IMPLEMENTING BIODIVERSITY AND NATURE CONSERVATION TREATIES: - THE ROLE OF ISLAMIC FINANCING APPROACHES

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BEING A PRESENTATION MADE AT THE 4TH SCIENTIFIC CONFERENCE AND WORKSHOP OF THE ASSOCIATION OF ENVIRONMENTAL LAW LECTURERS IN THE MIDDLE EAST AND NORTH AFRICAN UNIVERSITIES (ASSELLMU).

THEME: - LAW ON BIODIVERSITY, NATURE CONSERVATION AND THE PROTECTION OF CULTURAL HERITAGE IN THE MIDDLE EAST AND NORTH AFRICA (MENA) REGION.

DATE: 27-28 FEBRUARY, 2022

VENUE: - UNIVERSITY OF JORDAN COLLEGE OF LAW, JORDAN

ORGANIZED BY ASSELMU IN COLLABORATION WITH UNEP, SADER LEGAL PUBLISHING, AND KONRAD A.S. MENA.

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1. INTRODUCTION

The Middle East and North Africa MENA is a diverse region[1] that benefits from a privileged geographic location with access to large markets; a young and increasingly educated population, and comparative advantages in several sectors such as manufacturing, renewable energies and tourism[2]. Despite these potentials however the MENA region is home to some of the world's most resource-endowed, and yet most vulnerable, natural environments, facing water and food security as well as complex ecological and sustainability threats to its long-term security and prosperity[3].

Among the key biodiversity and nature conservation treaties relevant to The MENA region are: - the Convention on Biological Diversity (CBD)[4], which is reinforced by two important protocols, the Cartagena protocol on Biosafety[5] and the Nagoya Protocol on Access to Genetic

[1] According to the United Nations Environment programme, Faith for Earth Initiative, there are multiple understandings concerning which countries constitute the MENA region, with no standardized definition. It is assumed to include 21 countries located in four sub-regions: -the Mashreq (Egypt, Iraq, Jordan, Lebanon, Palestine, Syria); the Maghreb (Algeria, Libya, Morocco and Tunisia), the Gulf Cooperation Council countries (Bahrein, Kuwait, Oman, Qatar, Saudi Arabia and United Arab Emirates), and a fourth cluster including Arab Least Developed Countries (Sudan and Yemen). The countries of Israel, Turkey and Iran generally stand separately, although sometimes, Israel and Turkey are included in Mashreq Zone. Source: - Figure 1, MENA region cited in Iyad, A and Adele G (2019): - Environmental Challenges in MENA Region. A paper presented at the University of Connecticut Workshop held in Rhodes, 23-26 June, 2019.

[2] See Abumoghili, I, (2019) Environmental Outlook Challenges in the West Asia Region. In Environmental challenges in the MENA Region: - The Long Road from conflict to cooperation. Pouran Hand Hakimiah, H (eds.) Gingko Library. Chapter 2, PP. 10-30.

[3] See Olawuyi D.S. (2022): - Environmental Law in Arab States. Oxford University Press, Oxford, UK, p. vii.

[4] The CBD has 196 State Parties, near universal participation among countries, Entered into force in December 1993, opened for signature in 1992. It seeks to address all threats to biodiversity and ecosystems services.

[5] Entered into force on 11 September 2003, as a supplementary agreement to the CBD that seeks to protect biodiversity from the potential risks posed by living modified organisms resulting from modern technology. To date 113 States Parties-ratified.

Resources and Fair and Equitable Sharing of Benefits Arising from their Utilisation (ABS)[6]; the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES)[7], the Convention on the Conservation of Migratory Species of Wild Animals[8], and the Revised African Conventions on the Conservation of Nature and Natural Resources[9].

Like States in other regions of the world, mobilising financial resources and capacity of national institutions to implement their treaty obligations under the key treaties mentioned earlier, remains a daunting task[10]. The CBD for example, has launched three long-term, target-based conservation Strategic Plans in the last two decades: - the 2002 to 2010 Plan and the 2011 to 2020 (including the Aichi Biodiversity Targets) have been formulated and implemented, forming crucial support for the world's commitment to conservation. This ambition to halt biodiversity loss also serves as a foundation to realize the Sustainable Development Goals (SDGs). However, official and scientific reports of two Strategic Plans have announced that most targets have been missed, with biodiversity continuing to decline[11].

The third and current Global Biodiversity Framework (GBF)[12] is more inclusive, more comprehensive, more SMART (specific, measurable, achievable, relevant and time-bound), and more complex than the Aichi Biodiversity Targets that preceded it. It includes quantified targets for resource mobilization, including a target that aims to substantially and progressively increase the level of **financial resources from ALL SOURCES to at least USD 200 billion per year by 2030** .

One of the available sources for implementing biodiversity and nature conservation treaties in the MENA region particularly and across the globe generally, is the Islamic financing regime[13],

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6 Entered into force on 12 October 2014, ratified by 135 Parties. Aims to share the benefits arising from the utilization of genetic resources in a fair and equitable manner, including by appropriate access to genetic resources and by transfer of relevant technologies.

7 Signed on 3rd March 1973 in Washington, DC, CITES has 183 States Parties and concerns with more Than 5,500 animal species and 29,500 plant species, by ensuring that the international trade of animals, plants and products. does not threaten the survival of the Species to which they belong.

8 Ratified in 1983 by 130 States Parties and has since been supplemented by several agreements, memoranda of understanding. and special species initiatives.

9 Came into force in 2016 upon ratification by 16 States Parties, otherwise known as the Maputo Convention.

10 Ladan, M.T. (2017): - Sustainable Development Goals, Climate Change and Extractive Resource Management in Africa. Ahmadu Bello University, Zaria Press Ltd, Nigeria.

