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Between Promise and Practice: A Critical Analysis of Nigeria's Sovereign Sukuk Program for Infrastructure Development

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Abstract

Nigeria's turn to sovereign Sukuk since 2017 responds to a severe infrastructure deficit, chronic fiscal volatility linked to hydrocarbon dependence, and the need to diversify the government's investor base beyond conventional debt. This study critically examines whether the resulting instrument's transactional structure genuinely embodies the foundational tenets of Islamic finance or merely replicates conventional debt under an Islamic label. This scholarly inquiry undertakes a critical doctrinal dissection of the programme, widely touted as a panacea for the nation's infrastructure deficit. The research posits that while the programme's market success evidenced by prodigious oversubscription rates is incontrovertible, its underlying structural fidelity to the foundational tenets of Islamic finance remains profoundly contentious. Employing a rigorous doctrinal methodology, this paper deconstructs the transactional architecture of the Sukuk issuances from 2017 to 2023, with particular scrutiny on the pervasive and doctrinally problematic Purchase Undertaking. The analysis is framed within the dual theoretical prism of Agency Theory and the higher objectives of Islamic law (Maqasid al-Shari'ah). The findings reveal a fundamental dissonance: the Nigerian model, in its current iteration, effectively functions as a sovereign-guaranteed, fixed-return instrument, thereby negating the core Islamic principle of risk-sharing and reducing the underlying asset to mere legal collateral. The paper concludes with an unequivocal assertion: for Nigeria's Sukuk market to achieve not just commercial viability but also religious legitimacy, a paradigm shift towards authentic asset-backed, risk-sharing structures is imperative, demanding immediate regulatory fortification and a reorientation of market practice to align with the ethical imperatives of Maqasid al-Shari'ah.

***Keywords**: Islamic Capital Markets, Nigeria, Risk-Sharing, Sovereign Sukuk.*

INTRODUCTION

The global ascendance of Islamic finance has precipitated the proliferation of sovereign *Sukuk* as a premier instrument for infrastructural development, particularly within resource-rich yet capital-deficient nations such as Nigeria. In principle, *Sukuk* represent a seminal departure from conventional debt instruments; they are not mere IOUs but certificates of undivided beneficial ownership in an underlying asset, usufruct, or service (AAOIFI, 2015;

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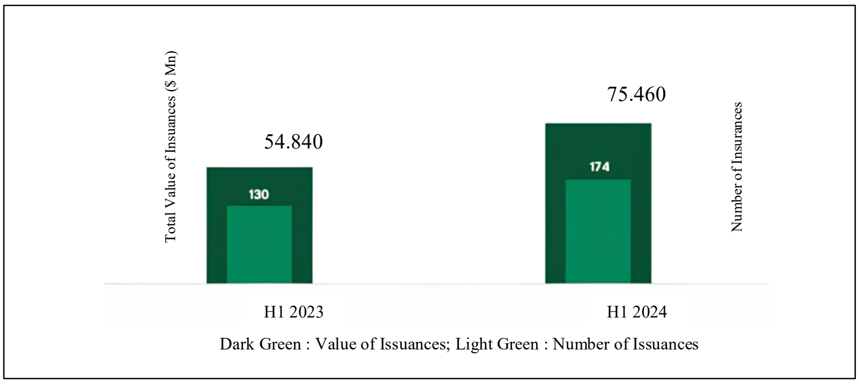
Billah, 2021; Saidu et al., 2021). This asset-backed characteristic is the very bedrock of their Shari'ah permissibility, ostensibly tethering financial returns to real economic activity and fostering a more equitable risk reward paradigm. The rapid expansion of the global Islamic finance industry further underscores the growing strategic importance of sovereign Sukuk. Despite prolonged geopolitical uncertainty and the lingering economic consequences of the COVID-19 pandemic, Islamic finance assets increased from approximately US$3.3 trillion in 2020/2021 to nearly US$4.0 trillion in 2021/2022, representing annual growth of approximately 17 percent. Industry projections further estimate that global Islamic finance assets will reach almost US$6 trillion by 2025/2026, supported by increasing demand for Shari'ah-compliant investment products, digital financial innovation, and sustainable financing instruments. Within this broader expansion, sovereign Sukuk has emerged as one of the fastest-growing segments of Islamic capital markets (Nur, 2024; Osman, 2024; Setiawan & Suwandaru, 2024), increasingly serving as a strategic financing mechanism for governments seeking to fund large-scale infrastructure while simultaneously diversifying their sources of public borrowing.



