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# SHAPING THE FUTURE OF ISLAMIC BANKING AND FINANCE: A LEGAL PERSPECTIVE

*Sanaa Kadi* [(a)1]

[(a)] *Ph.D. Candidate, Faculty of Law, University of Helsinki, P.O. Box 4, Yliopistonkatu 3, 00014, Finland; E-mail: sanaa.kadi@helsinki.fi*

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ABSTRACT

*After the inception of Islamic banking and finance (IBF) in the global financial industry, IBF became a new alternative form of ethical finance based on Islamic economic thought. According to classical thought, the essence of Islamic economics is not to prohibit making a profit but to prioritize people's well-being and, hence, enjoy the profit. This study examines the regulation and functioning of Islamic financial institutions (IsFIs), including their compliance with Sharia law. It explores the ethical considerations surrounding IsFIs by examining how their financial services align with the Sustainable Development Goals (SDGs). The study aims to shed light on the challenges and opportunities within the IBF sector, ultimately contributing to a deeper understanding of its role in promoting ethical finance and sustainable development. This study employs an empirical legal research approach to investigate the legal framework of IBF. The results reveal that by effectively highlighting ethical foundations and objectives, Islamic finance will attract a larger market of Muslims and arouse the interest of a wider audience of stakeholders who are not just interested in avoiding financial transactions that support prohibited practices. The findings of this study suggest that a major obstacle to the massive growth of the Islamic banking and finance sector is the existence of contradictions that depend especially on the excessively liberal accreditation of Islamic banks as "Sharia compliant."*



## INTRODUCTION

Islamic banking and finance (IBF) have emerged as a substantial and rapidly growing sector in the global financial landscape (Kamarudin et al., 2023). With its underlying ethical principles and adherence to Islamic law (Sharia), IBF offers an alternative financial system that adheres to Sharia law and promotes economic justice, risk-sharing, and socially responsible investments.

IBF refers to a financial system that operates in accordance with Islamic law; IBF includes all activities and operations identified as financial or economic that seek to avoid interest-based transactions which is considered a form of *riba* in Islam (Maurer, 2011, p. 28). The prohibition of *riba* in Sharia law is based on Quranic verses 2:275-276, 2:278, 3:130, and 30:39 (Quran). *Riba* is a term that refers literally to the "increase"; however, *riba*'s meaning in the IBF sector is often translated or used as synonymous with usury or interest (Maurer, 2011, p. 27), even though "usury" and "interest" in conventional finance are not synonyms.

During the last few years, the Islamic financial sector has confronted multidimensional issues; among these issues, are severe competition from the conventional financial sector, supervisory and accountancy regulation, geo-political predicaments where IFI are operating, Sharia compliance risk, harmonization practices worldwide and the global monetary crisis; additionally, the entire Islamic financial sector is constantly facing criticism about its efficiency, resilience to financial shocks, and its ethicality and sustainability (Hassan, 2022). Despite the rapid development of IBF, there still exists a gap in understanding the future trajectory of IBF and the potential avenues for its further advancement. The current body of research on IBF focuses on its conceptual foundations, historical development, and comparative analysis with conventional banking systems. While these studies provide valuable insights into the fundamental aspects of IBF, there is a lack of comprehensive research that delves into the future prospects, untapped opportunities, and challenges that lie ahead for the industry. This research gap necessitates a closer examination of the future of IBF and the factors that will shape its evolution.

[1] *Corresponding author: ORCID ID: 0000-0001-9002-8629*

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This article suggests that regulatory bodies within banking systems, as well as governments and policymakers, have a moral responsibility to find solutions for this global crisis, regardless of religious convictions. This study concludes with the assumption that the main factors hindering the tremendous development of the IBF sector are inconsistencies that depend particularly on the overly liberal accreditation of Islamic banks as "Sharia compliant."

As IBF continues to gain prominence, it is crucial to examine its legal framework to understand the legal principles, regulations, and challenges that shape its operations and enhance its regulatory environment, foster innovation, and build a sustainable and resilient Islamic financial system. Understanding the legal aspects of IBF is of utmost importance in shaping the future of this industry.

The article is structured as follows: First, a comprehensive literature review is presented, providing a critical analysis of existing research. Second, the Materials and Methods section outlines the employed empirical legal review methods. The third part of the article, Results, discusses the findings pertaining to each thematic area, including the legal framework of IBF and its ethical foundations. Subsequently, the Discussion section engages in a thorough analysis of the results, focusing on the balance between IBF law, ethical principles, and financial sustainability. Finally, the study concludes by discussing its implications, limitations, and offering insights for future research.

## LITERATURE REVIEW

Research literature on the legal framework of IBF encompasses a wide range of topics, including Sharia compliance, regulatory frameworks, legal contracts, dispute resolution, and comparative analysis.

In recent times, there has been a growing global interest in Islamic finance due to its adherence to ethical principles that align with the objectives of sustainable development (Lanzara, 2021a).

Biancone et al. (2020) demonstrated in their study that the existing literature on Islamic finance primarily focuses on the banking sector, comparisons with conventional banks, interest rates, and portfolios, as well as the examination of governance and control structures. Consequently, the analysis of the ethical aspects of Islamic banking and finance has been somewhat neglected and given secondary importance.

Research conducted by Meskovic et al. (2021) revealed that the Islamic banking industry only achieves around 35% of the ethical and moral goals of Islamic economics.

Brescia et al. (2021) have pointed out that the Islamic finance sector has not placed direct emphasis on environmental and social sustainability policies, despite the development of economic sustainability practices. Kamarudin et al. (2023) examine the relationship between the Islamic capital market and economic growth before and after IFSA 2013. Their results confirm that Malaysia's Islamic financial system is progressing positively, supported by a well-developed regulatory framework. The emphasis on SRI *Sukuk*, Bond Grant Scheme, ESG Financing/*Sukuk*, and value-based judgment projects aligns with *Maqasid al-Sharia* principles; they emphasized the need of ongoing efforts to expand the industry and strengthen the legal and regulatory system to establish Malaysia as a global leader in Islamic finance, and that future research should explore the Islamic finance-growth nexus in various sub-sectors, including Islamic capital markets and *zakat* funds, which are particularly relevant in rural areas.

The research priorities and choices of IBF scholars are influenced by various factors that may include institutional frameworks such as regulations and structures that govern the operations of Islamic financial institutions, market demand, regulatory environment, cultural and societal norms, financial incentives, and the availability of resources and expertise.

This research suggests that regulators within banking systems, as well as governments, have a moral responsibility to find solutions for this global crisis, regardless of religious convictions. Banks function through investors' funds and people's cash deposits and lend this money to borrowers who need funding (Gobat, n.d.). Current consumerist financial systems have failed to afford services for the consumers they were intended to assist. Still, the main issue is that several possible clients raise questions about the different Islamic financial products, and whether they are Sharia compliant; the personnel of Islamic banks fail to answer these questions, which lead clients to consequently abandon the Islamic bank services with the idea that, in fact, conventional and Islamic banking systems are similar (Akbar et al., 2023).

The legal framework of IBF plays a critical role in shaping the operations, regulations, and compliance of this rapidly growing sector. The development of the Islamic finance industry, particularly in cross-border transactions, relies heavily on having a clear and certain legal framework. It is necessary to make adjustments and amendments to the existing legal, regulatory, and tax environment to accommodate the unique aspects of Islamic finance. The ultimate objective should be the establishment of a comprehensive and consistent legal and regulatory framework that covers all sectors of the Islamic financial services industry (Perves, 2015). The experience of Malaysia in developing its legal framework for Islamic finance serves as an instructive example for other emerging jurisdictions aiming to strengthen their own frameworks and establish best practices (Engku & Ali, 2017). Gilani (2015) highlighted the fact that the ethical banking sector's expansion has contributed to the global growth of Islamic banking, with the industry leveraging its ethical label to attract customers.

At the same time, Islamic finance still faces structural weaknesses, and more particularly opacity that may have fueled suspicions of money laundering and support for terrorism, since the general public's ignorance of Islamic finance can lead to doubts and even unfortunate amalgams. Indeed, some confuse Islamic finance with religious fundamentalism. Even more seriously, some confound Islamic finance with money laundering or with funds intended for the financing of terrorism (Lasserre Capdeville, 2009). Moreover, many Islamic countries are considered poor countries, and this suggests that Islamic finance must take a significant role in enhancing these countries' development (Jackson-Moore, 2009, p. 2018). Moreover, Islamic financial institutions were denounced for their social failure in Muslim societies, along with a demand that a form of non-banking system should be developed to decrease this social failure (Asutay, 2012).

On the other hand, and during the last few years, the world has achieved outstanding steps in advancing development. Yet, the benefits of this development are not shared equally (Sarntisart, 2022); more than 700 million individuals are still living in life-threatening poverty. Moreover, poverty excessively affects children, which causes them severe consequences. Globally, underprivileged children face twice the risk of perishing at a young age than their richer peers. Children growing up during humanitarian crises face very high risks of deprivation and exclusion. Even in developed countries, one in seven children is living in poverty. Regardless of where they are, children who grow up under poverty would suffer from poor living conditions, develop fewer skills, and earn lower incomes as adults. Thus far, only a few States have made the eradication of child poverty a national priority. Worldwide, around 1 billion children live in multidimensional poverty, which means they lack necessities such as nutrition or clean water (UNICEF, n.d.). Around 1.6 billion people are living in inappropriate housing conditions and the most exact existing data state that more than 100 million people are homeless (Institute of Global Homelessness, n.d.; United Nations Human Settlements Programme, 2021), with Germany and the USA in the 9th and 10th position respectively in the top ten of the highest homeless populations in the world (Chukwuemeka, 2022). Societies worldwide are being confounded by environmental problems, and the issues linked with the global COVID-19 Pandemic which had disturbing consequences for all sectors worldwide (Bacha, 2021). These are strong indicators that neoliberalism is leading to the deterioration of countless societies.

