrangement, whereby the bank guarantees the safe custody of the customers' money. The bank will request permission to invest the customers' money. As the return of the principal sum deposited is guaranteed, the customer is entitled to withdraw the funds when needed. The important features of the agreement that forms the basis of the current accounts are:

1. The bank is not obliged to share the profits (if any) of the investments with the customer.
2. Any losses general from the investment will be borne by the bank.
3. It is at the bank's discretion whether or not to levy bank charges on the customer.

¹⁴¹-Jaiz Bank Opening Account Form terms and conditions

4. The bank provides cheque books and other normal banking services to the customer.¹⁴²

Jaiz Domiciliary Account:

This account is tailored to customers that carry out frequent foreign currency transaction, the account is designed to help you conveniently carry out foreign currency transactions from the comfort of your home, office or abroad. The account can be funded in Dollars, Pounds or Euro.

¹⁴³The relationship between the bank and customers holding foreign currency accounts shall be based on the principle of *Qard*, at the end no profit or loss shall be accrue to balances in the said accounts.

Jaiz Kids Savings Account:

Jaiz Kids Savings gives one a helping hand in watching your child's savings grows. The account will be opened in the child's name with the parent/guardian acting as a trustee to the account. After the child reaches 18 years of age they may have access to withdraw funds from their account. This is only on agreement to become a Kids Savings Account holder; you will enter into

¹⁴² -Sulaiman and Mukhatar, A.G, *Islamic Economics: A Book for Readings*, Published by International Institute of Islamic Thought, Kano, Nigeria, 2012, P.146

¹⁴³-Account Opening Form Terms and Condition Jaiz Bank Gombe branch

the contract of *Mudarabah* with the Bank. Under this relationship, one will be the investor (*Rabbu al-Maal*) and the Bank will be the manager (*Mudarib*) of the funds deposited by a customer in the pool. And the funds will be invested in the responsible and ethical manner.

Jaiz Joint Accounts:

If an account is opened in the names of two or more persons, the balance to the credit of that Account and any accruals thereon shall at all the times belong to the persons who are signatories (parties) to the Account. Such persons shall also be jointly and severally liable for all liabilities incurred in the relation to the account. In case of the death of any party, the total of the funds and properties in the joint account will be divided in the equal shares for the signatories unless we have in-writing documented order of distribution. The share of the deceased party will be in a special account for the heirs which will be disposed off according to appropriate court order. And leave the shares of the other signatories under the disposition of the surviving parties in a new account.¹⁴⁴

Therefore, it is worthwhile to be documenting transaction of two and above to avoid some problems that may occur. The longest verse in the Qur'an, *SuratulBaqarah* encourages Muslim to write, because Muslims are commanded to write 9 times that verse. Allah says:

يَا أَيُّهَا الَّذِينَ آمَنُوا إِذَا تَدَايَنْتُمْ بِدَيْنٍ إِلَى أَجَلٍ مُّسَمًّى فَاكْتُبُوهُ وَلْيَكْتُبَ بَيْنَكُمْ كَاتِبٌ بِالْعَدْلِ وَلَا يَأْبَ كَاتِبٌ أَنْ يَكْتُبَ كَمَا عَلَّمَهُ اللَّهُ فَلْيَكْتُبْ وَلْيُمْلِلِ الَّذِي عَلَيْهِ الْحَقُّ وَلْيَتَّقِ اللَّهَ رَبَّهُ وَلَا يَبْخَسْ مِنْهُ شَيْئًا فَإِنْ كَانَ الَّذِي عَلَيْهِ الْحَقُّ سَفِيهًا أَوْ ضَعِيفًا أَوْ لَا يَسْتَطِيعُ أَنْ يُمِلَّ هُوَ فَلْيُمْلِلْ وَلِيُّهُ بِالْعَدْلِ وَاسْتَشْهِدُوا شَهِيدَيْنِ مِنْ رِجَالِكُمْ فَإِنْ لَمْ يَكُونَا رَجُلَيْنِ فَرَجُلٌ وَامْرَأَتَانِ مِمَّنْ تَرْضَوْنَ مِنَ الشُّهَدَاءِ أَنْ تَضِلَّ إِحْدَاهُمَا فَتُذَكِّرَ إِحْدَاهُمَا الْأُخْرَى وَلَا يَأْبَ الشُّهَدَاءُ إِذَا مَا دُعُوا وَلَا تَسْأَمُوا أَنْ تَكْتُبُوهُ صَغِيرًا أَوْ كَبِيرًا إِلَى أَجَلِهِ ذَلِكُمْ أَقْسَطُ عِنْدَ اللَّهِ وَأَقْوَمُ لِلشَّهَادَةِ وَأَدْنَى أَلَّا تَرْتَابُوا إِلَّا أَنْ تَكُونَ تِجَارَةً حَاضِرَةً تُدِيرُونَهَا بَيْنَكُمْ فَلَيْسَ عَلَيْكُمْ جُنَاحٌ

