



# International Journal of Innovative Technologies in Social Science

e-ISSN: 2544-9435

Scholarly Publisher  
RS Global Sp. z O.O.  
ISNI: 0000 0004 8495 2390

Dolna 17, Warsaw,  
Poland 00-773  
+48 226 0 227 03  
editorial\_office@rsglobal.pl

## ARTICLE TITLE

THE ROLE OF ISLAMIC BANKING IN FINANCING LOCAL  
DEVELOPMENT: A STUDY IN THE ALGERIAN EXPERIENCE

## ARTICLE INFO

Nacir Yahia Cherif, Aouragh Reguia, Kabahoum Sami. (2025) The Role of Islamic Banking in Financing Local Development: A Study in the Algerian Experience. *International Journal of Innovative Technologies in Social Science*. 3(43). doi: 10.31435/ijitss.3(43).2024.4093

## DOI

[https://doi.org/10.31435/ijitss.3\(43\).2024.4093](https://doi.org/10.31435/ijitss.3(43).2024.4093)

## RECEIVED

08 January 2024

## ACCEPTED

22 March 2024

## PUBLISHED

25 September 2024

## LICENSE



The article is licensed under a **Creative Commons Attribution 4.0 International License**.

© The author(s) 2024.

This article is published as open access under the Creative Commons Attribution 4.0 International License (CC BY 4.0), allowing the author to retain copyright. The CC BY 4.0 License permits the content to be copied, adapted, displayed, distributed, republished, or reused for any purpose, including adaptation and commercial use, as long as proper attribution is provided.

# THE ROLE OF ISLAMIC BANKING IN FINANCING LOCAL DEVELOPMENT: A STUDY IN THE ALGERIAN EXPERIENCE

**Nacir Yahia Cherif**

*University of Mohamed Khider – Biskra, Biskra, Algeria*

**Aouragh Reguia**

*University Center of Morsli Abdellah – Tipaza, Tipaza, Algeria*

**Kabahoum Sami**

*University of Mohamed Boudiaf – M'sila, M'sila, Algeria*

---

## ABSTRACT

The aim of this article is to review the extent to which Islamic banking can contribute to the financing of local development in Algeria, by financing economic investments, where it is based on the formation of an investment pot in significant amounts, where these funds are transferred from hoarding space to production and development.

Algeria has made every effort to advance the process of development by adopting Islamic banking as a viable financing alternative by adopting the Bank of Algeria's 20-02 banking system for Islamic banking and its rules of practice. This article concludes that Islamic banking can play an important role in comprehensive domestic development by providing various financing formats suitable for all types of investment.

---

## KEYWORDS

Islamic Banking, Local Development, Islamic Finance Formats, Banks and Financial Institutions

---

## CITATION

Nacir Yahia Cherif, Aouragh Reguia, Kabahoum Sami. (2025) The Role of Islamic Banking in Financing Local Development: A Study in the Algerian Experience. *International Journal of Innovative Technologies in Social Science*. 3(43). doi: 10.31435/ijitss.3(43).2024.4093

---

## COPYRIGHT

© **The author(s) 2024**. This article is published as open access under the **Creative Commons Attribution 4.0 International License (CC BY 4.0)**, allowing the author to retain copyright. The CC BY 4.0 License permits the content to be copied, adapted, displayed, distributed, republished, or reused for any purpose, including adaptation and commercial use, as long as proper attribution is provided.

---

## Introduction :

The efficiency of any economic system is profoundly tied to the principles upon which it is established, the institutions on which it relies, and its very capacity to resolve the problems and crises that may arise from time to time. This becomes especially evident in capitalist states, where economists anticipate the recurrence of such crises for many years ahead, attributing, among other causes, their origins to the usurious banking system. This latter system is constructed upon a debt relationship based on interest, and upon the separation of monetary and financial movements from genuine development and production in the economy. Such a structure, therefore, fails to generate true wealth and does not contribute to local development. According to this view, the correction of the situation requires that the role of the banking system be confined to the provision of tools and means that serve the needs of local development and the national economy. This, however, is precisely what the current usurious banking industry—within which the majority of banks worldwide operate—does not provide.

The purpose of this study, consequently, is to demonstrate the role of Islamic banking as a financial system capable of financing local development projects and revitalizing the national economy, owing to its instruments that are characterized by diversity and flexibility, which render them adaptable to a variety of investment projects.

The significance of this topic lies in the fact that Islamic finance appears to be one of the most suitable solutions to bridge this gap, given the developmental nature of Islamic banking and its capacity to mobilize savings in order to inject them into the national economy in the form of real investments that aim at establishing a balanced local development.

It is noteworthy that the Algerian legislator has only recently accorded considerable attention to Islamic banking, mainly due to the scarcity of financial resources allocated for the financing of local development projects. Thus, it has sought to regulate it by virtue of the Monetary and Banking Law No. 23-09, on the one hand, and the Regulation No. 20-02 together with Instruction 03-2020 issued by the Bank of Algeria, on the other hand, all of which relate to Islamic banking and the role expected from such legislation in stimulating the economy. This reality compels us to raise the following problematic question: **To what extent can Islamic banking be relied upon as a financing mechanism for local development projects in Algeria?**

In order to address this problematic, two approaches have been adopted in this study: first, the descriptive method, which consists of collecting information related to the general concepts of Islamic banking and local development; and second, the analytical method, which involves analyzing the texts of the provisions of the Monetary and Banking Law No. 23-09, Regulation No. 20-02 of the Bank of Algeria, and Instruction No. 03-2020, which organized the Islamic banking products in Algeria.