Previous studies recommend that appropriately regulated and fully Sharia-compliant Islamic finance systems can afford a sustainable, ethically productive alternative to conventional financial systems (Lanzara, 2021b). The essence of Islamic economics, according to classical thought, is to prioritize the well-being of individuals and to then enjoy the profit as a by-product of this. Since its inception as a concept in the Western world, Islamic banking and finance has caught the attention of academics and economists globally as a potential alternative form of ethical finance. It has been understood as being underpinned by ideas of social justice (Kurochkina, 2021), and many reports have analyzed its growth over the past decades (Godil et al., 2022; Khavarinezhad et al., 2021; Ikra et al., 2021; Bollani & Chmet, 2020). Many academics, among them Imam and Kpodbar (2016), claim that the unique nature of Islamic finance has made it resilient to global shocks, such as the 2008 financial crisis (Hasan & Dridi, 2010) or COVID-19. However, the focal criticism of Islamic finance is the difference between classical Islamic economic thought and modern Islamic Business Law in practice. Many analysts such as Doumpos et al. (2017), have criticized the utopian ideals regarding the potential of Islamic financial products to create social change; they claim that Islamic banks are not different from conventional banks in their functioning. Additionally, they reported that Islamic banks are not significantly stronger than conventional banks.

On the other hand, conventional banks situated in Western countries intend to draw the enormous Islamic financial interest which is ready to invest. Trillions of dollars in savings are available without counting the resources of several million Muslims living in Europe. A great deal of banking activity and even intellectual legal thought has thus recently been deployed to support the French recovery and to deal with what is kindly called the derivatives of conventional finance; public authorities, principally the tax administration, strongly support this welcomingly, but, when it comes to the family or the person, marriage, divorce, burqa, Islamic veil … etc., French law is inflexible in defending what it considers to be the values of the West – but when it comes to finances, rigor disappears and turns into seduction (Malaurie, 2010). This statement suggests that while French authorities strongly support initiatives aimed at revitalizing the economy and addressing issues related to conventional finance, they exhibit a lack of flexibility when it comes to cultural and personal matters such as family, marriage, and religious attire. The French legal system is portrayed as steadfast in upholding Western values in these areas. However, when it comes to financial matters, there appears to be a more lenient approach, implying a contrast in regulatory rigor between different aspects of French law.

The hypothesis of the study focuses on examining the alignment between the legal framework of IBF and the principles of Islamic economic thought, particularly the concept of *Maqasid al-Sharia*. The hypothesis seeks to explore whether the legal aspects of IBF adequately incorporate the objectives of Sharia, including the preservation of faith, life, intellect, property, and progeny, or whether it is only limited to being called 'Sharia compliant' within the narrower legal framework.This research seeks to assess the potential of the IBF sector to continue its progress worldwide, develop a vehicle for social justice, and propose financial products that can better resist financial crises.

## MATERIALS AND METHODS

This research employs an empirical legal study. First, it conducts a systematic literature review to examine the existing literature to understand the current state, trends, and challenges within the legal framework of IBF. Next, it will mainly explore the legal framework of Islamic banking and finance in the light of Islamic economic thought; then, the study will assess the degree to which this has been interpreted in practice within the modern Islamic financial sector; and it will conclude with a summary of how precisely the Islamic finance sector shows potential for growth and development in the future.

The study on the aspects of the legal framework of IBF and its relationship with Islamic economic thought was conducted using a comprehensive review methodology. The material selection for this study involved gathering relevant scholarly articles, books, reports, and regulatory documents pertaining to IBF and Islamic economic thought. These sources were selected based on their relevance and reliability in providing insights into the legal framework of IBF.

In the context of the future of IBF, the study aimed to investigate the alignment between the legal framework of IBF and the principles of Islamic economic thought, with a specific focus on the concept of the objectives of Islamic law (*Maqasid al-Sharia*). The hypothesis of the study posited that the legal aspects of IBF should effectively incorporate the objectives of Sharia, which encompass the preservation of faith, life, intellect, property, and progeny. By examining the extent to which the legal framework of IBF aligns with these objectives, the study sought to provide insights into the future development and sustainability of IBF, ensuring its adherence to the principles of Islamic economic thought and the fulfillment of *Maqasid al-Sharia*.

The research methods involved a systematic analysis and synthesis of the collected materials. A qualitative approach was adopted to analyze and interpret the information gathered from the selected sources. The conceptual and operational definitions of the variables, such as Sharia compliance, prohibition of *riba* and *gharar*, profit and loss sharing, ethical standards, social justice, and sustainability, were established to guide the analysis process.

The research used Scopus, a comprehensive database, to extract relevant literature discussing Islamic banking and finance law, and then tried to limit this to the literature discussing IBF and its legal framework, then, IBF and Sharia compliance. searches were performed using keywords from several topics and the Boolean operators "AND" and "OR." The searches gave results for the combination of ({Islamic banking} OR {Islamic finance} AND {legal} OR {law}) a total of 718 documents from 1985-2023 as shown in Appendix A (Figure 9). Searches were then performed using the combination ({Islamic banking} OR {Islamic finance} AND {Sharia-compliant} generating 349 documents citing IBF and sharia compliance between 2007 and 2023 as shown in Appendix B (Figure 10).

The strengths of the study lie in the comprehensive and systematic review methodology employed, which allowed for a comprehensive exploration of the legal framework of IBF and its relation to Islamic economic thought. The inclusion of primary and secondary sources from diverse perspectives ensured a balanced and well-rounded examination of the topic. However, limitations may include potential biases or gaps in the available literature and the inherent subjectivity in the interpretation of the findings.

By conducting this study, we aim to contribute to the understanding of how the legal framework of IBF aligns with the principles of Islamic economic thought, particularly regarding *Maqasid al-Sharia*. The findings of this research have implications for practitioners, policymakers, and scholars in the field of IBF, providing insights into the strengths and weaknesses of the existing legal framework and its relationship with Islamic economic principles. The study also highlights the importance of incorporating the objectives of Islamic law into the development and regulation of the IBF sector.

**Materials**

The material selection includes both primary and secondary sources. The primary sources consist of legal statutes and regulations specific to Islamic banking and finance, as well as Sharia principles and guidelines issued by reputable Islamic scholars and institutions. Official reports and publications from regulatory bodies overseeing Islamic finance, such as central banks or financial authorities, are also included as primary sources. Financial statements and annual reports of Islamic financial institutions, along with agreements and contracts related to Islamic financial transactions, contribute to th e primary source material. Additionally, court judgments and legal precedents relevant to Islamic banking and finance are incorporated to enhance the analysis.

In addition to primary sources, secondary sources are utilized in the study. These secondary so urces include academic research papers and scholarly articles on IBF, which provide valuable insights and analysis. Books and book chapters on Islamic finance and economics serve as secondary sources, offering comprehensive coverage of the subject matter. Industry reports and publications and economic and financial journals featuring articles related to Islamic banking and finance are also considered secondary sources. Furthermore, conference proceedings and seminar papers on Islamic finance, as well as reviews and critiques of IBF practices by experts in the field, contribute to the secondary source material.

The inclusion of both primary and secondary sources ensures a comprehensive and well-rounded analysis of the legal framework of IBF and its relation to Islamic economic thought. The use of primary sources ensures accuracy and reliability, while the incorporation of secondary sources allows for a broader understanding and interpretation of the topic of Islamic banking and finance and its future.

**Methods**

The comprehensive review of the legal framework aspects for IBF was conducted through a systematic and rigorous approach. The research began by identifying the key aspects that contribute to the legal framework of IBF, including regulatory requirements, Sharia compliance, contractual agreements, court judgments, and other relevant factors. Primary sources such as legal statutes, Sharia principles, official reports, and financial statements, were collected. These primary sources were thoroughly examined and analyzed to extract pertinent information and insights related to the legal framewo rk of IBF.

Additionally, a wide range of secondary sources including academic research papers, books, industry reports, and journals were reviewed to complement and validate the findings from the primary sources. We have utilized Scopus to extract relevant literature discussing Islamic banking and finance law and then IBF and Sharia compliance. By leveraging the vast resources available in Scopus, we have gathered a wide range of articles on this subject. We have also utilized the SciVal platform to analyze the literature selected by Scopus. This approach ensures that the research is based on a diverse and reliable collection of academic works.

The combination of primary and secondary sources ensured a comprehensive and well-rounded review of the legal aspects in the field of IBF.

**Limitations**

The interpretation and understanding of Sharia principles and guidelines can vary among scholars and institutions. The diverse interpretations may lead to different perspectives on the legal aspects of IBF and its alignment with Islamic economic thought. The study should consider this potential variation and aim to provide a balanced analysis. Moreover, while Scopus is widely used it may not include all relevant publications in the field of Islamic finance including language and date limitations, access restrictions, or bias that could impact the overall representation within the extracted literature.