¹⁴⁴-Account opening form terms and condition Jaiz bank Gombe branch

أَلَّا تَكْتُبُوهَا وَأَشْهَدُوا إِذَا تَبَايَعْتُمْ وَلَا يُضَارَّ كَاتِبٌ وَلَا شَهِيدٌ وَإِنْ تَفْعَلُوا فَإِنَّهُ فُسُوقٌ بِكُمْ
وَاتَّقُوا اللَّهَ وَيُعَلِّمُكُمُ اللَّهُ وَاللَّهُ بِكُلِّ شَيْءٍ عَلِيمٌ

O believers! When you negotiate a debt for a fixed term, draw up an agreement in writing, though, better it would be to have a scribe write it faithfully down; and no scribe should refuse to write as God taught him, so let him write. Let him who incurs the liability dictate, but let him fear His Lord Allah, and not diminish aught of what he owes. If the party liable is mentally deficient, or weak, or unable himself to dictate, Let his guardian dictate faithfully, and get two witnesses, out of your own men, and if there are not two men, then a man and two women, such as you choose, for witnesses, so that if one of them errs, the other can remind her. The witnesses should not refuse when they are called on [For evidence]. Disdain not to reduce to writing [your contract] for a future period, Whether it be small or big: it is juster in the sight of Allah, More suitable as evidence, and more convenient to prevent doubts among yourselves but if it be a transaction which ye carry out on the spot among yourselves, there is no blame on you if you reduce it not to writing. But neither take witness whenever you make a commercial contract; and let neither scribe nor witness suffer harm. If you do [such harm], it would be wickedness in you; So fear Allah; For it is Good that teaches you. And Allah is well acquainted with all things. If you are on a journey, and cannot find a scribe, a pledge with possession [may serve the purpose]. And if one of you deposits a thing on trust with another, let the trustee [faithfully] discharge his trust, and let him Fear his Lord conceal not evidence; for whoever conceals it, - his heart is tainted with sin. And Allah is aware of everything. (al-Baqarah, 282)

The above stated accounts will only be considered and after a customer fulfils the followings requirements and conditions for an account opening in Jaiz bank:

Any person desiring to open an account with the bank shall submit a duly filled out account opening form with all requisite documents and information, the customer shall also provide such further information as may be required from time to time in relation to the account; in the event of failure of the customer to provide such information, the bank may at its sole discretion withhold operation of the account or close such account. Each customer shall be allocated a

distinctive account number by the bank which will be quoted by customer in all correspondence with the bank in relation to the account. Account shall be opened with minimum deposit (₹2000 out of it ₹1050 is for ATM) as determined by the bank from time to time. The customer shall at all times maintain such balance in the account which is not below the prescribed minimum balance. If the balance in a customer's account falls below the minimum balance limit for a period of six months, the bank may at its sole discretion, close that account with or without prior notice to the customer.¹⁴⁵ Islam respects any condition designed by group of individuals or institutions in as much as it does not contradict Islamic injunctions. The Prophet ﷺ says: "Muslims are on their conditions"