To provide an answer to this problematic, our research paper has been divided into two main axes: the first examines Islamic banking in Algeria, while the second explores the contribution of Islamic banking in the realization of local development.

### **1. The Reality of Islamic Banking in Algeria**

Algeria has fallen behind the caravan of Islamic countries — and even some non-Islamic ones — that have incorporated Islamic banking into their banking system. This situation obliges us to wonder about the causes of this delay (1.1), about the reasons for its adoption as a financing source (1.2), and about the legal environment that has been furnished to ensure the success of this type of banking (1.3).

#### **1.1. The Factors Explaining the Delay in Adopting Islamic Banking in Algeria**

The causes of such delay go back to multiple factors, which may be summarized as follows (Dahak, 2022, pp. 205–206):

- A conventional usurious banking mentality inherited from the colonial French banking system, both in its institutional structure and in the human composition that manages it.
- The radical shift in economic orientation after independence — from the capitalism of France to the socialism of the Soviet Union — which did not allow those in charge of the banking industry to think of entering into the sphere of Islamic banking.
- Ideological, educational, and cultural convictions of the ruling authority, which did not accept the idea of the Islamic banking project, constantly doubting its ability to meet the requirements of the modern banking industry.
- The silencing of the voices that demanded the adoption of Islamic banking, by way of authorizing some branches of foreign Islamic banks in the early 1990s.
- The availability of immense financial resources during the past decade, which played a major role in delaying the adoption of the Islamic banking project, given the absence of a need for alternative financial resources.

All these causes, among others, were not favorable for successive Algerian governments to accept the duality of the banking system, let alone to proceed with a transition from the conventional banking system to the Islamic one.

#### **1.2. The Justifications for Adopting Islamic Banking as a Financing Option for Local Development**

There exists a set of motives that contributed to the emergence of Islamic banking in Algeria, and these motives can be divided into two categories.

##### **1.2.1. General Motives**

- Responding to the calls of Muslim preachers and thinkers to establish an Islamic economic and social system, based on adherence to the principles of Sharia, the exertions of jurists, and consistent with the renewed needs of Muslim populations (Hammoud, Al-Mufaraji, Al-Hilli, & Al-Hakim, 2019, pp. 35–36).
- Abstaining from dealing with bank interest, since it is deemed *riba*, which is prohibited in Islamic law.

- Avoiding the embarrassment experienced by Muslims in dealing with conventional banks, given their inability to do without them, and at the same time their fear of falling into the forbidden and the disobedience of Allah.

- Putting the rules of the Islamic economic system into practical application, and working according to them in a field that influences people's lives and conduct.

- Unifying efforts to participate in the responsibility of uplifting the economic, social, and developmental reality, through channeling the funds of Muslims into genuine productive projects, for the Islamic economy rests on the principle of participation, where everyone labors for the benefit of both the individual and the community (Saleh & Maarefi, 2014, p. 153).

- 

### **1.2.2. Specific Motives**

Among the reasons that led to considering Islamic banking as an effective solution for Algeria's economic development are:

- The success of some conventional banks in benefiting from Islamic banking and realizing considerable profits from Islamic-finance products (Jaafar, 2017, p. 95).

- The political will of the ruling system in Algeria, which is the most decisive motive for moving towards adopting Islamic banking, since it was included in the orientations of the government for developing the financial system and diversifying its banking products and services.

- The attraction of a massive financial mass outside the official transactions, and even outside the banking sector, due to the abstention of certain segments of Algerian society from interest-based banking, and their desire to invest and employ their funds in accordance with Sharia (Dahak, 2022, p. 206).

- The pursuit of profits and returns from authentic projects that contribute to pushing the economic wheel, since banking operations through Islamic financing formats represent a fertile source for profitability.

- The relatively lower level of risk in this type of banking, which helps to avert the occurrence of financial crises, whether at the local or international level.

- The ability of Islamic banks to attract a huge number of clients from conventional banks (Saleh & Maarefi, 2014, p. 153).

## **1.3. The Legal Framework Governing Islamic Banking in Algeria**

The texts that regulate Islamic banking can be divided into two categories:

### **1.3.1: Legislative Texts**

Banking activity was opened to the private sector for the creation of banks after the promulgation of the Monetary and Credit Law No. 90-10 (Law No. 90-10, 1990), after it had previously been the exclusive preserve of public banks. As a result, the first Islamic bank in Algeria was established in 1991, namely Al Baraka Bank of Algeria, which remained the sole operator and, for a long period, the only Islamic financial institution on the Algerian banking scene, until the establishment of Al Salam Bank in 2008.

Although Islamic banking activity requires particular specificities, the laws governing Algerian banking at first made no reference whatsoever to Islamic banks. Neither Law No. 90-10 relating to monetary and credit defined the conditions for their establishment, nor Ordinance No. 03-11, which repealed Law No. 90-10 and came to clarify the conditions for creating banks and financial institutions as well as the regulation of their operations regardless of their nature (Law No. 03-11, 2003). Accordingly, all banks operating in Algeria, whether conventional or Islamic, have been subject to the provisions regulating the interest-based banking system.