## RESULTS

### The Legal Framework of Islamic Banking and Finance

The legal framework of IBF provides the foundation for its operations, ensuring compliance with Sharia law and facilitating the development of a robust and transparent financial system. The following aspects contribute to the legal framework of IBF: 1) Sharia Law and Sharia Principles govern all financial transactions and activities. Sharia law encompasses a set of ethical principles derived from the Quran and the teachings of the Prophet Muhammad. These principles include the prohibition of interest (*riba*), speculation, and uncertainty (*gharar*) (Abedifar et al., 2013), and investments in prohibited activities such as alcohol, pork, and gambling (Biancone et al., 2019). The legal framework ensures that all IBF practices align with the fundamental principles of Islamic law. 2) Regulatory bodies and authorities: various regulatory bodies and authorities, such as the Accounting and Auditing Organization for Islamic Financial Institutions (AAOIFI), the Islamic Financial Services Board (IFSB), and the Central Bank of Malaysia (BNM), play a crucial role in overseeing and regulating IBF activities. These organizations include central banks, financial regulatory authorities, and dedicated Islamic finance regulatory bodies. They develop and enforce legal and regulatory frameworks specific to IBF, ensuring compliance with Sharia law and maintaining financial stability (AAOIFI, 2015). 3) Legal Contracts and Structures: IBF employs a range of legal contracts and structures to facilitate financial transactions while adhering to Sharia principles. These contracts include, for example, *Mudarabah* (profit-sharing), *Musharakah* (joint venture), *Murabaha* (cost-plus financing), *Salam* (advanced payment sale), *Istisna* (manufacturing contract), *Ijarah* (leasing), and *Takaful* (insurance) (Hassan et al., 2013, p. 290). Each contract has specific legal requirements and guidelines, ensuring compliance with Sharia law and the mutual consent of all parties involved. 4) Dispute resolution mechanisms: the legal framework of IBF incorporates mechanisms for resolving disputes and conflicts that may arise in financial transactions. These mechanisms may include arbitration, mediation, or Sharia boards that provide guidance and rulings on matters related to IBF. Dispute resolution in IBF emphasizes the use of Islamic legal principles and aims to promote fairness and justice among the parties involved (Al-Shibli, 2018). 5) Regulatory Compliance and Governance: IBF institutions are subject to regulatory compliance and governance requirements like conventional financial institutions. These requirements include prudential regulations, disclosure standards, corporate governance guidelines, and anti-money laundering and counter-terrorism financing measures. The legal framework ensures that IBF institutions operate with transparency, accountability, and integrity.

The main ambiguous issue that the IBF sector faces is about getting an appropriate legal regime and framework; several Islamic financial dealings are ruled by English law, and most legal cases in IBF opt for the argument of non-compliance with Sharia when they fail to pay (Hasan & Asutay, 2011). Also, it was argued that the IBF sector was influenced by the globalization of business law practices (Bälz, 2008). The AAOIFI is a non-profit international independent corporate body. AAOIFI began in 1990 in Algiers. Its main objective is to issue standards for accounting, governance, auditing, ethics, and Sharia for all types of IsFIs to guide the different financial transactions and their compliance with Sharia. Nevertheless, AAOIFI standards are not mandatory nor binding for its members (El-Halaby et al., 2020; Jivraj, 2021).

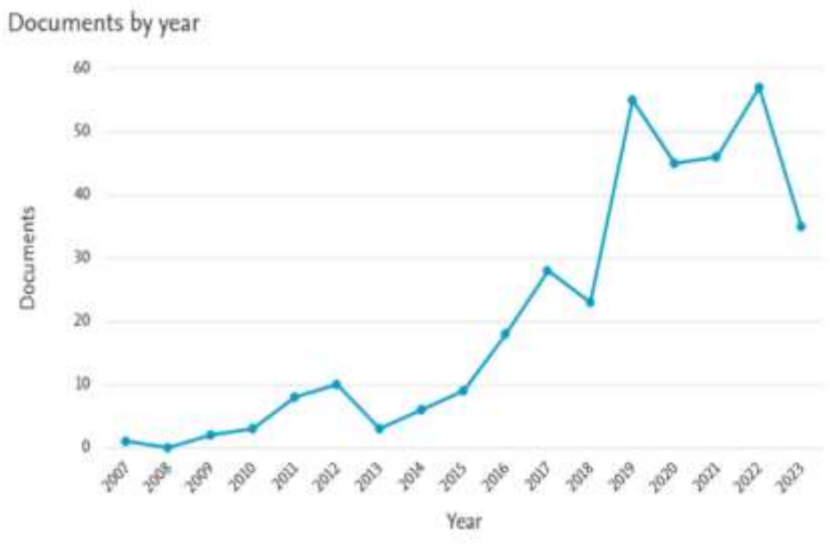


Figure 1. Number of documents studying IBF and Sharia compliance (in total 349) between 2007 and 2023
Source: Scopus

**Note**. For more details on the analysis see Appendices A and B at the end of the paper showing more data analysis between 1985-2023 and 2007-2023.

The literature on IBF has witnessed a significant increase over the years, particularly in relation to its compliance with Sharia principles, with a total of 349 documents between 2007 and 2023 (Figure 1); researchers have delved into various aspects, exploring its practices and implications. Notably the years 2019 and 2022 stand out as pinnacles in terms of the volume of literature dedicated to IBF and Sharia compliance.

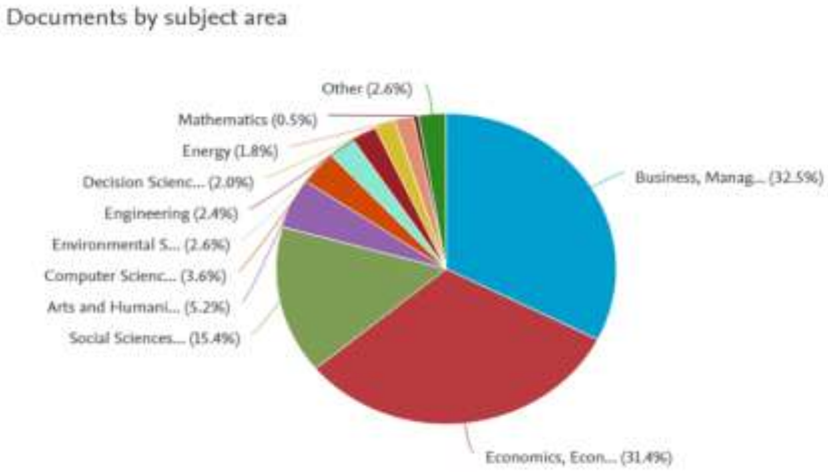


Figure 2. Documents studying IBF and Sharia compliance (in total 349) between 2007 and 2023
Source: Scopus

The abundance of literature on IBF and Sharia compliance reflects the growing recognition of Islamic finance as a distinct and influential sector in the global financial landscape. It serves as a valuable resource for policymakers, regulators, researchers, and industry professionals. However, it is noteworthy that literature on IBF with relation to Sharia compliance has primarily focused on areas such as business management constituting 32.5%, and economic studies constituting 31.4% of the published research. In comparison, research in the field of social sciences and arts and humanities pertaining to IBF and Sharia compliance has been relatively low, accounting altogether for 20.6% of the total literature (see Figure 2). This indicates a relatively limited emphasis on legal research within the context of IBF, despite the crucial role of legal frameworks and regulations in governing Islamic financial practices. The disparity in research distribution raises important questions regarding the gaps and potential challenges in understanding the legal aspects of IBF and Sharia compliance. It highlights the need for further scholarly attention to legal frameworks, regulatory frameworks, contractual agreements, dispute resolution mechanisms, and other legal considerations within the sector of IBF. These findings are the core of the contribution of this study and justify why addressing these gaps and fostering research in the legal field of IBF can provide valuable insights and contribute to the development of robust legal frameworks that support the growth and stability of the IBF sector.


Figure 3. Keyphrase analysis by relevance based on 164 documents of the last five years 2017-2022
Source: SciVal

In the keyphrase analysis of 164 publications related to IBF and Sharia compliance (Figure 3), it was observed that legal terms were noticeably absent. Instead, the analysis revealed the presence of key terms such as microfinance, fintech, cryptocurrency, crowdfunding, bitcoin, and tourism. The absence of legal terms in the keyphrase analysis suggests that the focus of the literature in the IBF domain has primarily been on exploring topics related to emerging trends and practices, technological advancements, financial inclusion, and financial management. This indicates a potential gap in research and attention given to the legal aspects of IBF and the regulatory frameworks governing IBF. The prominence of terms like fintech, cryptocurrency, and bitcoin reflects the growing interest and significance of these areas within the broader context of IBF. It signifies the exploration of innovative financial solutions, digital transformation, and financial instruments that align with Sharia principles. However, the limited presence of legal-related terms raises questions about the extent to which legal considerations and frameworks are being adequately addressed in the literature. The absence of legal discourse may have implications for the understanding of the legal aspects, regulatory challenges, and governance structures within IBF.