11 Hu et al (2022): - Integrated Index-based assessment reveals long-term conservation progress in implementation of CBD. Science Advances, 8, eaby 8043 (2022), 5 January 2022, pp. 1 – 11.

12 Adopted by COP 15 to the UN CBD the Kunming -Montreal GBF during the 2022 UN Biodiversity Conference. Official CBD Press Release dated 19 December 2022, Montreal, Canada.

13 Islamic Finance is a faith-based system that is unique in its legal sources, guiding principles, tools, instruments, products, institutions and practical application in Muslim-majority countries.

whose approaches are guided by Islamic law principles[14] that emphasize that humans are primarily beneficiaries and trustees (Khalifah) of the earth and not proprietors; and that humans have a solemn duty to keep, maintain and preserve the natural environment, such that it does not disrupt or upset the equilibrium and interests (mizan) of future generation[15].

It is against this background that this paper seeks to realize the following objectives: -

i. To identify the core means of implementation by State Parties or Signatories to such treaties in the MENA region;
ii. To clarify the role of Islamic Financing Approaches in addressing the resources gap; and,
iii. To conclude with some recommendations.

2. CORE MEANS OF IMPLEMENTATION AND RESOURCE /GAPS

Implementation of biodiversity and nature conservation treaties requires policy, legislative, institutional, administrative, programmatic, resource capacity, budgetary or financing mechanisms to be put in place at all levels of governance[16]. Olawuyi rightly pointed out, to address the environmental challenges facing the MENA region, such as energy poverty, climate change, pollution form extractive activities, among others, a wide range of legislative, policy and programmatic frameworks have emerged at regional, sub-regional and national levels across the MENA region to induce a more Sustainable use of environment and its resources[17].

Human beings require biodiversity as it assures them of food, raw materials, recreation, stable climate, medicine, ecological stability, economic uses and biotechnological values[18]. These values constitute the major reasons for conserving biodiversity as humankind's survival on earth, in fact, depends on it[19]. Conservation is the protection and preservation of plants, animals and other biological and cultural resources[20] for the benefit of present and future generations.

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[14] Guiding Principles are general and specifically rooted in Halal (permissible) and Haram (prohibited) and five responsibility-based specific principles (legal, ethical, economic, religious and discretionary).

[15] Because of its view of "Green Earth" as "Allah's Gift to humans" meant to be preserved for both current and future generations.

[16] Ladan, M.T. (2014); - Natural Resources and Environmental Law and Policies for Sustainable Development in Nigeria. Ahmadu Bello University, Press Ltd, Zaria, Kaduna State, Nigeria.

[17] Olawayi, D.S. op. cit.

[18] Ladan, M.T. (2014) op cit,, at pp. 64-68

[19] Ibid.

[20] Olawuyi, opcit, at p. 248.

Most of the above mentioned elements of biodiversity are however subject to human control or ownership and constitute property. This concept of Property really refers to the legal power to exclude or control the relationships of other persons. Therefore, biodiversity conservation at a macro level enjoins us to consider it essential to human and economic survival of our nations[21]. Hence, the need to accord priority to the conservation of biodiversity and nature and full implementation of the following key biodiversity and nature conservation treaties that States in the MENA region are either signatories or parties to[22].

The Key biodiversity related conventions that have addressed biodiversity in express, broad terms, while others are concerned with only specific Components of the subject, and have provided the fundamental principles of conservation[23] are the following: -

- Conventions on Fishing and Conservations of the Living Resources of the High Seas (Geneva, 1958);
- Revised African Convention on the Conservation of Nature and Natural Resources (Maputo, 2003);
- Convention on Wetlands of International Importance Especially as Waterfowl Habitat (Ramsar, 1971);
- Convention for the Protection of the World Cultural and Natural Heritage (Paris, 1972);
- Conventional on International Trade in Endangered Species of Wild Fauna and Flora (Washington, DC., 1973);
- Convention on Migratory Species of Wild Animals (Bonn, 1979);
- UN Convention on the Law of the Sea (Montego Bay, 1982);
- Conventions on Biological Diversity (Nairobi, 1992);
- UN Convention to Combat Desertification in those Counties Experiencing Serious Drought and/or Desertification, particularly in Africa (Paris, 1994).

The above listed conventions are not in all respects identical, but have a pioneering character that has commended itself to a large number of initiatives in conservation treaty-making at the regional and sub-regional levels. It is notable too that the generality of those conventions, in relation to biodiversity conservation, has commended itself to a large number

[21] Ladan, M. T. (2014), op.cit.

[22] All the MENA Region countries had ratified or acceded to the UN CBD. But only Libya from MENA Region that ratified the Revised African Convention on the Conservation of Nature. Not even signed by Algeria, Egypt and Morocco. It entered into force on 23 July 2016, adopted 11 July 2003.

[23] Ladan, MT (2014) op. cit.

of MENA region States which have signed, ratified or acceded to them. These conventions, as they deal differently with the theme of biodiversity conservation for sustainable development, do provide important reference points and useful practical ideas for wider adoption, at regional and sub-regional levels as well as domestic implementation at national level[24].

Biodiversity loss is driven by local, regional and global factors, so responses are also needed at all scales. Responses need to acknowledge multiple stakeholders with different needs. Given certain conditions, many effective responses are available to address the issues identified. Responses designed to address biodiversity loss will not be sustainable or sufficient unless relevant direct and indirect drivers of change are address. Some drivers of biodiversity loss are localized, such as overexploitation of natural resources, Others are global, such as climate change, while many operate a variety of scales, such as local impacts of invasive species through global trade. However, these drivers are better seen as symptoms of the direct drivers, such as unsustainable patterns of consumption, demographic change, and globalization. Further progress in reducing biodiversity Loss will come through greater coherence and Synergies among sectoral responses and through more systematic consideration of trade-offs among ecosystem services or between biodiversity conservation and other needs of society[25].

