
IMPLEMENTING ISLAMIC BANKING UNDER CONVENTIONAL BANKING ACTS – SPECIAL REFERENCE TO GHANA

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ABSTRACT

The main purpose of this study is to study the legal status of Islamic banking (IB) in Ghana in relation to the new banking Act, Banks Specialized Deposits Taking Institution (BSDTI) Act, 2016 (Act 930). The research employs a qualitative approach that uses interviews to measure the opinions of a sample of 10 experts with Islamic finance/finance backgrounds conveniently and purposively selected from higher learning/research institutions in Ghana and abroad. Questionnaires are also administered to 52 core banking employees. The data analysis is done with the aid of SPSS (V. 20). The findings from the research reveal that IB is not explicitly permitted by the Act. However, IB implementation in Ghana is possible. The majority of respondents are Muslims and this should be considered before generalization over the entire country. Islamic banking can be implemented in Ghana if deliberate efforts are made to revise the Banking Act. Notably, this study is the first of its kind to interview both local and foreign experts regarding the legal status of IB in relation to the new banking Act.

Keywords: *Islamic banking, Banking Act, Legal status and Ghana.*

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1. INTRODUCTION

Islamic finance/Islamic banking are deeply rooted in the implementation of *Shari'ah*, which is the law extracted from the Quran (believed to be Allah's divine revelation to Prophet Muḥammad [peace and blessings be upon him]) and the *hadīth* (teachings and practices of Muḥammad [peace and blessings be upon him]). Muslims are of the strong conviction that the *Shari'ah* as a complete way of life is the only right path to follow to be able to gain salvation in the next life and a successful worldly life. The major principles of Islamic finance are:

1. Wealth must be created from legitimate trade and with an underlying asset (it is not permissible to use money for the purpose of making money).
2. The general good of society or the public interest must be taken into consideration when making an investment.
3. Risk sharing cannot be compromised.
4. Haram (forbidden) activities should be avoided (Institute of Chartered Accountants, Ghana-ICAG, 2019).

In Islamic finance, the payment and reception of interest (*Ribā*) are strictly prohibited. This is confirmed in a number of verses in the Qur'ān, the interpretations of which are: *O you who believe! Eat not Ribā (usury) doubled and multiplied, but fear Allāh that you may be successful* Qur'ān (Al-'Imrān, 3:130). This verse clearly indicates the prohibition of *Ribā* (usury or interest) and

also highlights that fear of Allah will make one abstain from interest-based dealings. The prohibition emanates from the Almighty Allah.

However, the most fearful and explicit of all prohibitions of interest comes in the Qur'ān (Al-Baqarah, 2:278–280). In the verses, Allāh cautions about dealing in interests and equating those who engage in interest-based dealings to those who are ready to engage Allāh and His Messenger in a warfare. In fact, interest-based dealings can land one in hell for a long time. Allāh also promotes legal business dealings and charitable giving as better than interest-based transactions. The lesson that can be drawn from these verses, among others, is that when prohibition is declared on an act, the available permissible alternative should be promoted. An alternative to not engaging in interest-based dealings is to engage in Islamic finance.

The United Kingdom (UK), particularly London, is the hub of Islamic banking in the Western world. The Banking Act of the UK has undergone several modifications since its promulgation in 1979 to its present form (The Banking Act, 2009) which incorporates Islamic banking. Both Islamic banking and conventional banking are regulated under FCA (Financial Conduct Authority) and PRA (Prudential Regulatory Authority) with some level of challenges (Khalifa, 2022). Both regulations replaced the FSA (Financial Services Authority) in 2013.

In Ghana, the Bank of Ghana (BoG) represents the central bank of the country and has overall supervisory and regulatory authority in all banking and non-banking financial businesses. According to the new banking act, the BoG is the only institution in the country that can grant a license for banks to

operate. The financial atmosphere of the country comprises the following categories of institutions: banks, savings and loans, finance houses, leasing companies, mortgage finance, remittance companies, microfinance institutions, financial NGOs, Forex bureaus, microcredit institutions, rural and community banks, representative offices in Ghana, and other banks. There are currently 23 banks registered and licensed by the BoG to operate as banks in the country (BoG, 2020).