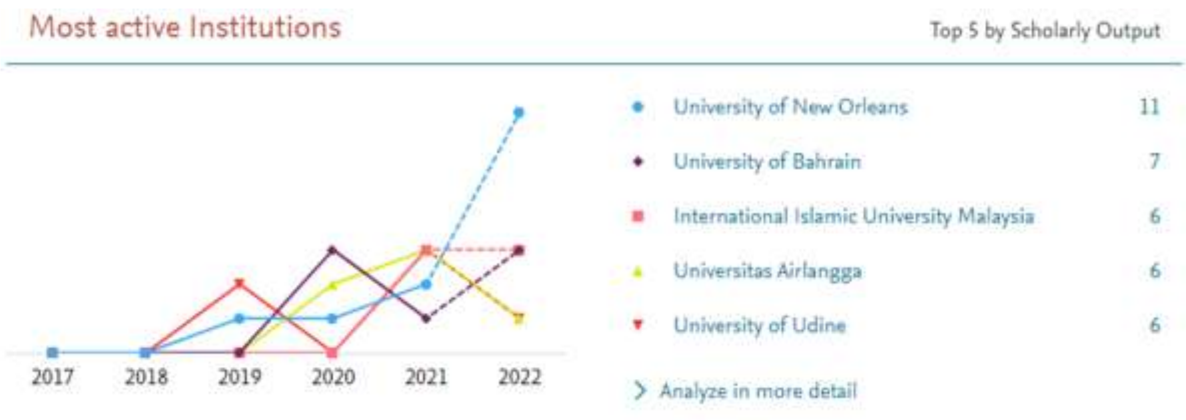


Figure 4. Most active institutions with the top 5 by scholarly output
Source: SciVal

The most active institutions in the field of IBF can be identified as the University of New Orleans, followed by the University of Bahrain. (Figure 4) The International Islamic University of Malaysia, Airlangga University, and the University of Udine are placed in the third place collectively; these universities have emerged as prominent contributors to the academic and scholarly discourse surrounding IBF and Sharia compliance. By acknowledging the implications of the literature analysis, researchers, practitioners, and policymakers can emphasize the importance of integrating legal perspectives into the study and practice of IBF. This will help foster a more comprehensive understanding of the legal complexities and requirements associated with Sharia-compliant financial systems, leading to a robust and effective legal system.

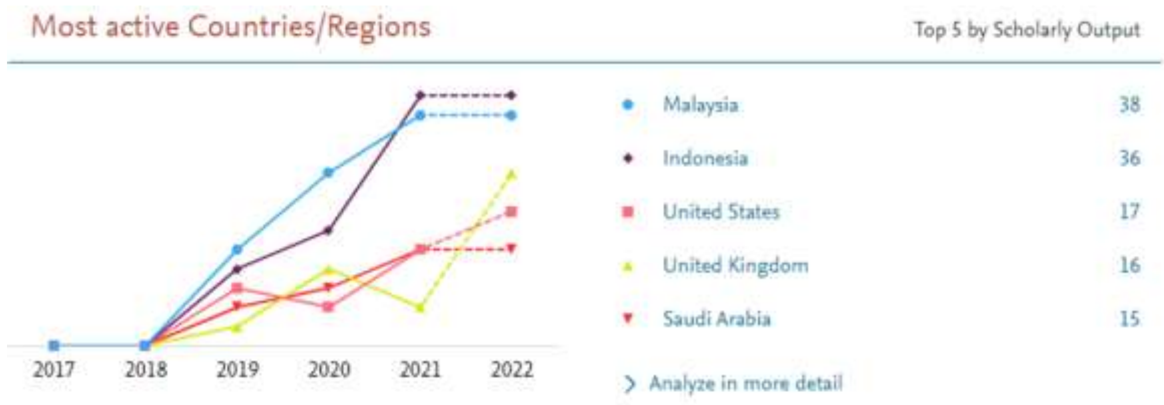


Figure 5. Most active countries with the top 5 by scholarly output
Source: SciVal

The leading research country in the field of IBF is noticeably Malaysia, followed by Indonesia, the United States, the United Kingdom, and Saudi Arabia (see Figure 5). Malaysia has established itself as a key research hub, actively engaging in studies related to Islamic finance and its applications. Its research initiatives have significantly contributed to the advancement of knowledge and understanding in the field. These five research countries continue to serve as key hubs for academic scholarship, attracting researchers, scholars, and experts from around the world to collaborate and contribute to the advancement of IBF. However, even though Malaysia is widely regarded as the research hub for IBF, it is worth noting that Indonesia has emerged as a strong competitor in recent years, boasting an even higher number of publications since 2021. Their contributions are pivotal in shaping the future trajectory of Islamic finance and ensuring its continued growth and relevance in the global financial landscape.

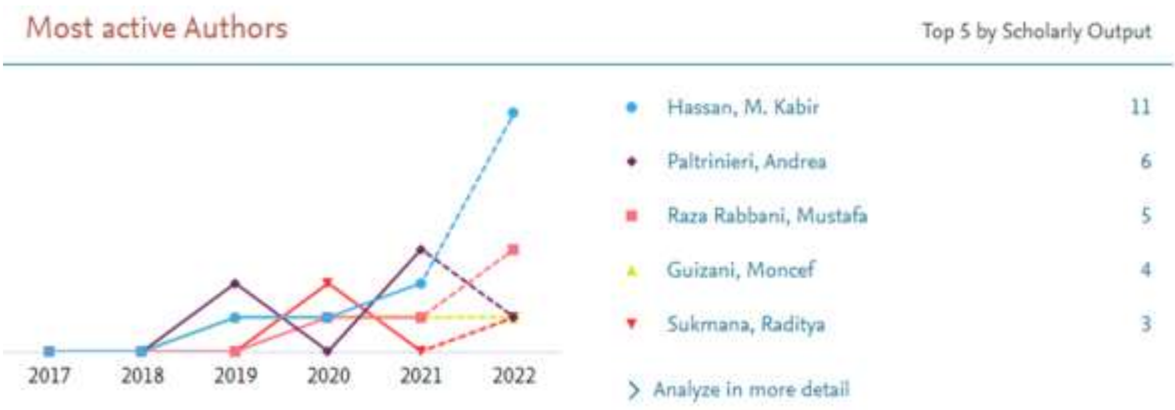


Figure 6. Most active authors with the top 5 by scholarly output
Source: SciVal

The dominant trend in the field of IBF research in the last five years has been the significant contribution of scholars specializing in financial economics (Figure 6). These prominent authors, among others, have played a pivotal role in shaping the discourse and advancing knowledge in the field in the last few years. However, this emphasis on financial economic expertise raises concerns regarding the potential gap in legal literature within IBF research.

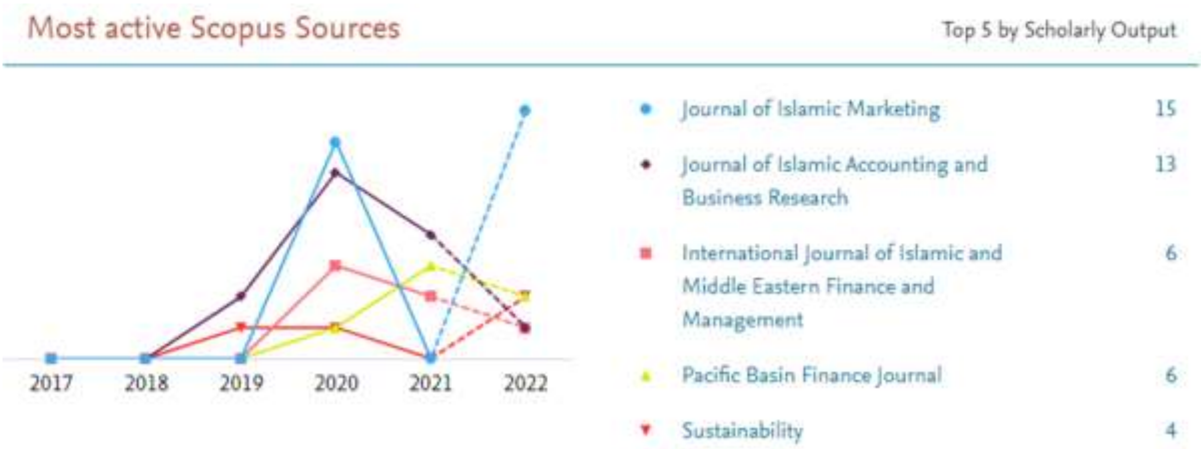


Figure 7. Most active sources by scholarly output
Source: SciVal

During the period from 2007 to 2022, the most active sources in the field of IBF considering Sharia compliance were identified (Figure 7): the *Journal of Islamic Marketing* published a total of 15 articles, the *Journal of Islamic Accounting and Business Research* also played a significant role, publishing 13 documents related to IBF and Sharia compliance. The *International Journal of Islamic and Middle Eastern Finance and Management* and *Pacific Basin Finance Journal* share third place by publishing six documents each. This confirms the argument that research in the field of IBF has primarily been focused on economic and finance studies, with limited emphasis on legal research.

As a summary of the results based on data analysis and review, we found that, as the IBF industry continues to evolve, the future of IBF law is likely to be shaped by a combination of technological innovation, regulatory development, and changing societal values (Oseni et al., 2019, p.3). Likewise, the results show that the scholarly output and research centers in Malaysia (Figure 5) have an impact on the well-developed legal and regulatory frameworks governing the IBF sector in Malaysia (Aziz & D'Cruz, 2022), these findings also show that there are new opportunities and challenges for legal practitioners and scholars working in the field. For instance, a greater emphasis on social responsibility and ethical investing is needed. This could include a greater focus from legal scholars on the fields of sustainability and environmental responsibility.

**Ethical Foundations of Islamic Banking and Finance: Insights from Islamic Economic Thought**

The Islamic financial sector already has the ability to finance Muslim customers' wealth; moreover, the IBF sector has a great potential in gathering wealth from non-Muslim consumers that want an ethical alternative. If the problem of Sharia compliance can be solved, the Islamic financial sector will contribute to the development of the global society through social and environmental plans. The research will also focus on the analysis of classical Islamic thought on economics and will particularly emphasize the works of al-Ghazali (1058-1111) and Ibn Khaldun (1332-1406).