However, Islamic banking activity was not confined to the two aforementioned banks (Al Baraka Bank and Al Salam Bank). A number of Islamic "windows" were created within conventional banks that provided services compliant with Sharia. We may mention, in particular, Gulf Bank (established in 2003), which offered financing solutions based on murabaha; Trust Bank (established in 2003), which launched an Islamic window providing murabaha financing solutions and a participatory savings account allowing profit-sharing with clients; and finally the Arab Banking Corporation (established in 1998), which provided Islamic banking services through a branch called "ABC Islamic Bank" in order to reassure clients about the Sharia-compliance and credibility of the products and services provided to them.

### **1.3.2: Regulatory Texts**

Observers of the Algerian banking sector waited a long time before witnessing a law specifically dedicated to Islamic banking. The Bank of Algeria issued two successive regulations, Regulation No. 18-02 (Regulation No. 18-02, 2018) and Regulation No. 20-02 (Regulation No. 20-02, 2020), followed by the explicit recognition of Islamic banking in the Monetary and Banking Law No. 23-09 (Law No. 23-09, 2023).

#### **1.3..21. Regulation No. 18-02 on Participatory Finance**

This regulation established the rules governing banking operations relating to participatory finance conducted by banks and financial institutions. It was the first legal and regulatory framework dedicated to transactions compliant with Islamic law. Its first article defined this system as follows: “This regulation aims to determine the rules applicable to products called participatory, which do not entail the collection or payment of interest.”

The banking operations related to participatory finance were defined as all operations carried out by banks and institutions mentioned in Articles 68 to 69 of Ordinance No. 03-11 (now repealed), consisting of the collection of funds (deposits), the employment of funds, and financing and investment operations that do not entail the collection or payment of interest. These operations specifically included murabaha, mudaraba, musharaka, ijara, salam, istisna, and investment deposits (Art. 2, Reg. 18-02; Art. 5, Reg. 18-02).

This regulation introduced a new concept, the “participatory finance window,” meaning a unit within an accredited bank or financial institution that exclusively offers participatory banking services and products, with an obligation to ensure accounting separation between such windows and other banking activities by isolating the accounts of clients in the participatory finance window from the rest of the bank’s clientele (Mehdawi, 2021, p. 141).

Nevertheless, Regulation No. 18-02 was not effectively implemented for several reasons (Mehdawi, 2021, p. 141):

- Political changes that led to presidential elections at the end of 2019.
- The entry of the global economy into conflict with the outbreak of COVID-19, accompanied by a sharp decline in oil prices and its severe economic consequences for the country.
- The presence of deficiencies in some of the regulation’s provisions.

These factors pushed the competent authorities, particularly the Bank of Algeria, to remedy the shortcomings of Regulation No. 18-02 by issuing Regulation No. 20-02, which specifically governs banking operations related to Islamic banking.

#### **1.3.2.2. Regulation No. 20-02 on Banking Operations Related to Islamic Banking**

Regulation No. 20-02 concerning Islamic banking operations and their practice by banks and financial institutions repealed all provisions of the earlier Regulation No. 18-02 (Art. 23, Reg. 20-02). Article 2 of Regulation No. 20-02 defined Islamic banking operations as follows: “For the purpose of this regulation, an Islamic banking operation is any banking operation that does not result in the collection or payment of interest. These operations must comply with the provisions stipulated in Articles 66 to 69 of Ordinance No. 03-11 relating to monetary and credit, as amended and supplemented.”

It should be noted that Regulation No. 20-02 listed the Islamic banking products exhaustively, rather than illustratively as Regulation No. 18-02 had done. Article 4 specified: “Islamic banking operations include the following products: murabaha, musharaka, mudaraba, ijara, salam, istisna, deposit accounts, and investment deposits.”

By comparing the two regulations, 18-02 and 20-02, one may observe that they are largely similar, except that the latter removed ambiguities contained in the former, replacing the widely criticized term “participatory finance” with “Islamic banking.” Accordingly, the name of the specialized unit was changed from “participatory finance window” to “Islamic banking window,” although the general concept remained unchanged.

In addition, Regulation No. 20-02 designated the body legally empowered to issue Sharia compliance certificates for banking products, namely the National Sharia Board for Fatwa in Islamic Financial Industry (Mehdawi, 2021, p. 141).



### **1.3.2.3. Monetary and Banking Law No. 23-09**

In an explicit step to consolidate Islamic banking as a strategic option, the Algerian authorities repealed Ordinance No. 03-11 relating to monetary and credit (as amended and supplemented) and adopted Monetary and Banking Law No. 23-09 (Law No. 23-09, 2023). In this law, the Algerian legislator explicitly incorporated Islamic banking into specific legal provisions, thereby ending the longstanding debate regarding the incompatibility of the repealed Ordinance No. 03-11 with the requirements of Islamic banking.

The importance of incorporating Islamic banking in this new law lies in its ability to meet the needs of clients, whether individuals or institutions, in financing their activities through a variety of banking products, and also in its ability to mobilize financial resources — whether those resources already integrated into the formal economy, or those that had remained idle outside it — both through fully Islamic banks or through Islamic windows established within conventional banks and financial institutions.