On the legalization/ formal recognition of Islamic banking in Ghana, there appears to be controversy on the *non-interest banking* concept captured in the new banking act, Banks and Special-Deposit Taking Institutions Act (BSDTI's Act) 2016 (Act 930). In this act, the BoG made provision for non-interest banking as captured in 1r of Section 18 of the Act. In fact, proponents who believe this Act is recognition of Islamic banking, allude that the only hindrance to the implementation of this act is the lack of a comprehensive framework by the BoG to guide the application of this provision. While others believe that it is not detail enough to be understood as Islamic banking.

In light of this debate, the current study aims to seek clarity on the fate of Islamic banking in the new Banking Act by answering the following specific research questions:

1. What is the legal status of Islamic banking in Ghana in relation to the BSDTI Act, 2016?
2. Can Islamic banking be implemented in Ghana?

The succeeding sections are the literature review, methodology, results & discussion, and conclusions & recommendations.

2. REVIEW OF LITERATURE

2.1 Empirical Review

Aliyu (2012) recommends that Nigeria can position itself as a leading center for Islamic banking if the government fine-tunes its regulatory framework to match global standards. Mulli (2020) also made similar findings. Mbawuni and Nimako (2016) establish that there are key factors in the Ghanaian economy that predict future progress for Islamic banking and finance in Ghana. They highlight opportunities such as employment, a democratic system of governance, a flexible regulatory framework, flexible agrarian sectors, high demand for banking products, a high interest rate, a significant Muslim population, and the quest for sound business practices. However, a few challenges were also highlighted, such as governance issues, consumer behavior, and the performance of Islamic banking and finance institutions.

The methodology used by the researchers is primarily the gathering of data from secondary sources like Islamic banking and finance literature. The personal views of the researchers are also shape the findings. The findings focus much on the opportunities and challenges instead.

The need for the implementation of Islamic banking and finance in Ghana is multifaceted. One important benefit is employment opportunities, as highlighted in the study of Mbawuni and Nimako (2016). This is currently a big issue, especially for the youth of Ghana. The Minister of Finance recently made it clear that the public sector cannot employ the increasing number of unemployed youths in the country,

stating, "That payroll is full because we are spending some 60% of our revenue on remunerating some 650,000 people. That is not sustainable". Citi News (2021).

Aden (2014) established that Kenya has two full-fledged Islamic banks and other smaller institutions. The Ghanaian Muslim population is quite significant percentage-wise as compared to that of Kenya, hence if Kenya is coping with the challenges while taking advantage of the opportunities, then Ghana may equally be able to implement Islamic banking, provided certain measures are put in place. Broni (2018), through a case study of non-West African countries, asserts that an Islamic Bank can be established in Ghana in the shortest possible time if the government shows commitment, the up-scale level of education and advocacy, and Muslims developing interest in IB products. This study however did not include countries with similar economies like Ghana, for example, Nigeria could have been included in the case study.

Broni (2018) further recommends that Islamic scholars should intensify their preaching and awareness-raising about the dangers of *Ribā* (interest)-based transactions. The latter recommendation can also be implemented by Christian preachers since IBF is not the prerogative of only Muslims, as postulated by Gatsi (2021).

Wilmot (2017) argues that Islamic banking's entrepreneurial nature can be more appealing to the Ghanaian investing populace. This is an indication of the level of youth unemployment in the country, which now arouses interest in creating jobs instead of looking for non-existing ones. Most of the unemployed youth complain of a lack of starting capital as

a factor that frustrates their entrepreneurial plans since most of them are equipped with different levels of entrepreneurial skills in the course of their studies.