Al-Ghazali's thought is of great importance as he is one of the most famous and often-cited Muslim philosophers of all time. It is confirmed that al-Ghazali heavily influenced eminent Western scholars such as Aquinas (Ghazanfar & Islahi, 2011). The *Muqaddimah* – The Introduction – of Ibn Khaldun, published in 1377, is best known as a collection of centuries of classical Islamic wisdom of relevance to the economic sector (Samsuddin et al., 2020; Spengler, 1964). The heart of classical Islamic thought is the spiritual importance of practicing economics as an instrument for social well-being. All transactions should be centered on improving the communities in which they occur. This research claims that this is the most important element of Islamic Banking and Finance and is vital for its progress in a modern framework. If the expansion of Islamic Banking and Finance continues to develop merely through referring to an Islamic distinctiveness by utilizing Arabic terms for the diverse financial transactions it has, as Khan (2010) argues, this will offer no ethical value; moreover, the progress of this relatively new sector is at risk of declining. We assume that we need to conduct an in-depth analysis of this classical Islamic philosophy to better explain this argument.

Ibn Khaldun perceived the importance of the theory of production, the division of labor, and the notion of the value of labor many centuries before Western scholars such as Adam Smith (Barktus & Hassan, 2010). His *Muqaddimah* promoted the idea of "*Asabiyyah*" which means unity, social solidarity, and socioeconomic integration, which he defines as the ultimate bond of society and the basic motive force of human history (Samsuddin et al., 2020). The idea of "*Asabiyyah*" is supported by the Islamic concept of association characterized in different Islamic sources, including the primary sources:

*"The believers are but one brotherhood, so make peace between your brothers. And be mindful of Allah so you may be shown mercy."* (Quran 49:10).

As was stated above, Ibn Khaldun argued that *asabiyyah* is cyclical and directly related to the rise and fall of civilizations. He claims rationally that human nature is such that we are mutually dependent, and thus *asabiyyah* assures growth and development. What is correct on an individual level is also right on a general level; accordingly, the same situation applies to nations. Trade between nations encourages development and lowers the living cost – which is vital for individual well-being, not for profit making. Ibn Khaldun also conceived the need for the division of labor but crucially matched this with the idea that labor cannot be sustained without justice and fair play in human dealings. Justice is crucial to sustainable development. A lack of justice reduces the incentive to work harder (Jibril, 2020; Samsuddin et al., 2020). Al-Ghazali is one of the most eminent Islamic philosophers of all time; nonetheless, his contribution to economic thought is often unnoticed (Ghazanfar & Islahi, 2011). His economic thought is supported by five Sharia-delegated basics of life: religion (*diin*), the soul (*nafs*), family (*nasl*), property (*mal*), and intellect (*aql*). When we integrate those basics of life with philosophical insights of happiness, it generates a conceptual model of human well-being (Kader, 2021). Al-Ghazali was also inspired by Aristotle; he focuses on the ascetic Sufi (mystic) style of life and extravagance or excess. He describes the prohibition of usury and the promotion of honesty as basics for economic success. Interestingly, the works of al-Ghazali were created during the period in Western civilization referred to as the "dark ages" (Ghazanfar, 2004).

The work of both al-Ghazali and Ibn Khaldun focuses on society and welfare as a starting point for economies. Both philosophers assume an interdisciplinary approach, in which the ethical, social, economic, political, and religious domains are fundamentally linked. The typical Western conception of society is that thought has progressed linearly to reach our present ideal, which the Global South still aims for. In other words, the work of both philosophers embodies the broader concepts of Islamic knowledge. Business adopts what is seen in contemporary times as a reactionary approach to economics. Instead of capitalist ideals of profit maximization with social judgments being an afterthought or hindrance, Eastern thinkers formulated a complex economic theory before it gained momentum in the West. This shows the extent to which existing patterns of profiteering from consumerism and unfair financial structures are not a natural consequence of the existence of an economic infrastructure. Viable alternatives are conceivable and essential for Islamic banking and finance in the Western World. Imam and Kpodbar (2016) propose that Islamic banking is positively connected with economic development. It focuses mainly on the context of the capability of Muslim states to raise more capital since Muslims are more willing to invest through Islamic systems than through traditional banking. Nevertheless, Imam and Kpodbar (2016) point out that implementing Islamic banking practices in a Western framework will also stimulate growth. IBF originally gained traction in Egypt in the 1960s, where a market gap was recognized since fervent Muslims were reluctant to distribute their wealth across Western systems that contradicted Islamic law, such as investing in forbidden areas of trade, or charging interest on moneylending. Particularly in the last decades, Islamic banking systems have gained global momentum – especially in Muslim countries. However, a large amount of literature confirms that personnel of IBIs are not familiar with the practices of Islamic banking, which necessitates training programs for IBIs employees to make them more familiar with Islamic finance principles because the lack of knowledge confuses customers and perplexes them about whether Islamic banking products are following Islamic principles or not. They observed that clients are more satisfied with employees of conventional banks as compared to Islamic banks particularly concerning their confidence, understanding, responsiveness, and awareness. Likewise, competence of employees and their expertise is the main factor in achieving success from the managerial point of view (Akbar et al., 2023). On the other hand, according to Imam and Kpodar (2016), the willingness to opt for Islamic banking services is mainly due to an extended variety of financial products that are following Islamic law, ethical principles stressing Islamic moral values, and a commitment to *zakat* or mandatory charity contributions. Because of this ability to amass additional wealth from the population, they explain, economic growth has risen faster in countries with Islamic banking systems than in countries without Islamic finance. However, they know Islamic banking still represents only a small percentage of the world's financial systems. They believe that Islamic systems are more powerful in the context of financial crises because they rely less on leverage than conventional banks. This makes them less prone to bubbles, and in addition there is a great emphasis on risk sharing. On the other hand, in a study conducted in 2021, Prandi and Colecchia (2021) concluded that, despite all the criticisms, the Islamic financial model remains true to its ethical principles and retains its authenticity. IBF's ethical nature is further reinforced by its focus on promoting economic stability, social justice, and sustainable developments.

Table 1. Aspects contributing to the legal framework of Islamic banking and finance

| Aspect | Description |
|---|---|
| **Sharia Compliance** | The legal framework of IBF must ensure adherence to Sharia principles |
| **Regulatory Framework** | Establishment of regulations and guidelines for IBF operations |
| **Supervision** | Effective oversight and supervision by regulatory authorities |
| **Licensing and Approval** | Processes for licensing and approving IBF institutions |
| **Risk Management** | Policies and procedures for managing risks in IBF |
| **Consumer Protection** | Safeguarding and maintaining the rights and interests of IBF customers |
| **Dispute Resolutions** | Mechanisms for resolving disputes related to IBF transactions |
| **Disclosure Requirement** | Obligations for transparent and comprehensive disclosure of information |
| **Anti-Money Laundering and Combat Terrorism Financing Compliance** | Measures to prevent money laundering and combat terrorism financing |
| **Contractual Framework** | Ensuring compliance of the legal documents and contracts with Sharia principles |

Source: AAOIFI (2015)

## DISCUSSIONS

Islamic scholars have long recognized the importance of considering a wide range of factors beyond pure economics to gain a comprehensive understanding of societal well-being and development; thus, they took an interdisciplinary approach in their analysis, recognizing that economic variables alone were insufficient. They viewed overall human well-being as the outcome of complex interactions among economic, moral, intellectual, social demographic, historical, and political factors. These factors were considered interconnected, and Muslim scholars diverged from Neoclassical economics by adopting an interdisciplinary approach in their analysis. They emphasized the significance of good governance, aligning themselves with the emphasis placed by institutions like the World Bank (Chapra, 2001). Therefore, an appropriate definition of IBF should also consider the primary objective of IBF which is to provide financial solutions that align with Islamic values in a broader sense, fostering economic development and promoting societal well-being within the framework of Sharia guidelines. This also means that each of the aspects of the legal framework of the IBF should be in accordance with ethical and moral principles, emphasizing fairness, transparency, and social responsibility. All financial products and services, including banking, investments, insurance, and capital markets, must not only follow Sharia principles but also align with the primary objectives of IBF which are the primary objectives of Sharia as well.

### Profitability in Islamic Banking and Finance: Balancing Ethical Principles and Financial Sustainability

In conventional systems, payday loans are small loans that are regulated by the state. Generally, states have set microloan rates at an annual interest of 24 to 48% and required installment payment schedules. The Consumer Financial Protection Bureau banned payday lending in 18 US states, and many states protect consumers through criminal usury laws (CFA, n.d.). Society studied the moral and social costs of high-interest borrowing for a long time. It is undeniable that laws regulating usury amid other high-interest lending limitations are amongst the first and most shared schemes of regulation on consumer protection. Yet, how beneficial or harmful this regulation is for consumers is still not well understood. In other words, the degree to which such regulation truly brings assistance or harm to consumers is lacking a statement since it depends on how well consumers act for their own benefit (Allcott et al., 2022).

Critics assert that payday loans are destructive, tricking consumers into entering cycles of frequent high-interest borrowing. A typical payday loan in the USA incurs interest of 15% for an amount of money borrowed over 14 days, which means an annual percentage rate (APR) of 391%; accordingly, more than 80% of payday loans on the national level in 2011–2012 were reborrowed within 30 days (Allcott et al., 2022).