¹⁴⁵-Jaiz Bank Account Opening Terms and Condition

CHAPTER FIVE

CONCLUSION

This chapter discusses the summary of the work on the "operation of Islamic banking in Nigeria an assessment of Jaiz bank Gombe branch". The researcher also pointed out the major findings from chapter one to chapter four and finally suggests recommendations on how the bank will improve in its operation in the present and future endeavor.

For every research, there must be a problem. The research problem relates to contemporary time where by the world economy and conventional banks are dealings with Interest, gambling, speculation in their day-to-day business transaction which Allah warned us seriously for those dubious, oppressive and unjust activities to the extent of granting them permission to wage war against Allah and his Messenger. Therefore, to avert these oppressions Islamic banking emerged to serve as an alternative to modern conventional banks. It has started from Arabs and Asian countries like Egypt (miti Ghamr), Saudi Arabia, Malaysia, Pakistan, Sudan and later on western countries like America, England also adopted it. e.t.c. There are a lot of pilot researches that have proven on the Islamic banking is viable for the world to embrace smooth transactions.

The research work has discussed and traced the origin of banking operation/system from conventional point of view and the idea of establishing Islamic banking which aimed at

establishment of justice and fairness. Islamic bank is a banking system without interest which can be established by the people or government in accordance with Islamic injunctions. The research is limited to the assessment of Jaiz bank operation in Gombe branch from 2013 -2016 which operates Non-interest banking system and based on principles of profit and loss sharing. It discusses whether Jaiz bank is really on *Shari'ah* compliance in its day-today transactions or not and how their operation will improve the economy of Gombe and Nigeria at large. Several reviewed literatures on the conceptual framework of Non-Interest Banking have been digested.

The research work discusses the operation of Jaiz bank in Nigeria, considering the conventional banks operations are on the bases of interest and other exploitative in its transactions. The Jaiz bank came up with other different models of financing that is *Shari'ah* compliant based on Islamic Principles which include: Prohibition of interest, prohibition of speculation, prohibition of uncertainty etc. It encourages Muslims to earn their source of living through cooperation since Islam has discouraged hoarding and recommended venturing money in a profitable and lawful way. *Mudarabah* is one of Jaiz bank products where two or more parties will come together for a profit and loss contract; one with capital is called *Rabbu al-Mal* while one with expertise is called *Mudarib*; the profit gotten will be shared between them base on their agreement. The researcher was able to discover how the bank is operating through interview he had with the Jaiz bank manager, Staff and Customers where most of the staff affirmed that; in its effort (bank) to ensure *Shari'ah* compliance there are a lot of training they used to receive on not only *Shari'ah* compliance but rather on all aspects of Islamic financing and *Muamalat* with Customers and all other parties the bank transacts with.

Major Findings

The research finds out that Jaiz bank has an independent Committee of *Shari'ah* Experts which reviews its operations in accordance with the *Shari'ah*. The Advisory Committee of Expert has the responsibility of ensuring that the banks funds are not invested in a prohibited activities or transactions, and also certify that all products and services are compliant with the *Shari'ah*. In case the Jaiz bank earns an income through non-*Shari'ah* compliance, it is not going to be used either by the bank, investors and customers so as to maintain its position of being an Islamic bank; but the wealth will be deposited in to a Jaiz charitable foundation for humanitarian services; while the distribution of losses and profits on the investment accounts were in line with the bases adopted and approved by ACE according to the rules and principles of Islamic law.