Furthermore, Wilmot (2017) noted that another differentiating factor that will make Islamic banks work successfully in Ghana is their non-interest nature. He found out that the biggest motive to borrow from Islamic banks is their interest-free nature. This shows the level of hatred for interest, especially on the part of the payer. Islamic banking and finance are really for the general welfare of society, especially assisting the weak, unlike conventional banking and finance, which charges not only simple interest but compound interest to make the rich richer and the poor poorer. The study, however, highlighted the low awareness level of Islamic finance, as confirmed by previous studies like Ezeh and Nkamnebe (2020).

He also disagreed with other researchers on the fact that Islamic finance is more appealing to Muslims than non-Muslims; rather, people with higher education are more willing to patronize Islamic banking and finance products than those with a lower level of education. Questionnaires were distributed to respondents, and quantitative tools were used to analyze the data to arrive at the aforementioned conclusions. The study is, however, silent about the sample size and the sampling technique used.

Bananuka et al. (2020) believe that attitude is an important mediator between general norms or religion and the intention to adopt Islamic banking. Su'un et al. (2018) noted that there are six most important determinants of the adoption of Islamic banking and finance in Ghana by the three main religious

groups: the majority Christians, a significant Muslim minority, and minority African traditional religious believers. The six determinants are perceived knowledge, perceived benefit, perceived innovativeness, perceived religious promotion, customer attitude, and readiness to comply with Islamic law.

Many studies also agree with the findings of Su'un et al. (2018). However, Butt et al. (2018) argue antagonistically to the widely held view that religion is a major factor that drives the demand for Islamic banking services.

Su'un et al. (2018) used a sample of 600 individual financial services consumers in Ghana to respond to modified structured questionnaires. The data gathered was analyzed using Partial Least squares Structural Equation Modeling (PLS-SEM). This methodology is good because consumers are the direct beneficiaries of financial services. However, the questionnaire could have been extended to include those who are not dealing with financial institutions as customers for one reason or another. For instance, vital data could have been collected from committed Muslims or Christians who do not deal with conventional financial institutions due to the fear of dealing in interest. ETHICA (2019) estimated that the best alternative for developing nations to source finance is through Islamic Banking and Finance.

The conventional system has proven to be more dangerous due to the compounding nature of borrowing interest. Almost every developing nation is bedeviled by huge sums of debt that continue to pile up from generation to generation. For instance, the public debt-to-GDP ratio of Ghana is stated at 76.4% as of 2020 (Bank of Ghana, 2021). Ghana, as a debt-

ridden country, may need Islamic Banking and Finance (IBF). This does not call for a complete overhaul of the financial architecture, but rather the amendments of certain parts and the avoidance of interest can be a good beginning for the implementation process.

Considering the above discourse, efforts have been made by previous researchers to prove the viability of Islamic banking in Ghana using various research methods but none has interviewed international and local experts. Moreover, no attempt has been made by any researcher to resolve the controversy surrounding the legal status of Islamic banking in Ghana since the new Banking Act-BSDTI Act was introduced about a decade ago by the central bank of Ghana. The current study is to fill this gap in the existing literature by adopting interview and questionnaire methods.

2.2 Conceptual Framework



Figure 1. Islamic banking issues
Source: Original work by the authors, 2023.

From the figure above, Islamic banking in Ghana is surrounded by several issues; implementation, banking law, challenges, and opportunities. The successful implementation will need a clear banking law to regulate its operations. This will help to address some pre-implementation and post-implementation challenges. By so doing pre-implementation opportunities and post-implementation opportunities can be taken advantage of as well as post-implementation opportunities. The issue of the banking law needs to be addressed first before the other issues can be resolved convincingly.