2.1 Addressing the Financial Resource Gap under the new Global Biodiversity Framework and Targets 2030/2050 and the Sustainable Development Goals (SDGs) 2030

After lengthy negotiations, the 2022 UN Biodiversity Conference (CBD-COP 15) adopted the "hard-fought" and "well-balanced" Kunning-Montreal Global Biodiversity Framework(GBF) to guide biodiversity policy through four overarching goals to be achieved by 2050 and a set of 23 targets to be reached by 2030, to achieve a vision of living in harmony with nature by 2050. The 2022 UN Biodiversity Conference aimed to take strong action to reverse the ugly trend of ecosystems in steep decline, hundreds of thousands of species threatened with extinction and the world is losing biodiversity, the source of essential resources and ecosystem functions that sustains life, at an alarming rate[26]. By 2030, to protect 30% of

[24] Ibid.

[25] Millennium Ecosystem Assessment (2005): - Ecosystem and Human Well-Being: - Biodiversity Synthesis, Cap. 5, p. 89.

[26] Official CBD Press Release:- 19 December 2022, Montreal: - Goals 1-4 and Targets 1 -23 Adopted by UN COP I5..

Earth's lands, oceans, coastal areas, inland waters; **Reduce by $500 billion (five hundred billion dollars) annual harmful government subsidies;** cut food waste by half[27].

Targets 14 to 23 cover tools and solutions for implementation and mainstreaming, including quantified targets for resource mobilization. **Target 19 aims to substantially and progressively increase the level of financial resources from all sources to at least USD 200 billion per year by 2030, including by increasing transfer from developed to developing Countries, in order to address the finance and Capacity gaps[28]**.

Target 19 aims at **mobilizing financial resources from all sources, in an effective, timely and easily accessible manner, including domestic, international, public and Private resources**, in accordance with Article 20 of the CBD, to implement national biodiversity strategies and action plans[29]. It further seeks to significantly **increase domestic resource mobilisation**, facilitated by the preparation and **implementation of national biodiversity finance plans or similar Instruments according to national needs, priorities and circumstances[30]**.

Ambitiously, Target 19 seeks to Substantially and progressively increase the level of financial resources mobilisation from all sources by : - Increasing total biodiversity related international financial resources from developed countries, including official development assistance, and from countries that voluntarily assume obligations of developed country Parties, to developing countries, in particular, the least developed countries and small island developing States, as well as countries with economies in transition, **to at least USD 20 billion per year by 2025, and to at least 30 billion USD per year by 2030**[31]; leveraging **private finance**, promoting **blended finance**, implementing strategies for raising new and additional resources, and encouraging the **private sector to invest in biodiversity**, including **through impact funds and other instrument[32]**; Stimulating **innovative schemes such as payment for ecosystems and services, green bonds, biodiversity offsets and credits**, benefit-sharing mechanisms with environmental and social safeguards[33]; optimizing co-benefits and Synergies

[27] Ibid, Target 19.
[28] Ibid.
[29] Ibid, para 1.
[30] Ibid, para(b)
[31] Target 19, GBF 2030/2050, op. cit, para (a)
[32] Ibid para (c).
[33] Ibid para (d).

of finance targeting the biodiversity and climate crises[34]; enhancing the role of collective actions, including by indigenous peoples and local communities, Mother Earth centric actions and **non-market-based approaches** including community based natural resource management[35] and civil society cooperation and solidarity aimed at the conservation of biodiversity[36]; enhancing the effectiveness, efficiency and **transparency of resource provision and use**[37].

It is evident from the constitutive elements of Target 19 of the GBF for 2030/2050 that Islamic Financing Approaches have a critical role to play in the national, regional and global financial mobilisation and use to implement the strategic finance plans for the conservation of biodiversity and nature as treaty obligations, as well as achieving Sustainable Development Goals 12, 14, 15 in order to make peace with nature[38].

2.2 The Role of Islamic Financing Approaches In Implementing Biodiversity And Nature Conservation Treaties (Including SDGs 12-15)

2.2.1 Nature of Islamic Financing

Islamic Finance[39] is most commonly associated with the general guiding principles of halal (permissible) and haram (prohibited) conducts, practices, products, and services[40]; an ethical underpinning that puts stewardship and societal value creation at the forefront of finance[41]; a unique system of finance founded on legal sources rooted in the Glorious Qur'an, Hadith (or Sunnah), ljma (Consensus), Qiyas (analogical deduction) and Ijtihad (the process of making a legal decision or an independent reasoning or original interpretation to find answers / solutions to current problems not precisely covered by the Quran and Hadith[42]. Islamic finance is guided by general and specific principles[43] of Islamic Law and objectives (Maqasid-al-

[34] Ibid para (e).

[35] Ibid para (f).

[36] Ladan, M.T. (2017) op.cit;

[37] Ladan, M.T. (2014), op. cit.

[38] Target 19, GBF 2030/2050, para (g).

[39] It is a faith-based financing model whose approaches to financing contractual and investment transactions and other business activities are guided by maqasid-al-shariah, promoted by innovative tools, instruments and products as well as principles of application or use and financial institutions Operational in largely Muslim – Majority economies like the MENA Region and Asia

[40] Halal and Haram constitute the bedrock for a Sharia-Compliant financing approach as discussed under Tables 1-2 and Figure 1 of this paper.

[41] Ibid.

[42] Ladan, M.T. (2010): - Introduction to Jurisprudence: - Classical and Islamic. Malthouse Press Ltd, Lagos, Nigeria. Cap. 6, pp. 69–82.