However, supporters maintain that payday loans answer a serious need because individuals are ready to pay high interest charges since they desperately need credit. For instance, the regulation prohibiting payday loans would significantly decrease consumers' potential to benefit from credit at the exact instant they need it most; due to this argument, the regulatory agency withdrew part of its 2017 regulation on the basis that it would lessen accessibility to credit (Allcott et al., 2022).

On the other hand, it is important to underline that Islamic finance does not eschew the search for profit. Islam indeed appreciates individual property and profit when their acquisition and their procurement are done in conformity with the precepts of Sharia (Lasserre Capdeville, 2009). According to Arif et al. (2022), there is a common misconception that Islamic economics and interest-free banking are synonymous; it is also frequently understood that Islamic economics and interest-free banking are never-ending processes of interest-free financial services enabling sources of financial support to the public without charging interest.

Islam offers a keen and sophisticated economic system, which prioritizes the underprivileged, needy, and destitute, and through its teachings gives the method to follow to find the appropriate track for everyone's financial wellness. However, even if the establishment of an interest-free banking system is certainly one of the core principles of the Islamic economic system, it must be highlighted that neither the structure, nor, for that matter, the essence of Islamic banking is made sufficiently distinct by this philosophy (Arif et al., 2022).

Overall, IBF is a financial system which, while integrating profitability and efficiency objectives, respects all the ethical principles of Sharia. And even if there is an impression of having discovered this new Islamic finance nowadays through financial crisis and SDGs, it should be noted that the latter has enabled the Arab-Muslim market society to prosper and benefit from funding possibilities in line with Sharia for many centuries (Lasserre Capdeville, 2009).

Also, the criticisms that are leveled towards Islamic banking practices are not new; some decades ago, Hasanuzzaman (1991) raised issues that can corrupt the Islamic financial sector. Thus, the result, which is not always easily approved, is that diverse operational techniques exist. On the one hand, some bankers and financiers agree that lawful means can reach aims which are not automatically legitimate. On the other hand, some bankers and financers uphold that an Islamic financial system has no meaning and has no prospect for future success unless it protects the publicized legitimacy of its principles and aims; otherwise, the entire organization will be corrupted and its supporters deceived because, under a firm understanding of those two proscriptions (*riba* and *gharar*), the variety of legal contracts is relatively restricted and the attraction to alter the instructions to bypass that arrangement is very high. Moreover, Hassan and Bashir (2003), in their research on the determinants of Islamic banking profitability, demonstrate how adequate capital ratios play a minor role in demonstrating the performance of Islamic banks in practice. The loan portfolio of Islamic Banks is heavily influenced by short-term financial transactions. Inherently, their loans are low risk and only contribute humbly to the profit making of the bank. Bank regulators might utilize this argument as an indication of quick managerial achievement; the authors also argue that consumer and short-term fundings, non-interest earning assets, and overhead are significant in promoting the profits of the banks

The strategies that may enhance long-term profitability are long-term strategic planning that aligns with market dynamics, prioritizing customer needs to increase customer satisfaction, loyalty, and long-term profitability and talent development through training and development programs.

**Islamic Banking and Finance Law and Sustainable Development Goals**

In September 2015, the United Nations led countries around the globe in adopting a new framework for sustainable human development. Known as the 2030 Agenda, this framework aims to attain 17 sustainable development goals (SDGs) spanning the economic social and environmental facets of development. These goals, which aim to ensure human dignity, align fully with the principles and objectives of Islamic law (*Maqasid Al-Sharia*) (Islamic Development Bank, n.d.). On the other hand, Lanzara (2021b) stresses the connection between Islamic finance and sustainable development goals in her research. Whereas both are integrally matched, further progress is required to improve this connection. The author emphasizes the cases of the 2008 global financial crisis and the ongoing COVID-19 global pandemic as indicating the necessity for true sustainable development. She also supports the claim that Islamic financial systems are a viable way to guarantee that societies are at the heart of the systems under which they operate, rather than causing widespread suffering when they always collapse. In addition to amassing more wealth from the Muslim population, in a truly Islamic bank that wealth can only be invested in schemes that prioritize improving the environment and communities, such as the SDGs schemes. However, not everyone agrees that Islamic banking has such enormous potential to fuel sustainable environmental or social projects. The main criticism of the IBF is that it is not fundamentally different from traditional banking. Thus, it was not seen as practically more powerful than conventional banking and it is continually viewed as subject to corruption (Lanzara, 2021b; Abraham, 2009).

In Khan (2010), the author reviewed the argument that Islamic banks run their businesses in practice in the same way as conventional banks. Notwithstanding requesting to exercise within the sphere of activity of Islamic thought focused on social justice, Khan claims that IBF models merely request an Islamic identity by utilizing Arabic terminology in what are conventional financial contracts. He demonstrates a major reason for this being contradictions in Sharia Boards' authorization of Islamic banks. First, he points out that some Sharia scholars can be persuaded that a banking system is Islamic if it principally refers to its Islamic character and could influence its customers by doing so, rather than guaranteeing that the products it proposes are significantly different (Khan, 2010). Second, one more reason is that some of the banks can be categorized as Islamic even if they do not firmly observe Islamic principles; this happens by giving generous monetary incentives to scholars who issue this certificate. Khan supports this claim by referring to the facts surrounding the issuance of these certificates; thus, there is a very limited number of scholars worldwide who have the required religious esteem and authorization to conduct this type of certification, deliver *fatwa*s, and know the different complex financial products (Tett, 2006). Accommodating scholars are purposefully sought after, and can earn USD 20-30,000 annually per board they sit on; investment financial institutions stated they have paid up to 500,000 USD for advisory services on big capital market financial transactions (Hayat & Kock, 2013; Tett, 2006).

Then again, Hassan et al. (2022) illustrate through empirical studies how the existence of Islamic financial institutions in a country enhances long-term economic development and activates financial growth; in addition to that, the implementation of Islamic finance can also support financial inclusion. The argument of financial inclusion is also advanced by Andani (2021), as according to him, the existence of subjective data reporting on exclusion for religious reasons is a sign that request for a financial service depends not only on terms like price but also on the consumer's social and religious considerations. Thus, Naz and Gulzar (2022) exposed in their research how Islamic banks' financing, *sukuk*, and assets contribute to the economic growth of countries with a Muslim majority. This shows that financial inclusion of Muslims in non-Muslim countries could benefit the economic growth of these countries.

Conversely, and according to Siddique (2022), the process and circulation of funds according to conventional finance is not recognized by Islamic law, since it encompasses *riba* usury, regardless of the element of interest. When Islamic finance and banking emerged in the 20$^{th}$ century, the sector included the creation of funds based on credit consistent with the conventional banking model. Consequently, Islamic guidelines about money and credit are similarly relevant against the Islamic banking model if they remain with the existing financial model. Besides, Ul-Haq et al. (2022) observed in their research that the Islamic financial sector was relying significantly on capitalist discourse and techniques; moreover, they concluded that the more the IBF scope was growing and its financial significance increasing, the more it became like conventional banking and finance, emphasizing its financial effectiveness and productivity.

Thus, although the elimination of interest is one of the central principles of Islamic banking and finance, it constitutes one of the most controversial aspects among scholars from the beginning of Islam up to the present day (Hassan & Lewis, 2014). Siddique (2022) argues that many Islamic economic experts fail to see the connection relating money to usury since they have adopted an erroneous procedure to define the notion of usury. Besides, the potential for encouraging profit-loss sharing (PLS) designs, for instance *Musharaka* and *Mudaraba*, appears empty in this financial and banking sector where credit is the primary source of money. The true Islamic model undertakes commodity money, together with gold and silver. Although the state's creation of its monetary currency is seen to be acceptable, it must be founded on real economic substances, for instance gold and silver. Thus, it is impossible to allow commercial banks to continue creating money out of nothing through credit. Likewise, the government should not have the right to lend from the central bank by making additional currency. Any monetary system that does not follow these values cannot be considered Islamic. Exclusion of usury should not consist only of eliminating the institution of interest from the economic model, it should be about removing the credit-based financial model that would inevitably remove interest.

All the criticism mentioned here led to a reaction from an assembly of Pakistani Muslim scholars to condemn modern Islamic banking in a collective *fatwa* which divided Muslim scholars into two camps: one supporting the *fatwa* and the other against it (Ul-Haq et al., 2022). Moreover, detractors of IBF do not come just from inside the IBF sector, but from outside as well.

Thus, in France, for example, where around 6 million Muslims live, which constitutes about 10% of the population (Poingt, 2016), according to Malaurie (2010), the integration of the Islamic finance system into the French banking system does not conform with French law. He argues that Islamic financial instruments are using subterfuges and that it is not a question of assessing the regularity of these subterfuges with Sharia law, as they come under a legal and cultural order different from the French laws, but the integration that the regulations make is very questionable regarding French law. The French tax administration ignores the essential rules of French law. Thus, according to him, this will allow fraud in the tax sector.

To attract Islamic finance to the French market – subject to the prohibition of interest loans – the recent French tax regulations use the same stratagem of Sharia law which allows the remuneration of contributors of capital excluding the loan at interest. It integrates them into the French tax system by altering it using artificial means. In a *Murabaha* contract relating to a property, there are two transfers in opposite directions which should make the transfer duties payable twice, a consideration which would discourage any Islamist investors from practicing the *Murabaha* in France. Tax authorities will apply to this transaction the tax regulation for property traders and sites so that the remuneration of banks will for the most part be treated not as capital gains but as interest (Malaurie, 2010).