## **2: The Contributions of Islamic Banking in Achieving Local Development**

In a world dominated by capitalism, where financial assets have lost their essential function of being a store of value, a measure of exchange, and a means for economic development—and instead have become an end in themselves—Islamic banking finance has emerged to leave a significant imprint on local development (2.1), achieving that impact through multiple mechanisms and instruments (2.2) (Zeguib & Mehdadi, 2017, p. 111).

### **2.1: The Role of Islamic Finance in Supporting Local Development Projects**

Development is considered a matter of utmost importance for achieving a better future for all nations, by relying on diverse and integrated programs and policies, executed by the competent authorities. These authorities have seen in Islamic financing methods the most optimal way to realize this objective, and the picture remains incomplete without providing examples of this financing's contribution to projects of great developmental value.

#### **2.1.1: The Philosophy of Islamic Economics Based on Ownership of Real Assets and Profit-Sharing**

From the perspective of Islamic jurisprudence, development projects fall within what is known as the general objectives (maqāṣid) of Islamic law, situated at the level of urgent needs and public necessities. This has led Islamic banks to place such projects at the top of their priorities.

Moreover, the financing of these projects aligns with the philosophy of Islamic economics, which is founded on ownership and the principle of profit-and-loss sharing. This has endowed Islamic finance with a remarkable capacity to cope with investment risks. Local development projects—especially infrastructure projects—are characterized by long-term investment horizons and stable financial returns to depositors, which correspond with the risks they may face, not to mention their grounding in the values of social and economic justice (Messaoudi & Bouamer, 2022, p. 607).

#### **2.1.2: The Conditions of Local Development in the Islamic Economy**

Having examined in the previous section the economic philosophy upon which Islamic financing of local development projects rests, we now turn to the conditions of local development within the framework of the Islamic economy, which can be outlined as follows (Msaïtfi & Ben Sania, 2011):

- Development must be comprehensive, encompassing both material and spiritual dimensions.
- Development must be balanced at all levels and across all fields—whether economic, social, cultural, and others—or balanced across sectors, or even between different economic activities.
- The provision of realistic solutions adapted to the lived environment, avoiding superficial theorization or impractical idealism.

#### **2.1.3: The Importance of Islamic Finance**

Transactions within the conventional banking system are often characterized by formalistic circulation, which does not result in any actual transfer of ownership between the parties. This has negatively impacted the financing of local development in all its aspects, which in turn prompted policymakers in our country to resort to Islamic banking as a new financier for launching projects aimed at genuine development throughout the nation (Khouja, n.d., p. 213).

Islamic banking, therefore, is a comprehensive banking system encompassing economic and social dimensions, striving to mobilize resources from individuals and institutions, and working towards the optimal utilization of those resources in providing a range of banking services. The overarching aim is to achieve local economic and social development within the state, while at the same time taking into account the conditions of society (Nacer & Boucherma, 2009, p. 313).

All this is to be achieved by employing the diverse methods and instruments provided by Islamic banking to realize its objectives, foremost among which is local development. In this regard, it contributes to (Timaoui & Brahimi, 2006):

- Financing productive projects that generate employment opportunities.
- Financing agricultural and industrial development projects.
- Contributing to the provision of society's basic needs.
- Increasing income levels and improving standards of living.
- Reducing the prevailing levels of unemployment in the region and alleviating the phenomenon of poverty.

Islamic banking also accords increasing attention to non-productive sectors, such as health and education, among others, in a clear indication of its commitment to achieving the Islamic conception of local development.

#### **2.1.4: Examples of Financing Local Development through Islamic Financing Modes**

It has been possible to employ the modes of Islamic banking and their financing mechanisms—mobilization, pooling, and investment of large financial resources—in the sector of basic infrastructure, which has utmost importance in development. Here, we may mention, by way of example, some projects in which Islamic banks participated in their financing (Ahmed & Fakher, 2012, p. 603):

- The establishment of major hydroelectric power stations (the Shuweihat station in Abu Dhabi and Sharjah, and the Hidd station in Bahrain).
- The establishment of Hamad Medical City in Bahrain.
- Financing of modern telecommunications networks (Mobily Telecommunications Company).
- The development of Dubai International Airport.
- The expansion of Emirates Cooling Devices Company.
- The development of Karachi Port in Pakistan.
- Financing of small and medium-sized enterprises, and assistance to small farmers in reclaiming lands in Malaysia.
- Contribution to the establishment of housing and tourist hotels in Qatar, the United Arab Emirates, and Bahrain.

All these development-oriented projects were accomplished either through reliance on, or in partnership with, banking institutions that adopt the methodology of Islamic banking. This, indeed, leads us to pose a critical question: what are the Islamic financing mechanisms introduced by the Algerian legislator in Regulation 20-02, aimed at achieving similar projects?

### **2.2: Mechanisms of Islamic Financing and Their Applications in Algeria**

The financing of local development projects can be carried out through all the Islamic banking modes mentioned in Regulation 20-02. However, we shall present them here within the framework of the duration required for local development projects to yield their returns. These are as follows:

#### **2.2.1: Short-term Financing Modes for Local Development Projects**

Two financing products of Islamic banking whose projects usually provide returns in the short term shall be discussed, namely, Murabaha and Salam contracts.