3. RESEARCH METHODOLOGY

3.1 Research Design

The researchers' underlying beliefs in conducting this work align with the interpretivism philosophy of research as a qualitative study, which requires the non-objective interpretation of the researcher to obtain more comprehension and insight into the perceptions of respondents. Interpretivism assists researchers in gaining a deeper understanding of experiences and perceptions in a given social context (Alharahsheh and Pius, 2020). The study is cross-sectional and uses an explorative research design. The design is adopted because the subject area is relatively new in the realm of academics and in Ghana. Exploratory design is regarded as the best for research in Islamic banking (Selvanathan et al., 2018). The researchers employed an inductive approach among the several existing research strategies in academia since the study is an exploratory type. Awwad et al. (2023) adopt an analytical and inductive strategy in researching the challenges and obstacles to issuing Islamic Sukūk in Palestine.

3.2 Population

The population for the study was targeted as a result of their knowledgeable background or experience in their promotion or publications in Islamic finance materialization in Ghana. The target population consists of both experts and core banking employees.

3.3 Sampling Design

The sample frame for experts includes scholars from the University of Ghana (UG), Kwame Nkrumah University of Science and Technology School of Business (KSB), University for Development Studies School of Business (UDS-SB), Institute of Chartered Accountants, Ghana (ICAG), Islamic Finance Research Ghana (IFRIG), Bayero University-Kano and Muslim Ummah Development Initiative Ghana (MUDIG). The sample for the core banking employees is obtained from the four top-performing banks for the 2021 financial year. The sample for experts was obtained conveniently, purposefully, and by snowball techniques. The participants in the sample were selected based on their availability and willingness to participate. Thomas (2022) considers purposive sampling as the best results for qualitative studies in the social sciences when compared to random sampling. The researcher contacted experts personally, and the majority of them via phone call or WhatsApp, to inform them about the topic of study prior to the data collection date. Some of the contacted participants also recommended others for possible recruitment.

A total of 10 experts were recruited to share their views on IBF in Ghana. Additionally, Nantogmah (2017) utilized 12 semi-

structured interview guides to assess the perspectives of interviewees on the opportunities and challenges of Islamic banking in Ghana.

Permission to collect data from banking employees was sought through recommendation letters to four banks. A follow-up was made in two weeks' time before approval was granted. The sample was drawn from the average number of core banking employees in the sector as provided by the operations managers which is 18. Consequently, 72 questionnaires were distributed but 52 were responded giving a response rate of 72%.

3.4 Data Gathering Tools, Strategies, and Analysis

The questions are closed-ended in the case of the questionnaires and open-ended plus closed-ended questions in the case of the interview to pave the way for unanticipated responses. The validity of the data-gathering tools was enhanced by engaging in pilot testing of the instruments before the actual administration. This helped in addressing challenges in the research instruments such as ambiguity, provocative questions, errors, and omissions Saunders and Bezzina (2015). Keshminder et al. (2022) solicited the opinions of experts with the aid of interviews to study the performance and challenges of Sukūk in Malaysia.

Google Forms were leveraged by the researcher in administering the interview to the respondents due to its prospects for qualitative research (Opara et al., 2023). However, printed hard copies were employed to administer the

questionnaires to the core banking employees in compliance with institutional protocols.

The researcher also complied with all the ethical guidelines prescribed by the IOU research department and Islamic tenets. This enabled respondents to be open-minded and free in expressing their opinions devoid of bias, which added strength to the findings. Codes were used to codify the interviewees instead of names or other confidential details that can compromise confidentiality, and also for the purpose of data analysis and discussion. The Statistical Package for Social Sciences (SPSS) 20.0 was used to process and analyze the collected data.

4. RESULTS AND DISCUSSION

Table 1. Demography

Qualification	Frequency	Percentage
PhD	4	40%
Masters	5	50%
Postgraduate Diploma	1	10%
TOTAL	10	100

Source: Field data, 2022.