The research also discovers that the bank inculcates ethics and fairness and it ensures all its operational practices irrespective of where it operates or whom its dealing with are fair. Majority of the customers are satisfied with the way the bank and the staff are relating with them; they are respecting and dignifying human beings as Allah dignifies them, despite this fact one can get some weaknesses, inadequacies and limitation; this is because perfection is an attribute of Allah no one is perfect. The research reveals that the bank does not finance any transaction or activity that is considered void (*haram*) under the Islamic commercial Jurisprudence. Transactions involving substances that are scientifically proven to be harmful to the human body (alcohol, tobacco, narcotics) and others such as gambling are examples. Banking system plays role in

spreading wealth amongst the individual members of the society by providing capital to those who could generate and provide employment and services to the society.

The research reveals that Jaiz bank does not give cash loans, instead it operates on the *Murabahah* mode of financing (cost plus) for easily and lawfully accessing the bank facility. It also finds out that an arbitration committee was set for resolving dispute that may arises in a process of day-to-day banking activities between the bank, shareholder and customers etc.

The research reveals that Jaiz bank adopts sharing formula of profit and loss to be 30% to customer with who has Savings account or *Mudarabah* account while 70% goes to the bank. The research shows that there were successes recorded with few challenges. The research reveals that if the client defaults in payment of price at due date in case of *Murabaha* transaction there is an amount to be charged which will deposited to Jaiz charitable foundation humanitarian activities that make the bank to manage it liquidity.

The research findsout that the bank products and services reduce the poverty and unemployment among the youths in the State: This is because eight million Naira, (₦8,000,000) have been distributed to people of Gombe State from Jaiz Charitable Foundation. It also reveals that the financial performance of Jaiz bank of liquidity management and profitability is increasing.

5.3 Recommendations

Having discussed the operation, success and challenges faced by Jaiz bank Gombe, branch, the researcher, therefore, suggests some recommendations as follows:

- i. There is need for government to have an independent legislation that would serve as a cornerstone of the operation of non-interest banking under the principles of Islamic commercial Jurisprudence in Nigeria.
- ii. In order to achieve the objective of no-interest bank in Nigeria which is eradicating poverty and creating jobs among youths, there is need from part of the first full pledge non-interest bank to intensify and double effort on embarking on public awareness on the products and services being rendered by it.
- iii. Nigeria is blessed with land for agricultural activities; therefore, the investors, customer and the bank should diversify their business in either *Musharakah* or *Mudarabah* on agriculture which is a profitable business.
- iv. It also recommends to various organizations in the State to anchor programs in Radio and higher institutions of learning on mobilizing savings so that people should change their thinking on always spending, but they should think of planning through investment in a profitable venture no matter how little it is.
- v. The research recommends that *Shari'ah* Compliance of Jaiz bank should not stop on the operation (products and services) only but it should include the dress code of their staff more especially females. Therefore, one should dress in the way he wants to be addressed

It recommends further research should be conducted on the same aim and objectives, but should a wider coverage in terms of population and extended area so as to fill a gap left by this research.

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LIST OF RESEARCH INFORMANTS

Abdullahi Ningi,(35) Staff of Jaiz Bank Gombe Branch, the interview was conducted in his office along Number 8, new market road commercial area Gombe, Gombe State Nigeria, on 14th June, 2018

Abdullahi Ya'u,(37) Staff of Jaiz Bank Gombe Branch, the interview was conducted in his office that is Jaiz bank on 13th June, 2018

Abubakar Ibrahim (30)Customer of Jaiz bank, the Interview was conducted in Santuraki Quarters Kashere Akko Local Government Gombe State on 26th May, 2018.