[43] As discussed under item 2.2.2 of this paper

shari'ah) with broad types[44], characteristics[45], tools[46], products or instruments[47] of finance, scope of application in practice[48], financial institutions[49], challenges [50]and opportunities[51].

In terms of **approaches**, first, environmental, social and governance considerations constitute the core factors around which Islamic finance **approach** to sustainable, responsible and impact investing is developed[52]; Second, Islamic finance is centred around the **sharia** injunctions against **Riba** (interest rate made on debt or in financial transactions), **Gharar** (enrichment made based on uncertainty), **Maysir** (enrichment made through speculation), and the Sharia endorsement of Risk-sharing and partnerships[53]; third, Islamic finance is a sustainable, ethical and socially responsible investing financing model / approach[54] that promotes greening of Islamic funds like Zakat, and Waqf[55] and Instruments like **SUKUK**[56], for Sustainable development and making peace with nature.

According to Aassouli[57], the role of Islamic finance in achieving Sustainable Development Goals (SDGs)[58] is significant as it possesses effective risk management tools[59],

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[44] Islamic Social Finance and Commercial Islamic Finance.

[45] See Table 2 of this paper on the 5 characteristics of Islamic Finance.

[46] Such as Zakat, Sadaqah and waqf as strategic tools for Islamic Financing

[47] Products of Islamic Financing include Kafa'lah, Waka'lah and Ujr, discussed under item 2.2.2

[48] As discussed under item 2.2.2 of this paper such instruments include: -Mudaraba, Musharakah, Qard, Murabahah, Ijara and Sukuk.

[49] See Asian Development Bank (ADB) (2022): - Unlocking Islamic Climate Finance, pp.1-58.

[50] See Warde, I (2000): - Islamic Finance in the Global Economy; Edinburgh University Press: - Edinburgh, UK

[51] Simona, F and Asma, A.A (2018): - Principles of Islamic Finance and principles of Corporate Social Responsibility: What Convergence? Sustainability 2018: -10, 637, Doi: - 10.3390/su.10030637.

[52] Ibid.

[53] See Ruhaini, M. and Adul Ghafar, I (2010): - Profit-Loss Sharing and value creation in Islamic banks. J. Bus. Policy Res. 5, pp. 262-281.

[54] See Islamic Corporation for the Development of the Private Sector (ICD) and REFINITIV (2022): - Islamic Finance Development Report: Embracing Change, at pp. 55 to 76.

[55] Ibid, at pp. 23-50. Also See Badan Waqaf Indonesia (BWI) and UNDP (2022): - Green Waqf Framework, pp. l – 68: - it is a guideline for expanding Waqf instruments for the balance between environmental protection and development that is pro-poor for sustainable development.

[56] Islamic Development Bank (IsDB) Jeddah, Saudi Arabia (2022): - 1sDB issues its Second Benchmark Sukuk of 2022 worth USD one Billion, the proceeds of the issuance will be utilized by IsDB for its general corporate purposes, including extending project financing to its Member States for recovery, from the COVID-19 pandemic, food security, socio-economic development and climate action, among others. Dated 2 october 2022 on www.isdb.org.

[57] Aassouli, D, Ibrahim, M.S., and Basiruddin, R. (2018): - Can UGITs promote liquidity management and sustainable development ? ISRA International Journal of Finance, 10(2), 126-142.

[58] Ibid.

[59] Ibid.

promotes efficient use of financial resources by using effective instruments[60] that are Sharia compliant, and also acts as a social welfare tools[61].

2.2.2. Types, Characteristics, Guiding Principles, Tools, and Instruments and products

As a faith-based[62] and largely assets-based model[63] of financing, Islamic Finance involves use of a range of tools that create debt, leases, equities and guarantees being used by Islamic bankers for financing the needs of governments, corporate entities or businesses and the household sectors in the economies of both Muslim majority and non-Muslim States[64]. Islamic Finance is worth, 2.5 trillion USD in 2018, about 3 trillion USD in 2020 and estimated worth of 3.5 trillion by 2024[65]. Its profile is rising in the global financial system as it was seen offering lower systemic risks and a sustainable financing model that could be more robust and resilient than Conventional financing[66].

Table I below shows the two broad types of Islamic Financing model : - Social Finance and Islamic Commercial Financing / Microfinancing

Table I: - Two broad Types of Islamic Finance

S/N	TYPES
1.	**Islamic Social Finance**[67]: - refers to all funds, institutions, instruments, tools, products and service involved in the collection, managing and distributions of funds sourced from Zakat, Sadaqah and Waqf, which are essentially philanthropy-based and not for profit, but for the benefit of the ,needy and destitute population of society. The primary objective is to remove these groups of people from the vicious cycle of poverty and improve their well-being beyond offering funds for consumption needs, but also through education, capacity building / empowerment programmes, provision of

[60] See Muhammad, SN et al (2021):- Sustainable Development Goals and Islamic Finance: An Integrated Approach for Islamic Financial Institutions. Indonesian Journal of Sustainability Accounting and Management, 5(1), 123-136.

[61] Ibid.

[62] See Abikan, A. I. (2014): - Global Financial Conundrum Can Islamic Finance Fix it ? Bayero International Journal of Islamic Finance (BIJIF), Vol. 1, No. 2, Bayero University Kano, Nigeria, at pp. 180-185. Also see Hamzah, D.A. (2022) Unpublished paper:- Islamic Economics and Finance: - An Appraisal of Economic Globalization and Culture of Consumerism. Teaching Fellow at the SOAS, University of London, UK.

[63] See Hashem, E (2019): - The Role of Islamic Finance in achieving SDGs: - Case study of Egypt. International Research Journal of Finance and Economics. ISSN 1450-2887, Issue 176, November 2019.