##### **2.2.1.1: Murabaha Contract**

Murabaha is considered one of the most frequently used financing modes in Islamic banks, and it has been developed as one of the legitimate alternatives to the prohibited interest rate used in conventional banks. Murabaha is the sale of what the seller already owns at its original cost, with an additional known profit agreed upon in the contract session (Makawy, 2009, p. 52).

Its definition has been given both in Article 05 of the Bank of Algeria Regulation No. 20-02 and in Article 03 of Instruction No. 03-2020 (Instruction No. 03-2020, 2020), as follows: *“Murabaha is a contract by which the bank or the financial institution sells to a client a specified commodity, whether movable or*

*immovable, which the bank or the institution owns, at its acquisition cost plus a profit margin agreed upon beforehand and according to the terms of payment agreed between the two parties.”*

Murabaha takes two forms: the simple Murabaha, known since ancient times, and the more complex Murabaha, which has been termed in contemporary legal texts as “Murabaha to the Purchase Orderer.”

#### **a) Simple Murabaha**

This is one of the contracts known since antiquity. It is rarely applied in Islamic banks. It consists of two contracting parties: an Islamic bank and a client. The first party purchases a commodity with the intent of reselling it, without being previously ordered to buy it. Therefore, the commodity remains in its warehouses until there is a buyer who will acquire it at its cost plus an agreed-upon profit (Alifa, 2021, p. 274).

#### **b) Murabaha to the Purchase Orderer**

The Murabaha to the purchase orderer involves three parties: the bank, the seller, and the orderer of the purchase. Hence, some scholars call it “banking Murabaha” (Bemadi, 2012, p. 35). In this arrangement, the person who wishes to acquire a particular commodity requests it from the Islamic bank, after specifying its source and characteristics. The bank then purchases it on his behalf and sells it to him by Murabaha, at its acquisition cost plus an agreed-upon profit (Abu Zaid, 2004, p. 95).

### **2.2.1.2: Salam Contract**

The Salam contract is regarded as an instrument of financing and investment, and one of the genuine alternatives to the system of usurious lending. Salam and Salaf have the same meaning: the sale of goods with deferred delivery in exchange for an advanced price. It is, in other words, the sale of a commodity not in existence at the time of the contract, justified by the necessity of both the buyer and the seller. Thus, it consists of purchasing a deferred commodity at a price paid immediately (Bemadi, 2012, p. 38).

The Salam contract has been defined in Article 9 of the Bank of Algeria Regulation 20-02 and in Article 36 of Instruction 03-2020 (Instruction No. 03-2020, 2020), as follows: “*Salam is a contract whereby the bank or the financial institution, acting as buyer, purchases a commodity that will be delivered later by its client in exchange for immediate cash payment.*”

Salam, in terms of contract type, is divided into:

#### **a) Ordinary Salam**

This is the traditional form of Salam as known in Islamic jurisprudence, in which a single contract is concluded between the *Rabb al-Salam* (the bank) and the *Muslim ilayh* (the seller), with the latter intending to execute it himself (Ahmed, 2016, p. 114).

#### **b) Parallel Salam**

Instruction 03-2020 provided a definition of Parallel Salam, stating: “*A Salam contract is called ‘parallel’ when the bank or the financial institution enters into another Salam contract with a third party, independent of the first contract, in order to sell a commodity identical in specifications to that of the first contract, to be delivered at a later date, for an agreed price paid immediately and in cash*” (Instruction No. 03-2020, 2020, art. 37).

### **2.2.2: Medium-term Financing Modes for Local Development Projects**

Among the most important contracts through which medium-term development projects can be financed are the *Ijarah* contract and the *Istisna'* contract.

#### **2.2.2.1: Ijarah Contract**

The Ijarah formula is considered one of the most significant and modern instruments employed by Islamic banks for financing investment projects, being regarded as one of the most efficient and capable financing systems.

In Regulation 20-02 and in Instruction No. 03-2020, Ijarah has been defined as follows: “*Ijarah is a lease contract by which the bank or the financial institution, called the lessor, places at the disposal of the client, called the lessee, on the basis of a lease, a movable or immovable asset owned by the bank or the financial institution, for a fixed period of time, in return for rent determined in the contract*” (Instruction No. 03-2020, 2020, art. 24).

Ijarah has a highly effective contribution in mobilizing the resources, energies, and expertise available within society. It plays a role in broadening the base of investment and mitigating unemployment, by enabling the establishment of projects without the burden of waiting to accumulate the necessary financing, and thus avoiding inflation and the continuous rise in equipment prices. Furthermore, it provides national projects with the opportunity to benefit from modern equipment (Shoqyi, 1999, p. 32).



Ijarah exists in two forms: the **operational lease** and the **lease ending with ownership**.

#### a) Operational Ijarah

This is the form in which the bank, as lessor, leases the asset repeatedly. Each time the lease term expires, the lessor seeks to lease it again to another party so that the asset does not remain unused for long periods. In this case, the lessor bears the risks of market stagnation, the decline in demand for these assets, and their suboptimal utilization (Khoga, n.d., p. 209).

Article 32 of Instruction 03-2020 defined it by stating: *“The operational Ijarah consists of an ordinary lease which does not result in the transfer of ownership of the leased goods to the lessee”* (Instruction No. 03-2020, 2020, art. 32).