Adamu Muhammad Usman, (31) Staff of Jaiz Bank Gombe Branch, the interview was conducted in his office along Number 8, new market road commercial area Gombe, Gombe State Nigeria, on 18th June, 2018

Adam Isa (37) Customer and a religious scholar (an Imam of Juma'ah Masjid) adjacent to Federal University Kashere, the Interview was conducted in the Garage Masjid premises on the 18th June, 2018

Aliyu Muhammad Hadejia, (57) Jaiz bank customer and a former Staff of First Bank, the interview was conducted in his house at Dutse on 27th April, 2018

Babayo Jibril, (1988) Jaiz bank customer and a Staff of Petroleum Equalization Fund, Gombe, the interview was conducted via email on 28th May, 2018

Faisal Salihu (30) Staff of Jaiz Bank Gombe Branch, the interview was conducted in his office along Number 8, new market road commercial area Gombe, Gombe State Nigeria. On 11th June, 2018

Fatima IbrahimAbbagana, (31) Staff of Jaiz Bank Gombe Branch, the interview was conducted in his office along Number 8, new market road commercial area Gombe, Gombe State Nigeria, on 14th June, 2018

Hafiz Ilyasu Sulaiman (28) Customer of Jaiz bank Gombe Branch and a teacher in Misbahussunnah Nursery, Primary and Junior Secondary School Kashere, the interview was conducted in his house at Santuraki Quarters Kashere Akko Local Government Gombe State on 20th June, 2018

Hassan Inuwa (nd)Jaiz Bank Manager Gombe Branch, the interview was conducted in his office along Number 8, new market road commercial area Gombe, Gombe State Nigeria. On 11th June, 2018.

Ibrahim Yahaya(31) Customer and Staff (security) Federal University Kashere, the interview was conducted at his residence on 19th June, 2018

Ismail Ibrahim, (29) Customer of Jaiz Bank Gombe Branch the interview was conducted on 17th May, 2018 at Kashere Motor Park after Asr Prayer

Maikudi Alhaji Malam, (32) Jaiz bank customer and Staff of NHIS (National Health Insurance Scheme) the interview was conducted via telephone call on 7th Sept, 2018

Muhammad Babayo Uba (30) Customer of Jaiz Bank Gombe Branch an interview was conducted in his house Danbare opposite New site Bayero University Kano Nigeria on 15th July, 2018

Sheikh Abdulwahab Abdullahi, (nd) a scholar one of the advisory committee of experts Jaiz bank Nigeria, the interview was conducted in his house at Sharada phase two , Kano Nigeria on 22th July, 2018.

Sheikh Hassan Ihsan (51) Kwanar Plato Pantami Gombe State, interview was conducted via called phone on 1st Sept, 2018

Sheikh Mamud Abdullahi Deba, (30) an Islamic preacher the interview was conducted through telephone communication on 7th September, 2018

Ustaz Nura Mustapha (32) of Talase Balanga Local Government Gombe State, the interview was conducted via phone call on 9th may, 2018

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APPENDIX I

Dear Respondent,

I am a Postgraduate Student of Bayero University, Kano, Department of Islamic Studies and Shari'ah, Faculty of Arts and Islamic Studies, conducting a research work on ***“Operation of Islamic Banking in Nigeria: An Assessment of Jaiz Bank Gombe Branch”*** in partial fulfillment of the requirement for the award of Master of Arts Degree in Islamic Studies.

I am very optimistic to request the indulgence of your good organization to participate in this study as it is one of the important institution that have been considered essential in making meaningful contributions towards solving financial banking problem. The information you will provide will be treated with the highest level of confidentiality and will be used only for the purpose of this research.

Thank you very much!

JAIZ BANK-CENTERED QUESTIONS

GOMBE BRANCH

1. Does Jaiz bank give interest-free loans to customers? If yes, do you collect collateral?
2. Does Jaiz bank have *Zakah* account? How do you manage its investment and distribution to the beneficiaries?
3. Does Jaiz bank give overdraft to its customers? If yes, how does it adopt charge?
4. Which profit and loss sharing mechanism does Jaiz Bank adopts in *Musharakah* and *Mudarabah* transaction?
5. We learned that Jaiz Bank offers donations and sponsorship, what qualifies the beneficiaries to obtain the donations and sponsorship?
6. Does the bank's liquidity increase annually?
7. What sector of the business do you think contributed immensely to the growth of your liquidity?
8. If there is annually decrease in bank liquidity yearly, what do you think is the causes?
9. How does the bank manage risk in Gombe branch business transaction?
10. What marketing strategy does it adopt in publicizing and selling your products?
11. What scale does it use in measuring the integrity and reliability of the customer before financing?
12. Does Jaiz bank collect administrative charges from account holder? If yes, what is the percentage does it adopt?