[64] See ICD and REFINITIV (2022) Report, op. cit.

[65] See OECD Publishing (2020): — How Islamic Finance Contributes to Achieving the Sustainable Development Goals. OECD Development Policy Papers, June 2020, No. 30, Paris, p. 8.

[66] Ibid

[67] Simona, F (2018) et al, op. cit.

	scholarships and micro funds to kick-start an entrepreneurial business. These categories of people are either unbanked or underbanked and very likely not credit-worthy for a credit facility from commercially run Islamic banking institution. Hence **Zakat**, **Sadaqah** and **waqf** form the core fundamentals of Islamic Social Finance rooted in the Quran and Hadith. As such, the **Redistribution** and **Social equality** element have an important role to play in realising SDG 1-End poverty; SDG 2 – Zero Hunger, SDG 3 - Good health and well-being; SDG 4 – Quality Education; SDG 6 – Clean water and Sanitation[68]. The effective implementation and transmission of the funds for the needs of the target group have faced difficulty due to various factors such as, management inefficiencies, lack of data integrity, weakness in infrastructure for collection and distribution of funds. With the institutionalisation of Islamic Social Finance in Muslim majority countries and the Islamic Development Bank, there is renewed hope that the Social-economic redistribution tools will be utilized to eradicate poverty and improve socio-economic prosperity[69].
2.	**Islamic Commercial Financing**[70]: - This covers commercial Islamic banking, microfinancing and development financing[71] institutions, their products, instruments and services that are required to be shari'ah compliant for profit making, economic growth and prosperity, impact investment and Sustainable development[72]. • Islamic microfinancing[73] programmes can offer Solutions in areas where financial inclusion is low, by reducing both risk and debt levels while promoting equality, social welfare and economic security. • Commercial Islamic financing is growing rapidly across the Muslim world and beyond, though insufficiently contributing to social and environmental goals and

[68] Hashem, E. (2019), op. cit.
[69] ADB (2022) op. cit.; and ICD (2022) Report op. cit.;
[70] See Arshed, F.A. (2022): - Islamic Investment Financing and Commercial Banks Facilities: - Mediation Effect of the Islamic Bank size. International Journal of Professional Business Review: E-ISSN-2525-3654. Vol. 7, No. 4,e0458.
[71] Ibid.
[72] Hayat, U (2019):- Sustainable, Responsible and Impact Investing and Islamic Finance: - Similarities and Differences. Chartered Financial Analyst (CFA) Institute, Virginia, USA, pp. 1-15.
[73]See Wanke, P, et al (2022) : - Application of a distributed verification in Islamic microfinance institutions a sustainable model. Financ. Innovation 8, p.80(2022), https://doi.org/10.1186/340854-022-00384-z.

	impact[74], except that the growth of green and social sukuk points to better integration of the SDGs in Islamic finance activities.[75] • Sukuk[76](a Sharia-compliant asset-based security) and Islamic finance lending are two area as which can be used to deliver infrastructure and large scale programmes in Muslim-majority countries and beyond. Sukuk presents low risks and guaranteed returns to investors. Sukuk can be used to deliver Concessional loans in a development context and can effectively be aligned With SDGs 3-9 and 11, and biodiversity and nature conservation related SDGs 12 to 15 as well as SDG 16 on Peace, Justice and Strong Institutions[77].

Islamic Financing is guided by both general and specific principles of Islamic law (Sharia) that seeks to create a fair, equitable and just society, as its purpose is realising human well-being by enhancing welfare (maslahah) and preventing harm (mafsadah). These translate into a common understanding of what is halal (permissible) and haram (prohibited)[78]. In addition to the general principles of **halal** and **haram**, Islamic Finance is specifically guided also by the following set **of five Responsibility-based[79] principles** for commercial Islamic financing[80]: -

- Ethical Responsibility[81]: - refers to respect for and protection of the natural environment, including biodiversity and nature Conservation treaty obligations and in achieving SDGs 12-15 that are biodiversity and nature conservation related goals.
- Economic Responsibility[82]: - refers to efficient and effective management of one's own business.
- Religious Responsibility[83]: - respect for religious obligations in own operations.

[74] Hayat (2019), op. cit.
[75] ICD Report (2022) op. cit.
[76] Ibid, at pp. 44-50.
[77] Arshed (2022) op. cit.
[78] Abikan, A. I. (2014) op. cit.
[79] Simona (2018), op. cit.
[80] Ibid
[81] See Harrison, T and Ibrahim, E (2016): - Islamic Finance : - Principles, Performance and prospects; Palgrave MacMillan, Basingstoke, UK.
[82] Ibid.
[83] Obaidullah, M (2018): - Managing climate changes: - The Role of Islamic Finance. Islamic Economic studies. Vol. 26, No.1, July 2018, (31-62).

- Legal Responsibility[84]: - observance and Compliance with the national law where the business operates.
- Discretional Responsibility[85]: - meeting stakeholders' expectations, having a social role and respect for socio-cultural Practices and values of the host community.

The Islamic Declaration[86] on Global Climate Change in 2015, which recognized the strategic importance of the Climate Change Agenda for the Islamic finance industry, provides an important overarching framework for both Islamic-compliant climate action and biodiversity and nature conservation consistent with SDGs 12 to 15 and the 2022 Global Biodiversity Framework's 4 Goals and 23 Targets set for 2030/2050[87].

The Islamic view of "Green Earth" defined as a "Gift of God Almighty"[88] to humans, which must be preserved for present and future generations at the individual, collective, national, regional and global levels, underscores the fact that the religious Justifications for the preservation of the environment are very solid[89].