For example, it is conceivable that a hardy borrower will validate the artifice of a financial process – even if the credit does not come from Islamic finance, and even if the operation is legal financially under French law. The borrower will explicate that it is not a question of a double fictitious sale in the opposite direction nor of an alleged sale made to a property seller, but a hidden loan at interest. This is fraud under French civil law, which imposes on penalty of nullity the written mention of the interest rate and prohibits usurious rates. The civil judge, however, is not bound by the artificial qualifications given by the parties or by the tax law. The judge must requalify the contract by restoring the contractual reality of the loan hidden behind the artifices (Malaurie, 2010).

This section maintains that even though the above-mentioned reproaches are current and valid, they do not effectively validate the notion that Islamic banking and finance has a restricted or limited future. Conversely, these criticisms are arguments which necessitate consideration and change to promote effective development in the future.

**The solutions regarding Islamic Banking and Finance Managerial Staff**

Generally, human resources taking part in the operations of Islamic financial institutions are in two categories: Sharia specialists who are highly experienced from traditional Islamic school institutes with less expertise of modern accounting, economics, and banking knowledge and a second category that consists of bankers with high knowledge of financial practices but having little knowledge of Islamic law teachings. Additionally, Islamic banking institutions do not know how to sell and advertise their existing products and services to customers (Akbar et al., 2023).

This section supports the idea that, although the earlier reproaches are existing and current, they do not realistically prove that IBIs have an obscure future or that their potential is decreasing. To the contrary, these findings are the key elements in finding the solutions which need to be implemented to disseminate an operational improvement in the future. This also suggests that regulators, policymakers, and practitioners need to coordinate their efforts to play a role in improving the functioning of IBIs.

**The Political and Financial Soundness of Islamic Banking and Finance**

The Islamic banking sector faces numerous challenges in Western countries; among these challenges are regulatory constraints, perception, reputation, trust, and social and cultural barriers due to its Islamic character (Bitar et al., 2017).

The political and financial soundness of IBF are closely intertwined. A supportive political environment, characterized by clear legal frameworks and government commitment, enhances investor confidence and attracts both domestic and international investments in Islamic finance. Likewise, strong financial performance and risk management practices contribute to the overall credibility and attractiveness of IBF, which in turn can positively influence the political support and recognition of the industry.

**The Future of Islamic Banking and Finance**

First, and without being hampered by demanding international regulations, the IBF sector needs to make efforts to comply at all costs if it hopes to set a new course in its development; for example, the issues facing the development of Islamic banks are in their size, which is growing, but which is far from competing with the conventional banks. Besides, it is trust that brings deposits and this trust is in turn based on the amount of capital possessed by the bank (Bessedik, 2013).

The schools of law state in general that permissibility in secular transactions (*muamalat*) is the principle; however, if an exception occurs, for example when there is proscription, the transaction is not permissible. Yet, when this principle translates into reality, these schools have been hesitant in permitting the contracting parties of the contract to modify the form of that agreement as defined by Sharia in order to implement additional provisions which amend its effects. Permissibility is in any case strengthened by a set of basics. The main basis is the instruction that all types of transactions must be free from *riba* and *gharar*. These conditions are meant to go together with the initiation of secular transactions and to control them when they are starting in order to ensure that the parties to this transaction will not be wronged once the parties agree or during the application of the contract. Sharia law is extremely concerned with these issues in contract law (Hasanuzzaman, 1991).

As a critique of the optimistic view of the Islamic banking and finance sector, Imam and Kpodbar (2016) highlight how important it is to settle on full and effective regulations and guidelines to ensure that Islamic financial institutions remain true to Islamic law by being faithful to traditional Islamic economic ethics. Khan (2010) also emphasized the problems with issuing authorizations for Islamic banks that lead to this deviation from true Islamic ethical values; he also brought a counterexample of how to avoid this divergence: the case of Malaysia – precisely how the national law has banned Islamic finance experts from serving on more than one Sharia board in order to prevent financial corruption.

The more cooperative the expert is, the more work he obtains from Islamic banks in quest of accreditation, and therefore regulatory systems need to be put in place to stop a situation in which the researcher has a financial incentive to certify the bank. This is a requirement to guarantee that the bank offers a genuine alternative scheme to conventional banking. This section asserts that none of the major criticisms overshadow the potential value that Islamic banking and finance growth can bring, whether in Western countries or Muslim-majority countries. Furthermore, it is relevant to point out that each criticism of the Islamic financial sector has diverse possible resolutions, such as more stringent international requirements for Sharia accreditation and further harmonization between the supervisory bodies on a global level.

On the other hand, we also argue that even though Islamic financial institutions proclaim their ethical values, not all of them follow these moral values.

Furthermore, Hasanuzzaman (1991), for instance, claimed that perceiving new ideas is common; in other words, in the current circumstances, concepts, after being held in reserve for a while, can be revived when encountering a problem, and once they get past an abstract phase they can start to be realized again. The restructuring of the banking sector based on Islamic ethics and values is not an exception to that rule. The reformed establishments encounter a challenge which is not just coming from the conventional banking and financial sector since they also face an encounter within their sector. This inner encounter is because of some interest-free financial institutions and investment corporations opting openly for the practice of lawful tricks (*hiyal*) to deviate from the bans on *riba* and *gharar*. Through such stratagems, they can quite unethically become competitive with other interest-free institutions which limit their financial transactions to more conformist restrictions (Hasanuzzaman, 1991). Thus, empirical findings conducted by Shamsudheen and Muneeza (2022) show the way Islamic finance experts exhibit unethical behavior in the Islamic financial industry due to the lack of piety (*taqwa*) among these experts, which necessitates training these practitioners in elementary religious canons as part of the institution training plan.

Moreover, some studies have observed that clients are more satisfied with the staff of conventional banks as compared to Islamic banks because of their confidence, understanding, responsiveness, and awareness. Likewise, further research has demonstrated that, for IsFIs to succeed, it is crucial to invest in training and developing the managerial staff. As a result, the departments of Islamic financial institutions that are responsible for product development frequently maintain their emphasis on the available products of conventional banking and usually try to reproduce an Islamic edition with small modifications to provide these products with a Sharia-compliant aspect (Akbar et al., 2023).

On the other hand, as an answer to whether Islamic finance is dubious finance, it is essential to refute this claim since the use of Islamic finance made it easier to fight against forms of economic crime. The funds invested remain subject to the legal provisions governing the fight against money laundering and the financing of terrorism. Indeed, money laundering, like the financing of terrorism, is looking for means of hidden financing which can remain undetected; it relies thus on several mechanisms that go beyond the banking system (Lasserre Capdeville, 2009).

Likewise, Abrar et al. (2022) argue that, if enough knowledge and adequate information about the different financial services and product derivatives of IBF are provided for customers, this would contribute to the development of the IBF sector. Moreover, advanced modernizations and innovative solutions in the IBF sector will have the same influential effect on the growth and expansion of the sector. Finally, and according to the authors, the political support of governments also has a role in the fast development of the IBF sector (Abrar et al., 2022). Above and beyond, Islamic economic principles are in line with the basic principles of the philosophy of the sufficiency economy (Sarntisart, 2022).

Overall, we can note that many factors influence the future of IBF on a global level and national level, but also from inside the IBF sector. Likewise, many factors have accelerated the fast growth of this financial sector into its modern form in a relatively short period, although its roots date from the beginning of Islam. Yet, it is important to recommend at this stage of research that the prerequisite for the accreditation of Islamic banks and financial institutions must implement new frameworks that enhance development and the well-being of society, rather than giving an appearance of the practice of Islamic finance merely within the Islamic identity.

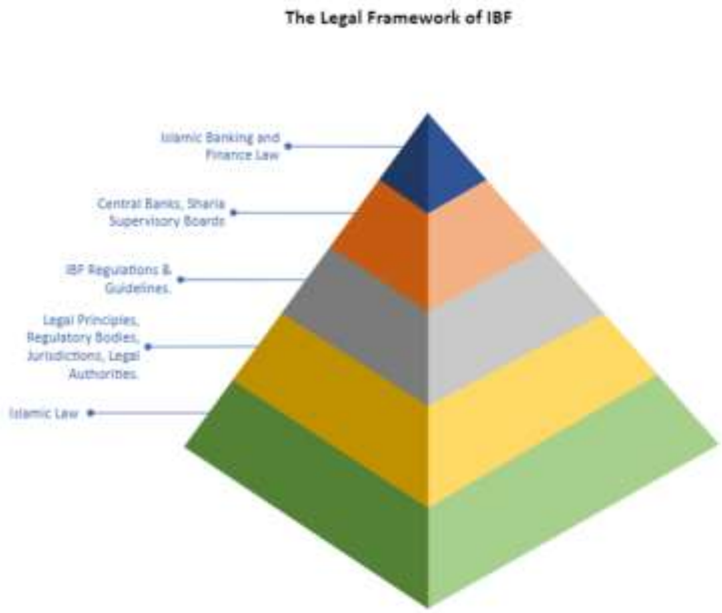


Figure 8. The Legal Framework of IBF
Source: Author’s elaboration

This pyramid (Figure 8.) illustrates the key elements of the legal framework of IBF. At the bottom of the pyramid is Islamic law, which provides the institution with the principles and guidelines governing IBF. The legal principles derived from Islamic law guide the operations and practices of IBF institutions.