#### b) Ijarah Muntahia Bittamleek (Lease Ending with Ownership)

The scholar Wahba al-Zuhayli defined it as: *“The transfer of the usufruct of certain assets, such as houses or equipment, for a determined period of time, for a specified rent which is usually higher than the market rent, on the condition that the lessor transfers ownership of the leased asset to the lessee, based on a prior promise, either at the end of the period or during it, after paying all rent dues or installments, through a new contract”* (Zuhayli, 2002, p. 394).

This definition was also reflected in paragraph two of Article 32 of Instruction 03-2020, which stated: *“Ijarah Muntahia Bittamleek: when the bank or financial institution grants the client the possibility of owning the leased assets upon the expiry of the period previously agreed upon in the contract.”*

#### 2.2.2.2: Istisna' Contract

Istisna' is one of the modes of Islamic financing. It can be defined as a contract of manufacturing or contracting with craftsmen to produce something specific. It is, in essence, a contract for a sale of something that is to be manufactured, stipulated with work (Bemadi, 2012, p. 48).

The Algerian legislator defined it in Article 10 of the Bank of Algeria Regulation and in Article 44 of Instruction No. 03-2020 as: *“Istisna' is a contract under which the bank or the financial institution undertakes to deliver a commodity to its client, the ordering party, or to purchase from a manufacturer a commodity that will be manufactured according to specified and agreed characteristics between the parties, at a fixed price and according to payment methods agreed upon beforehand between the two parties.”*

The Istisna' contract takes two forms: the **ordinary Istisna'** and the **parallel Istisna'**.

#### a) Ordinary Istisna'

This is the method discussed in classical and modern fiqh literature, as we have defined earlier. It involves contracting between two parties: the *Mustasni'* (ordering party) and the *Sani'* (manufacturer). In banking practice, it takes the form where the bank itself undertakes to manufacture the commodity it has committed to sell, delivering it at a future date specified in the contract, with precise characteristics and quantities, in exchange for a fixed price payable immediately or on a deferred basis, with the raw materials provided by the manufacturer. The contractual relationship thus remains direct between the two parties, without any intermediary (Mansouri, 2018, p. 77).

#### b) Parallel Istisna'

If the ordering party does not require the manufacturer to carry out the production himself, the manufacturer may conclude a parallel Istisna' contract with a new party, wherein the same specifications of the commodity in the first contract are stipulated, with delivery set for a future date, usually before the deadline of the first Istisna' contract (Mansouri, 2018, p. 77).

Article 45 of Instruction 03-2020 defined it as follows: *“The bank or financial institution may enter into a second contract called Parallel Istisna' with a manufacturer, to produce the product that is the subject of the original Istisna' contract”* (Instruction No. 03-2020, 2020, art. 45).

### 2.2.3: Long-term Financing Modes for Local Development Projects

Development projects may sometimes belong to those categories that require an extended time span—whether in terms of benefiting from their revenues or in terms of the duration of their service provision. In this regard, two principal contracts can be highlighted, namely the **Mudarabah contract** and the **Musharakah contract**.

#### 2.2.3.1: Mudarabah Contract

Mudarabah is one of the primary financing tools employed by Islamic banks. It represents an investment partnership that brings together both capital and labor, aiming to invest funds that their owners are unable to utilize themselves. It is a form of profit-sharing partnership whereby the capital is provided by the funder (the Islamic bank), who undertakes to finance the project in its entirety, while the effort, work, and management

fall upon the contractor who owns the project. The profit is shared between the two parties in a pre-agreed proportion at the time of contracting (Mekkawi, 2009, p. 44).

Algerian Regulation No. 20-02, Article 7, together with Instruction No. 03-2020, Article 19, defined banking Mudarabah as: *“Mudarabah is a contract under which a bank or financial institution, referred to as the provider of funds (Rabb al-Mal), supplies the necessary capital to the contractor (the Mudarib), who contributes his work to a project in order to achieve profit”* (Instruction No. 03-2020, 2020, art. 19).

The Algerian legislator distinguished between two forms: **Unrestricted Mudarabah** and **Restricted Mudarabah**.

#### a) Unrestricted Mudarabah

This type is an open arrangement in which the bank imposes no restrictions on the Mudarib, granting him full freedom in the conduct of the investment activity. He operates according to his own discretion without returning to the Rabb al-Mal, except at the end of the investment period (Saif, 2009, p. 6).

Instruction No. 03-2020 describes it as: *“Unrestricted Mudarabah is when the bank or financial institution delegates to the contractor the management of the investment operations”* (Instruction No. 03-2020, 2020, art. 23/1).

#### b) Restricted Mudarabah

In this arrangement, the bank stipulates specific conditions or limitations upon the Mudarib in the exercise of his investment activity. Such conditions may pertain to the sector of activity, geographical location, time frame, or the parties involved. Instruction No. 03-2020 provides that the bank or financial institution may impose such restrictions, which may relate to investment sectors, methods, or any other considerations it deems appropriate (Instruction No. 03-2020, 2020, art. 23/2). Consequently, the funds allocated for this purpose are tied to a particular time, place, or project (Sebti & Sebti, 2022, p. 30).