Figure 1 below depicts how key principles and instruments of Islamic finance support financing SDGs 12 to 15, the protection of the environment, fair distribution of wealth, equal opportunities for all human beings, and avoidance of harm to both present and future generations[90].

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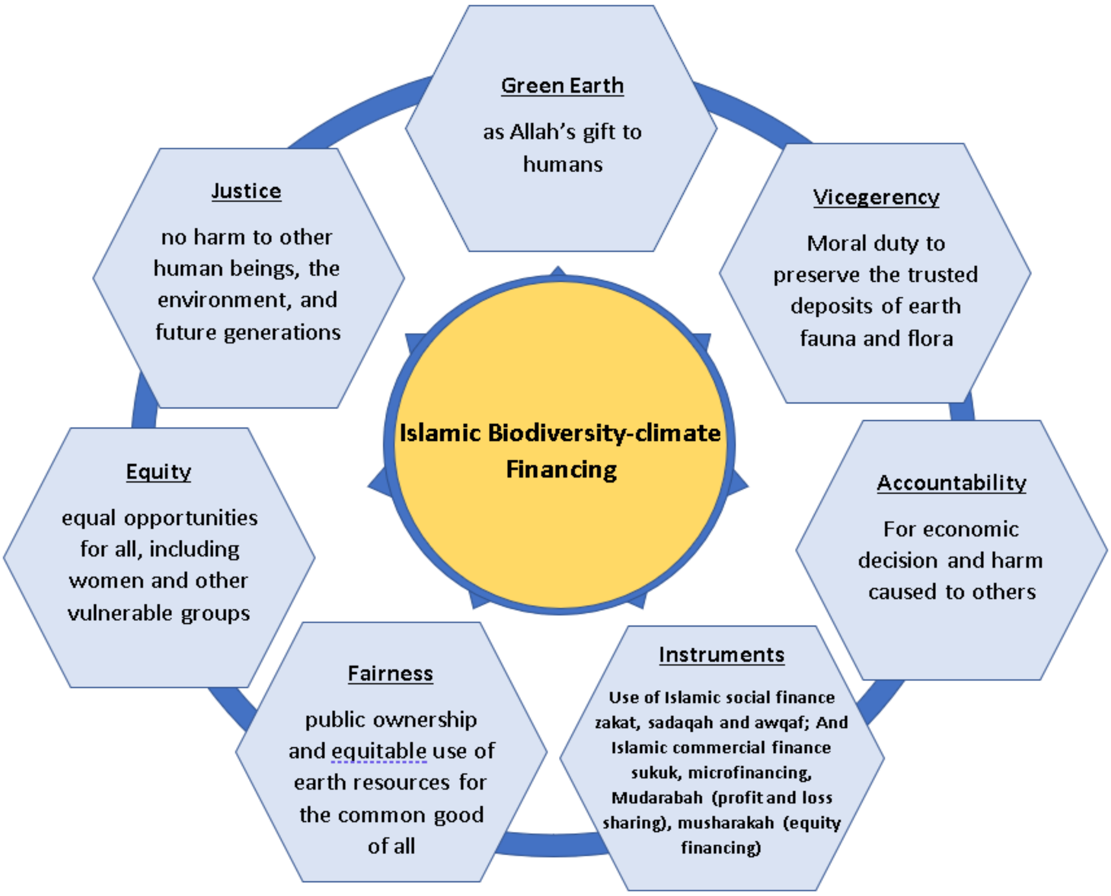
[84] Ibid.
[85] Harrison (2016) op. cit.
[86] https://unfcc.int/news-islamic-declaration-on- climate-change.
[87] Official CBD Press Release (2022) op. cit.
[88] Islam, M. M.(2004): - Towards a Green Earth: An Islamic Perspective. Asian Affairs, 26 (4), pp. 44-89.
[89] Ibid.
[90] See Foltz (2003): - Islam and Ecology: A bestowed trust. Center for the Study of World Religions, Harvard Divinity School.

FIGURE 1: - KEY PRINCIPLES AND INSTRUMENTS OF ISLAMIC FINANCE UNDERPINNING FINANCING FOR SDGs 12-15 ON BIODIVERSITY AND NATURE CONSERVATION AND CLIMATE ACTION.



Islamic Financing approach has its own peculiar characteristics guided by the general principles of Sharia that requires any financial activity undertaken under this model to comply with [91]. The five main characteristics of Islamic financing are as shown in Table 2 below: -

Table 2: Five Characteristics of Islamic Financing

S/N	Characteristics
1.	**Prohibition of interest or usury or Riba in financial transactions**: - The rationale of its explicit prohibition by the Quran lies in the objective of the Islamic economic system that unjust or exploitative gains made in business dealings or that there can be no earnings without the assumption of the related risks and earnings must always result

[91] Abikan, A. I, op. cit.

	from the active work of a person[92]. Riba occurs when there is an interest rate that is fixed and predetermined, linked to the amount of the loan and the time factor, regardless of the economic results obtained through the use of the money lent.
2.	**Profit (Ribh)and Loss sharing (PLS**): - To replace Riba or interest charge, Islamic law proposes profit, as a rate or mark-up put above the cost price of a product or service, economically intended as a lawful alternative to earnings, because the profit results from trade or investment transactions and therefore represents, the actual measure of the actual growth obtained of the capital through its use[93]. PLS required the lender and the borrower to share both the profit and loss or risks of the investment made. It refers to Sharia-compliant forms of equity financing, such as Mudarabah[94] and musharakah[95]. These mechanisms/instruments comply with the religious prohibition of interest on loans[96].
3.	**Prohibition of <u>Gharar</u> (Uncertainty in contracts or exchange) and <u>Maysir</u> (effortless and easy enrichment or earnings by speculation or chance)**: - In order to be valid, Contracts must not contain elements of uncertainty in relation to the essential terms, such as uncertainty of the purpose or nature of the contract and the price of the goods that are subject of trade or the business transactions[97]. On the other hand, **Maysir** is an excessive form of **gharar**, whereby a person or entity makes an effortless enrichment by chance (such as gambling and placing bets on the future result of an event. The value of prohibiting **maysir**, compared with **gharar**, is more centred on the behaviour of the individual and the relative repercussions on Society[98].
4.	Prohibition on the use of trade and investment in prohibited assets or activities or goods, such as the production and sale of alcoholic drinks; the breeding of pigs,