14. We learned that, incase Bank earned profit through non-*Shari'ah* compliance principles, the profit will be transferred to Jaiz foundation charitable account, What formula does bank use for sharing what has been accumulated?
15. Does Jaiz Bank face challenges of customers' non-compliance in contract of differed payment? if yes, how is the dispute settled?
16. Does Jaiz bank receives charges for internet services?
16. How many communities or organization have they benefited from your charitable services in Gombe?
17. Does it operate bond and stand as for customers guarantee? Is yes, is it free or there are charges?
18. What are successes recorded so far in Jaiz bank operation from 2013-2016? And what are the challenges facing your operation?
19. What about the fears often Islamic bank meant to serve a religious purpose?
20. Suggest some ways through which the bank can improve its operation

APPENDIX 11

JAIZ BANK STAFF-CENTERED QUESTIONS

1. How often does Jaiz bank organize staff training on *Shari'ah* compliance in banking transaction?
2. Do you enjoy working with Jaiz bank in Gombe branch, if yes, what makes it so?
3. Does Jaiz bank give free-interest loan to its customers? If yes, does it impose collateral on them?
4. How often do you receive complaints from the customers?
5. What is the nature of their complaints and which method do you adopt towards solving their complaints?
6. Does the mode of Jaiz bank operation differ from conventional banks? If yes, what is the difference?
7. Kindly, enumerate the three basic facilities, products or services provided by Jaiz bank for the growth and progress of its operation in Gombe metropolis?
8. How can you rate the level of awareness of the newly start-up businesses about facilities, products and services provided by Jaiz bank within Gombe metropolis?
9. Kindly, identify at least two challenges affect the operation of Islamic banking in Gombe metropolis?
10. What are the obstacles facing Jaiz operation especially in terms of *Shari'ah* compliant?

APPENDIXIII

JAIZ BANK CUSTOMERS-CENTERED QUESTIONS

1. Do you operate an account with other conventional bank?If yes, why do you open account in Jaiz bank?
2. Are you satisfied with Jaiz bank mode of operations, if yes, what is the reason and if no what do you think is the cause?
3. How does Bank respond to the Customers' complaints?
4. Does Jaiz Bank gives free interest loan to its customers, if yes, does it collect collateral?
5. Does Jaiz bank a really apply *Shari'ah* principles in its operation? If no, where do think they contradict *Shari'ah* principles?
6. Are there any obstacles you face with Jaiz bank operation, if yes, what do you think will be the solution?
7. Kindly predict the future expectation for Jaiz Bank operation?
8. How do you assess the *Shari'ah* compliance by the Jaiz Bank?
9. How can you compare the services of Jaiz bank with other conventional banks?
10. Briefly, comment on the Jaiz bank operation in Gombe branch?

APPENDIX IV

ISLAMIC SCHOLARS-CENTERED QUESTIONS

1. What is the Islamic position of donating interest (*riba*) for a charitable act?
2. What is the Islamic position on *Murabahah* transaction (cost plus) by Jaiz Bank?
3. Does Jaiz bank really apply Shari'ah principles in its operation? If no, where do think they contradict *Shari'ah* principles?
4. Are there any obstacles you face with Jaiz bank operation, if yes, what do you think will be the solution?
5. Kindly predict the future expectation for Jaiz Bank operation?
6. How do you assess the *Shari'ah* compliance by the Jaiz Bank?
7. How can you compare the services of Jaiz bank with other conventional banks?
8. Briefly, comment on the Jaiz bank operation in Gombe branch?