#### 2.2.3.2: Musharakah Contract

Musharakah in banking constitutes a financing and investment formula that conforms to the principles of Islamic law. It is considered one of the most significant activities of Islamic banks, indeed a hallmark distinguishing them from conventional interest-based banks (Bemadi, 2012, p. 39).. It is for this reason that the Islamic bank is often described as essentially a “partnership bank” (Fakhri Saif, 2009, p. 7)

Musharakah resembles Mudarabah but differs in that the capital is provided by both parties. Article 14 of Instruction No. 03-2020 defines it as: *“A contract between a bank or financial institution and one or more parties, aimed at participating in the capital of an enterprise, a project, or commercial operations, in order to generate profit.”*

Musharakah contracts are divided into two categories: **Fixed (permanent) Musharakah** and **Diminishing Musharakah**.

#### a) Fixed Musharakah (Permanent Partnership)

Also referred to as “perpetual Musharakah,” this is defined in Article 17 of Instruction No. 03-2020 as follows: *“Musharakah is considered fixed when the share of the bank or financial institution in the project’s capital remains constant during the participation period as specified in the contract.”* This type of partnership is typically established when the bank contributes a fixed portion of funds to the capital of an existing company, or provides financing for capital increase, or takes part in forming the capital of a new company. The parties remain partners until the expiration of the contract (Mehdi, 2022, p. 362).

#### b) Diminishing Musharakah (Musharakah Muntahia Bittamleek)

Also known as partnership ending with ownership, the Algerian legislator defined it thus: *“Musharakah is considered diminishing when the bank or financial institution undertakes, through a unilateral commitment separate from the Musharakah contract, to transfer its share in the capital to one or more partners, in accordance with the agreed exit procedures”* (Instruction No. 03-2020, 2020, art. 17).

Within this framework, the Islamic bank pledges separately to transfer its share to the partner, under the condition that the partner repays the bank’s share either in a lump sum or through a series of installments. In exchange, the bank transfers its share to the partner, who ultimately becomes the sole owner of the company (Mahmoud, 2007, p. 35). Alternatively, ownership may pass gradually through increasing the partner’s share of the capital, either by purchase or by partial waiver of profits under a separate agreement with the bank (Redif & Lebiq, 2018, p. 10).

### Conclusion:

Islamic banking has distinguished itself from other conventional banks, as it has managed to fulfill the roles of commercial banks, business banks, and investment banks, all in accordance with the provisions of Islamic Shariah, with the aim of supporting and achieving local development through the various financing mechanisms introduced by Islamic banking.

In its quest for sources to finance various projects aimed at comprehensive local development covering all parts of the country, and within the framework of banking diversity, the Bank of Algeria Decree 20-02 came to relieve the burden on all national stakeholders dealing with banks or financial institutions, by opening Islamic windows within conventional banks, where each investment sector has an appropriate Islamic financing instrument suited to it.

From the aforementioned, the following conclusions can be drawn:

- Islamic banks have established systems for investment operations across all economic sectors, through Islamic investment instruments such as *Murabaha*, *Musharaka*, *Mudaraba*, and so on.
- The instruments and financing methods in Islamic banks are among the most suitable for promoting development, with Islamic banks playing the primary role, rather than merely a secondary or marginal one, in fostering and achieving development within our Islamic societies.
- Islamic banking in Algeria faces obstacles and suffers from numerous shortcomings and disruptions, due to the rapid pace of scientific and technological transformations, which have impeded its ability to perform its developmental function properly.

Nevertheless, Islamic banking can be advanced and transformed into a genuine banking apparatus striving to achieve economic and social development, through the following proposals:

- Revisiting the obstacles facing Islamic banking in the field of investment and attempting to reduce or eliminate them, particularly those arising from Decree 20-02 and Instruction 03-2020.
- Developing Islamic financing instruments and organizing investment and banking services in a manner that ensures their role in promoting the national economy, such as *Muzara'a*, *Musaqa*, and *Qard Hasan*, among other Islamic instruments not explicitly mentioned in Bank of Algeria Decree 20-02.

Allowing for the establishment of specialized Islamic banks, aimed at financing large-scale projects with long-term investment horizons and high costs, which are expected to play a significant role in the process of local development.

### REFERENCES

1. Law No. 90-10, dated 19 Ramadan 1410 AH, corresponding to 14 April 1990, concerning currency and credit. Official Gazette, No. 16, issued on 18 April 1990. (Repealed)
2. Decree No. 18-02, dated 4 November 2018, regulating the practice of banking operations related to participatory banking by banks and financial institutions. Official Gazette, No. 73, issued on 9 December 2018. (Repealed)
3. Decree No. 20-02, dated 15 March 2020, defining banking operations related to Islamic banking and the rules for their practice by banks and financial institutions. Official Gazette, No. 16, issued on 24 March 2020.
4. Instruction No. 03-2020, dated 2 April 2020, defining products related to Islamic banking and specifying the procedures and technical characteristics for their implementation by banks and financial institutions. Available at: <https://www.bank-of-algeria.dz/pdf/instructions2020ar.pdf>
5. Law No. 23-09, dated 21 June 2023, concerning monetary and banking law. Official Gazette, No. 43, issued on 27 June 2023.
6. Abu Zaid, A. A. (2004). *Bay' al-Murabaha wa Tatbiqatuhu al-Mu'asira fi al-Masaref al-Islamiyya*. Damascus: Dar Al-Fikr.
7. Al-Zuhaili, W. (2002). *Al-Mu'amalat al-Maliyya al-Mu'asira*. Damascus: Dar Al-Fikr.
8. Al-Aifa, A. H. (2021). *Al-Masaref al-Islamiyya al-Mu'asira*. Algiers: Al-Badr Al-Satea for Printing and Publishing.
9. Hammoud, F. S. H., Saddiq, M. H., & Al-Hilli, M. H. (2019). *Al-Masaref al-Islamiyya: Mafahim Asasiya wa Halat Tatbiqiyya*. Iraq: Dar Baghdadi for Printing, Publishing, and Distribution.
10. Khoja, I. D. (n.d.). *Shahadat al-Masrif al-Islami al-Mu'tamad*. Bahrain: General Council of Islamic Banks and Financial Institutions.
11. Abdelkarim, A. A. M. (2007). *Al-Shamil fi Mu'amalat wa 'Amaliyyat al-Masaref al-Islamiyya* (2nd ed.). Jordan: Dar Al-Nafa'is.
12. Mahmoud, M. M. (2009). *Asas al-Tamwil al-Masrifi al-Islami Bayn al-Mukhatara wa Usul al-Saytara*. Egypt: Al-Maktaba Al-'Asriya for Publishing and Distribution.