[92] See EL- Gamal, M (2000):- An economic explication of the prohibition of Riba in classical Islamic Jurisprudence. Proceedings of the Third Harvard University. Forum on Islamic Finance. Centre for Middle Eastern Studies, Harvard University: - Cambridge, MA, USA
[93] Ruhaini, M. (2010) op. cit.
[94] A farm of capital trust in Islamic finance.
[95] Partnership form in Islamic finance.
[96] Ladan, M. T. (2010) op. cit.
[97] See Alam, N and Gupta, L, et al (2017): - Prohibition of Riba and Gharar in Islamic banking. Islamic Finance, Palgrave Macmillan: - Cham, Switzerland.
[98] Ibid.

	processing, production and sale of pork-based foodstuffs; gambling, betting, pornography and tobacco are declared haram (prohibited)[99].
5.	The obligation to have real assets underpinning all financial transactions and not be a mere exchange of sums of money or buying and selling of financial debts (as in debt swaps). As a result, most Islamic finance transactions are assets- based in one way or another[100]. For example, **Murabaha[101]** transactions engage in purchases and sales of a physical assets; **Ijara[102]** transactions are assets-based through a purchase undertaking by the originator; and **Mudaraba[103]** or **Musharaka[104]** transactions are equity-based contracts and thus forms of asset-light financing.

Islamic Finance offers a range of tools, instruments and products largely drawn from obligatory private charities for Islamic social financing and from commercial financing scheme through the banking, capital market, asset management and insurance sectors for financing social, humanitarian and development projects and programmes[105].

Zakat (obligatory alms-giving)[106], giving Sadaqah (voluntary alms-giving)[107] and waqf (endowment on property made to religious, educational or charitable causes)[108] are viable **tools[109]** for Islamic social financing for environmental protection, humanitarian assistance, and social equality / justice related SDGs. Hence, they are necessary tools for national/domestic resource mobilisation can contribute to implementing the SDGs in MENA region[110].

[99] See Usmani, M.T., Muhammad, T.U. (2002): - An Introduction to Islamic Finance: - Arab and Islamic Laws series. Brill: - Leiden, The Netherlands

[100] Ibid.

[101] A form of Asset financing.

[102] A form of leasing contract.

[103] Capital Trust transactions in Islamic finance.

[104] A form of Partnership transactions.

[105] ICD and REFINITIV (2022) Report, op cit.

[106] A strategic tool of Islamic social-finance.

[107] Another Islamic social finance tool for wealth redistribution.

[108] An Islamic Social Financing tool for promoting social equality and justice in society.

[109] See item 2.2.2 of this paper.

[110] Abumoghli, I (2019), op. cit.

Islamic financial instruments[111] are partnership-based, such as Mudaraba (capital trust)[112], and Musharakah (partnership)[113]; debt-based, such as qard (service charge)[114]; as Murabahah (asset financing)[115], Leasing-based, such as ijara[116] (leasing Contract) and investment based, such as Sukuk[117] (a form of a bond or, investment certificate).

There are also products of Islamic financing that are based on guarantee (Kafa'lah)[118], agency (waka'lah)[119] and service charge (UJR)[120] that are often combined to design composite products.

The above tools, instruments and products of Islamic finance, in particular the redistributive zakat system, the voluntary donations (sadaqah), the perennial awqaf endowments, the Islamic microcredit Institutions or the cooperative insurance Systems of **takafful**, are designed to support the most vulnerable populations without impeding the economic development of individuals and nations[121]. Their potential contribution to the modern social agendas is substantial [122]. For example, the United Nations Development Programme (UNDP) estimated that **Zakat** alone could help mobilize $200 billion to $1 trillion annually for the SDGs agenda[123].

[111] ADB (2022), op. cit.

[112] A form of partnership where one party provides the funds while the other provides expertise and management. The latter is referred to as the Mudarib. With Shared profits mechanism on a pre-agreed basis, while loss is borne by the provider(s) of the capital.

[113] Unlike a Mudaraba transaction, in Musharaka, both partners must contribute capital to the partnership transactions. In this partnership, both parties share the profit and loss on an agreed basis.

[114] A form of loan payable on demand or at the settled time.

[115] A financing technique involving a request by the client to the bank to purchase certain items for him. The bank does that for a definite profit over the cost which is stipulated in advance.

[116] A lease-based financing mode; of equipment, buildings or other facilities to client, for an agreed rental.

[117] See UK Islamic Finance Council (UKIFC) and Global Ethical Finance Initiative (GEFI) (2022) Report on Green and Sustainability Sukuk: - Financing a Sustainable Future. The Report estimates 30-50 billion USD opportunity for green sukuk to finance SDGs by 2025.

[118] Key principles of Kafa'lah: - involves a guarantee or Surety, Used when something being bought or sold could change in value if exposed to adverse conditions; often used When importing /exporting; facilitates international trade.

[119] Key principles of Waka'lah are: - involves agency contract between an agent and principal; used as a facility to enable transactions take place; the agent earns a fee (Ujrah) for his services.

[120] A form of fee paid in lieu of service to be provided by the service provider (not the same as Ujrah, which is rent).