From the table above, it is evident that the majority of interviewees have had an advanced academic qualification, as 9 out of the 10 respondents have acquired PhD and Masters degrees, representing 90% of the total number of experts interviewed. Only one, representing 10% of the respondents, has a post-graduate diploma; however, it is important to

mention that he is a veteran journalist reporting on Islamic finance in West Africa, which the research jurisdiction is part of. The academic background and experience of the experts show that they are qualified to be interviewed on the subject matter. Moreover, aside from the respondents' academic credentials, a good number of them are professionals from the Association of Chartered Certified Accountants (ACCA) and the Institute of Chartered Accountants, Ghana (ICAG).

Table 12. IB Legal Status in Ghana

Response	Frequency	Percentage
IB V. BSDTIA		
Strongly Agree	1	10.0
Agree	1	10.0
Neutral	6	60.0
Disagree	1	10.0
Strongly Disagree	1	10.0
TOTAL	10	100
IB IN GHANA		
Strongly Agree	25	48.1
Agree	11	21.2
Neutral	10	19.2
Disagree	1	1.9
Strongly Disagree	5	9.6
TOTAL	52	100%

Source: Field data, 2022.

This is to measure in precise terms experts' opinions about the new banking Act in relation to Islamic banking in Ghana. From the table above, only one, representing 10%, strongly agrees

that the new banking Act supports the implementation of Islamic banking; another respondent, representing 10%, agrees; also two respondents representing 20% disagree or strongly disagree; and the majority, representing 60%, is neutral. This is a clear indication of the lack of clarity on the Act's incorporation of IBF. There is a need for a comprehensive legal and operational framework to ensure certainty. The outcome conforms to the responses of experts in the open-ended questions on potential challenges of IBF in Ghana such as *"unfriendly regulatory environment - Absence of Legal Framework from Regulatory Agencies - also, the lack of legal regime - Existing regulatory frameworks may not support its implementation - Long protracted lack of a comprehensive IBF legal framework let alone to talk of a regulatory environment"*.

These revelations align with the findings of Ahmad (2019) and Alharabi (2016) who find that the success of Islamic banking in non-core Islamic banking jurisdictions will require a separate comprehensive legal framework. The legal framework of countries with vast experience in Islamic finance such as Malaysia can be leveraged in order to exploit the benefits thereof (Ishaq et al., 2020). This is in consonance with the Rational Expectations Theory (RET) as opined by Beattie (2022).

Also, from Table 2 above, the results show that 36 respondents representing almost 70% of core banking employees strongly agree or agree that IBF can be practiced in Ghana. Conversely, only six respondents representing 12% disagree or strongly disagree, and 11 respondents representing 21% are neutral. This highlights the confidence level of bank employees in the practicability of IBF in Ghana within the banking industry. The

findings of Su'un et al. (2018), that both Muslims and non-Muslims perceive IBF products as an innovation in addition to their readiness to comply with Shari'ah principles governing IBF products, are evidence that IBF can be implemented in Ghana. They further argue that the perceived threat of IBF is significantly negative. Nantogmah (2017) confirms that Islamic banking in Ghana will largely be successful. Ahmad (2019) concludes that Islamic banking in Australia will flourish swiftly in the financial markets if efforts are made to design a separate legal framework for its operation.

5. CONCLUSION AND RECOMMENDATIONS

The findings from the results show that the new banking act, Banks and Specialized Deposit-Taking Institution Act 2016 (930) lacks enough clarity regarding the legal status of Islamic banking in Ghana. This cannot be confidently used to support the approval of Islamic banking in Ghana by the apex bank in the country. However, despite the controversy surrounding the new banking law concerning Islamic banking, the banking sector will accept Islamic banking if the controversy is resolved.

The advocates of IBF in Ghana and other key stakeholders in the industry should seek a proper interpretation of the new banking Act [BSDTIA (2016) 930] at the legitimate quarters in the country to bring an end to the controversy. Future researchers can focus on increasing the sample size and also targeting financial lawyers and BoG staff to understand their perspective of the research problem.

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