13. Ahmed, A. A. Z. (2016). *Islamic financing instruments and their role in reducing financial risks in Sudanese banks listed on the Khartoum Stock Exchange* (PhD dissertation in Accounting and Finance). Graduate School, Sudan University of Science and Technology.
14. Mansouri, K. (2017–2018). *Risk management of financing instruments in Islamic banks: A case study of Qatari and Jordanian Islamic banks during 2005–2013* (PhD dissertation in Economics). Faculty of Economic, Commercial, and Management Sciences, University of Mohamed Khider, Biskra.
15. Bamadi, A. L. (2012). *The developmental role of Islamic banks (Al-Baraka Bank in Sudan and Algeria): A case study 2000–2010* (Master's thesis). Department of Economics, Faculty of Economics and Political Science, Omdurman Islamic University.
16. Hisham, S. F. (2009). *Islamic financing instruments* (Master's thesis in Financial and Banking Sciences). Faculty of Economics, University of Aleppo.
17. Ahmed, D. S. (1999). *Al-Ijarah Al-Muntahiyah bil-Tamlik – Diminishing Partnership: One of the Islamic Financial Instruments for Project Financing*. Journal of the Saleh Abdullah Kamel Center for Islamic Economics, No. 9, Al-Azhar University, Egypt.
18. Ahmed, S. S., & Salam, M. F. (2012). *The role of Islamic banks in comprehensive development*. Journal of the Faculty of Arts, University of Baghdad, No. 99, pp. 585–610.
19. Jaafar, H. M. (2017). *Islamic financing windows in conventional banks as an approach to develop Islamic banking in Algeria*. Journal of Algerian Institutional Performance, University of Ouargla, No. 12, pp. 91–112.
20. Dahak, A. N. (2022). *The problem of establishing Islamic banking windows in Algerian banks: Between banking reality and Sharia standard*. North African Economics Journal, University of Chlef, Vol. 18, No. 28.
21. Rdaif, M., & Labique, M. B. (2018). *Financing LBO technology using Islamic financial instruments*. Economic Notebooks Journal, University of Djelfa, Vol. 10, No. 2.
22. Zaqib, K., & Mahdadi, L. (2017). *The role of Islamic banking in achieving local development: A theoretical analytical study*. Al-Hikma Journal for Islamic Studies, Al-Hikma Center, Algeria, Vol. 4, No. 1, pp. 98–115.
23. Saleh, M., & Ma'arafi, F. (2014). *Sharia controls for Islamic transaction windows in conventional banks: The role of the Sharia Advisory Committee in Bank Biometra*. Journal of Human Sciences, University of Biskra, No. 34/35, pp. 149–163.
24. Masoudi, K., & Bouamer, A. (2022). *Investment mechanisms in infrastructure through public-private partnership: Islamic finance as a proposed model*. Journal of Contemporary Economic Research, University of Laghouat, Vol. 5, No. 1, pp. 597–614.
25. Mahdawi, H. (2021). *Islamic banking in Algeria from a legal perspective*. Journal of Legal and Political Thought, University of Laghouat, Vol. 5, No. 2, pp. 137–159.
26. Mahdi, M. (n.d.). *The role of Islamic banks in financing small and medium enterprises: A case study of Al-Baraka Bank Algeria*. Journal of the Saleh Abdullah Kamel Center for Islamic Economics, University of Al-Azhar, No. 39.
27. Nasser, S., & Bouchrma, A. H. (2009). *Requirements of Islamic banking in Algeria*. Al-Baheth Journal, University of Ouargla, Vol. 7, No. 7, pp. 305–314.
28. Abdel Fattah, T., & Cherraf, B. (2006, November 21–22). *The role of financial institutions in economic development*. International Conference on Financing Policies and their Impact on Economies and Institutions, University of Biskra, Algeria.
29. Abdel Latif, M., & Abdelrahman, B. (2011, February 23–24). *Launching development between positivist theories and the Islamic economic method*. International Conference on Islamic Economics: Reality and Future Challenges, University of Ghardaia, Algeria.
30. Sebti, W., & Sebti, L. (2023, June 20). *Decision-making in Islamic bank investments*. Articles on Islamic Banking. Retrieved from [www.giem.info](http://www.giem.info)