[121] See Harrison, T. (2016) op cit.

[122] Obaidullah, M (2018), op. cit.

[123] IsDB, UNDP and Baznas-Indonesia (2018): Unlocking the Potential of Zakat and other forms of Islamic Finance to Achieve the SDGs in Indonesia.

2.2.3. The Role of Islamic Financing Approaches in Addressing The Resource Gap For Implementing Biodiversity And Nature Conservation Treaties And SDGs 12 to 15.

The Global Biodiversity Framework's (GBF) implementation, that sets target for 2030 to live in harmony with nature by 2050, is to be facilitated by decisions on resource mobilization and on capacity building, technical and scientific cooperation aiming to address the **finance and capacity gaps** between developed and developing countries [124]. Among the global targets for 2030 are : - mobilizing by 2030 at least $200 billion per year in domestic and international biodiversity-related funding from ALL Sources - public and private; raise international financial flows from developed to developing countries to at least USD $20 billion per year by 2025 and to at least USD $30 billion per year by 2030; progressively phase out or reform by 2030 subsidies that harm biodiversity by at least USD $500 billion per year, while scaling up positive incentives for biodiversity's conservation and sustainable use[125].

Financing SDGs require in the estimated range of 5 to 7 trillion USD over the 15 year period of SDGs implementation and investment gap of range of 1.9 to 3.1 trillion USD in developing nations, MENA region inclusive[126]. Hence it is imperative to explore innovative financing tools, instruments and products of Islamic social and commercial financing approaches that can play a critical role in addressing the financial resources gap as follows: -

i. By using its set of social, ethical and environmentally friendly tools or / and instruments to mobilise domestic financial resources for financing SDGs 12-15 and Target 19 of the GBF [127]. For example, Zakat and waqf are strategic tools for domestic resource mobilization from private charities by national governments Civil Society Organisations and humanitarian agencies.

   According to recent findings, **Dinar Standard** estimates global Zakat at USD 76 billion[128], while UNHCR Calculates that global zakat could exceed USD 300 billion [129] and the Islamic Development Bank (IsDB) calculates global zakat to be worth over

[124] Official CBD Press Release (2022), op. cit.
[125] GBF Target 19, op cit.
[126] OECD publishing (2020), op cit.
[127] Official CBD Press Release, op. cit.
[128] Dinar-Standard (2019): - State of the Global Islamic Economy Report 2019/2020: - Driving the Islamic Economy Revolution 4.0, https:// cdn.salaamgateway.com/special coverage/report.
[129] UNHCR (2019): - UNHCR unveils the refugee Zakat Fund, a global Islamic finance structure to help displaced populations worldwide. https:// www.unhcr.org/hk/21715-unhcr-unveils-the-refugee-Zakat-fund-a-global-islamic-finance-structure-to-help-displaced-populations-world-wide.html.

USD one trillion per annum[130]. Further, **Dinar Standard,**[131] considers awqaf (plural of waqf) assets to be USD 410 billion in 2016, while Dubai government notes that awqaf could also amount up to USD One trillion per annum[132], and Finterra estimates these to be USD 3 trillion, with an estimated return of 5º% or USD 150 billion annually, which could be used for socio-economic goals[133]. With the above potentials, development Partners in collaboration with national governments of MENA region and Islamic Development Bank can therefore consider implementing new forms of financing effectively, including through the use of Islamic Financing tools and instruments thereby contributing to expanding the role of Islamic Financing approaches in the field of development cooperation[134] for implementing biodiversity and nature conservation treaties consistent with both SDGs 12 to 15 and GBF Target 19.

ii. By enhancing financial inclusion[135] through Islamic microfinancing approach and the use of Commercial Islamic Financing instruments such as Murabaha, Ijara, Mudarabah, Musharaka and Sukuk, thereby ensuring access to affordable and equitable financial products and services needed by vulnerable groups in developing countries[136].

iii. By promoting the principle of Profit and Loss/Risk sharing in business and financial transactions or investment relationships, in order to offer strong incentives for both the financier and the entrepreneur to contribute to the success of the investment, thereby cementing a long term trustable relationship [137].

iv. By promoting the Islamic finance tools of zakat, Sadaqah and waqf for wealth redistribution and social equality and justice for a balanced and prosperous society. These tools can be used to finance environmental protection, social development projects and programmes like education, healthcare and microfinancing needed by Vulnerable groups in both peace and humanitarian crises situations[138].

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[130] Islamic Development Bank, UNDP and BAZNAS (2018), op. cit.

[131] DinarStandard (2019) op. cit.

[132] Ibid.

[133] OECD (2020) op. cit.

[134] ICD and REFINITIV (2022) Report, op. cit.

[135] See IsDB (2015): - Empowering the poor through Islamic Microfinance: -Experience of the Bank of Khartoum, Sudan in Value chain Project Financing, pp. 1-49.

[136] Ibid.

[137] Arshed (2022), op cit.

[138] Hayat (2019), op. cit.

3. CONCLUSION

It is evident from the above analysis that Islamic Finance is a set of faith-based financial tools, instruments and products guided by ethical, legal, economic, religious and discretionary based responsibility principles. It promotes wealth redistribution, social equality, profit and loss or risk sharing in business or investment relations. Its approach to financing, emphasizes financial inclusion, social welfare and prohibition of interest/usury, gambling / betting, speculation and uncertainty in transactions.

Islamic Finance can play a critical role in addressing the financial resources gap needed to implement the Biodiversity and Nature conservation treaties consistent with both SDGs 12 to 15 and GBF Target 19, by promoting domestic resource mobilization, enhancing financial inclusion, promoting profit and loss or risk Sharing in business relations, and by ensuring the use of Islamic Financial instruments for the common good of all and for making peace with nature.