The regulatory bodies, such as central banks or financial regulatory authorities, play a crucial role in formulating and implementing IBF regulations and guidelines. These regulations ensure compliance with the legal framework and provide oversight for the IBF industry.

Different jurisdictions may have their own specific legal frameworks and regulations governing IBF, which can vary in their interpretation and application of Islamic law principles.

Legal authorities, including Sharia boards, play an important role in providing expert opinions and interpretations of Islamic law for IBF institutions. They ensure compliance with Sharia principles and help shape the legal framework of IBF.

At the pinnacle, is IBF, which is supported by everything beneath? IBF laws encompass the specific legal provisions and regulations that govern the operations of Islamic banks, financial institutions, and other entities involved in IBF, such as bodies responsible for resolving legal disputes related to IBF, providing rulings and interpretations based on Islamic law principles.

While conducting this study on the alignment between the legal framework of IBF and the principles of Islamic economic thought, several limitations should be acknowledged. First, the availability and accessibility of primary sources, such as specific legal statutes and court judgments, may vary depending on jurisdiction and the transparency of regulatory bodies. This could potentially limit the scope and depth of analysis in certain regions or jurisdictions.

Second, the interpretation and understanding of Sharia principles and guidelines can vary among scholars and institutions. The diverse interpretations may lead to different perspectives on the legal aspects of IBF and its alignment with Islamic economic thought. The study should consider this potential variation and aim to provide a balanced analysis.

Third, the study may be limited by the exclusion of certain primary and secondary sources due to resource constraints or language barriers. The omission of relevant sources could affect the comprehensiveness of the analysis and potentially introduce bias.

Fourth, the study's findings may be influenced by the researcher’s own biases or subjectivity. It is important to remain aware of any potential preconceived notions or perspectives that could impact the interpretation of the data and findings.

Lastly, the study focuses specifically on the legal framework of IBF and its relation to Islamic economic thought, which is a complex and multifaceted field. Other important aspects, such as social and cultural factors, may also play a role in shaping the future of IBF but are not directly addressed in this study.

These limitations were considered when interpreting the findings of the study and provide opportunities for future research to address these gaps and overcome the identified limitations.

The findings of this study hold significant theoretical, practical, and policy implications for the future of IBF law. The identification of the alignment between the legal framework of IBF and the principles of Islamic economic thought, particularly the concept of *Maqasid al-Sharia*, sheds light on the extent to which IBF institutions uphold the objectives of Sharia. These findings contribute to the broader discourse on the development and sustainability of IBF law, transcending the subfield itself:

The theoretical significance of these outcomes lies in enriching our understanding of the relationship between legal frameworks and the underlying principles of Islamic economics. By highlighting the incorporation of *Maqasid al-Sharia* within the legal framework, this study reaffirms the inherent connection between Islamic finance and its ethical foundations. These findings also have clinical and practical implications, providing guidance to regulators, policymakers, and practitioners in enhancing the effectiveness and integrity of IBF practices.

If the findings are valid and replicable, they can offer valuable insights into real-life economic phenomena. Understanding how IBF law aligns with Islamic economic thought can aid in modeling and explaining the behavior and decisions of Islamic financial institutions. Moreover, the findings can inform the development of standardized practices, guidelines, and regulations that better reflect the objectives of Sharia, thereby fostering a more sustainable and ethical financial system.

However, this study also highlights the unresolved challenges and emerging issues within the field of IBF. The complexity of interpreting Sharia principles and the diversity of legal frameworks across jurisdictions present ongoing concerns. Further research is needed to delve deeper into these areas, addressing the limitations and expanding the scope of analysis. By investigating these remaining questions, future studies can contribute to the ongoing development and refinement of IBF practices, ensuring their continued alignment with the principles of Islamic economic thought.

In conclusion, the findings of this study have implications that extend beyond the realm of IBF. They provide valuable insights into the relationship between the legal framework of IBF and the principles of Islamic economics, offering guidance to policymakers, regulators, and practitioners. By addressing unresolved issues and expanding the knowledge base, this research contributes to the advancement and sustainability of IBF, ultimately fostering a more ethical and responsible financial system in the future.

## CONCLUSIONS

The incorporation of socio-economic and political variables into the analysis of the new global economy is not a novel concept in Islamic economic thought. Muslim scholars have long recognized and explored the dynamics and complexities of these variables. The interdisciplinary perspective offered by Islamic economic thought provides a valuable alternative framework that goes beyond narrow economic considerations and recognizes the multifaceted nature of human well-being and development. It encourages a more holistic approach that integrates various dimensions of human life, including ethics, governance, and social dynamics, leading to a deeper understanding of economic systems and their impact on societies. Implementing an interdisciplinary approach in the IBF sector requires a shift in mindset and a commitment to integrating a broader set of factors into their operations. By embracing this approach, ISFIS can better serve their stakeholders and contribute to the broader well-being and sustainable development of societies.

Although the earlier criticisms exist, they do not convincingly attest that ISFIS have an obscure prospect or that their potential is decreasing. These criticisms are the key elements in finding the solutions which need to be implemented to create an operational improvement in the future. However, the presence of contradictions that depend especially on the excessively liberal accreditation of Islamic banks as “Sharia compliant” can constitute a major obstacle to the future development and growth of the IBF sector.

We suggest that the Islamic financial sector needs to make extensive efforts to conform with international regulations while keeping their principles if they want to continue on an innovative path in their development; we also suggest that the requirements concerning the accreditation of ISFIS must go beyond the approval of the practice of Islamic finance solely within the Islamic identity. Empirical studies support the argument that the existence of an Islamic financial sector in a country is a factor in enhancing long-standing economic development. To ensure the rapid growth of the Islamic financial sector, ISFIS should highlight the promotion of their financial solutions as vastly different alternatives with a genuine ethical basis. They should also be devoted to participating in schemes that are aligned with SDGs in order to appeal to a wider audience of those who only care that their money will not contribute to a system that supports forbidden practices. By effectively highlighting ethical foundations and objectives, Islamic finance will not only attract a larger market of Muslims but will also combine the ability to do immense good on climate change and societal issues across different frameworks since the essence of Islamic economics, according to classical thought, is not to prohibit making a profit, but to prioritize the well-being of people and to then enjoy profit.

Understanding the legal framework of IBF and the interdisciplinary perspective of Islamic economic thought is crucial to assessing the legal soundness, effectiveness, and compliance of IBF practices. The findings of this study have important implications for the field of IBF law. From a practical standpoint, the study’s findings can guide the different stakeholders of the IBF sector in making informed decisions that align with the principles of fairness, justice, and social welfare. This study also makes significant contributions for future research; it enables policymakers, regulators, legal professionals, and market participants to navigate the intricacies of Islamic finance, ensure legal compliance, and contribute to the sustainable development and growth of the industry. Several limitations should be acknowledged in this study. First, the availability and accessibility of primary sources, as well as variations in interpretation of Sharia principles, may limit the scope and depth of analysis across different jurisdictions. Second, resource constraints and language barriers could result in the exclusion of relevant sources, potentially impacting the comprehensiveness of the study. Third, the researcher’s biases and subjectivity may influence the interpretation of data and findings.

Finally, the study focuses primarily on the legal framework of IBF and how it may shape its future and may not fully capture all the other important factors that shape the future of IBF. Recognizing these limitations provides opportunities for future research to address these gaps and enhance our understanding of the subject matter.

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## APPENDICES

**Appendix A: Data analysis of results for ({Islamic banking} OR {Islamic finance} AND {legal} OR {law}) with a total of 718 Documents from 1985 to 2023**

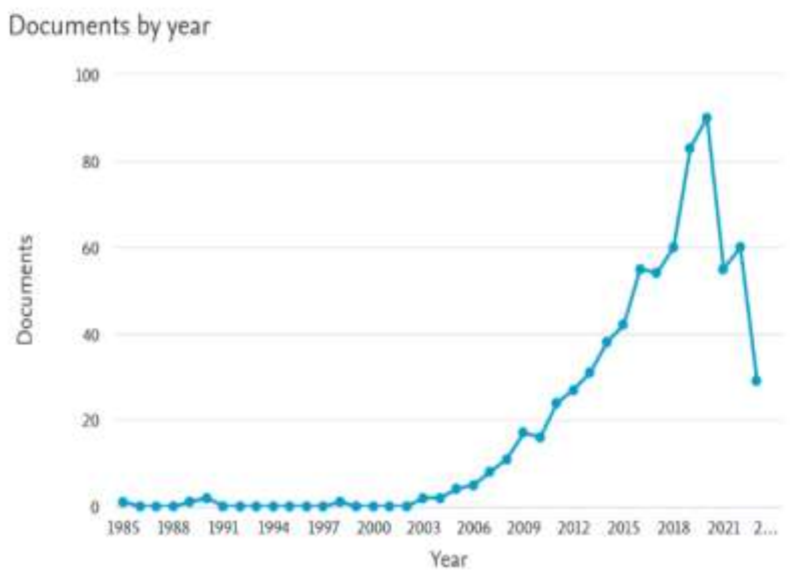


Figure 9. 718 Documents on IBF and Sharia compliance from 1985 to 2023
Source: Scopus (Elsevier)

**Appendix B: Data analysis of results for ({Islamic banking} OR {Islamic finance} AND {Sharia-compliant} 349 documents citing IBF and sharia compliance between 2007 and 2023.**


Figure 10. Documents from 1985 to2023 discussing legal aspects of IBF
Source: Scopus (Elsevier)

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