Source : Bloomberg, Markaz Analysis

Figure 1. Growth of GCC Primary Bonds and Sukuk Issuances during H1 2023-2024

Figure 1 illustrates the continued expansion of the GCC primary bonds and Sukuk market. During the first half of 2024, the total value of bond and Sukuk issuances reached USD 75.46 billion, representing a 38% increase compared to USD 54.84 billion recorded during the same period in 2023. Similarly, the number of issuances increased from 130 to 174 transactions, indicating growing investor confidence in both sovereign and corporate Sukuk markets. This sustained growth reflects the increasing importance of Sukuk as a strategic financing instrument for governments seeking long-term capital while maintaining compliance with Shari'ah principles (Bin-Armia, 2025; Mahadewi, 2024). More importantly, it demonstrates that the global Islamic capital market continues to evolve towards greater maturity, diversification, and resilience despite ongoing macroeconomic uncertainty.

The growing significance of sovereign Sukuk is equally reflected in the global capital market. According to S&P Global Ratings, worldwide Sukuk issuance reached approximately US$174 billion in 2022, increasing substantially from US$148.4 billion recorded in 2020. In parallel, sustainable and green Sukuk have expanded rapidly across several jurisdictions, including Indonesia, Malaysia, Saudi Arabia, the United Arab Emirates, and Bahrain, demonstrating that Sukuk has evolved beyond a niche Islamic financial instrument into a globally recognised vehicle for financing sustainable development. This rapid market expansion, however, has also intensified scholarly debate regarding whether contemporary sovereign Sukuk genuinely preserve the substantive principles of Islamic finance or merely replicate the economic characteristics of conventional sovereign bonds under alternative contractual forms. Against this backdrop of rapid global Sukuk expansion, Nigeria emerged as one of the leading sovereign Sukuk issuers in Sub-Saharan Africa. Nigeria's foray into this domain, culminating in its inaugural sovereign issuance in 2017 (Akinde et al., 2025; Omiunu & Aniyie, 2024), was a strategic, albeit belated, response to a triad of national crises: a cavernous infrastructure chasm, profound fiscal volatility stemming from hydrocarbon dependency, and an urgent imperative to diversify the sovereign debt investor base. The programme’s commercial triumph is readily quantifiable (Autor et al., 2024; Foerster & Spencer, 2023), demonstrated by consistently oversubscribed issuances that have collectively channelled hundreds of billions of Naira into critical road infrastructure. However, this paper contends that a triumphalist narrative focused solely on fiscal metrics is myopic and intellectually deficient. A more penetrating, scholarly interrogation is required one that moves beyond the superficiality of market reception to scrutinize the very soul of these instruments: their structural and doctrinal integrity.

The extant literature on Nigerian *Sukuk* has largely been descriptive, chronicling the historical timeline and celebrating the market's nascence (Abdurraheem & Naim, 2018; Salaudeen, 2021). A glaring lacuna exists, however, in the form of a sustained, critical, and doctrinally grounded exegesis that holds the Nigerian model accountable to the highest standards of Islamic finance theory. This study seeks to fill this void. It problematizes the uncritical adoption of the *Ijarah* structure augmented by a Purchase Undertaking, arguing that this mechanism, while commercially expedient, fundamentally compromises the Islamic tenet of risk-sharing and creates a schism between the form and substance of the transaction.

Consequently, this research is propelled by the following objectives: This gap has become more consequential considering recent regulatory developments. In November 2023 the AAOIFI released for public consultation an exposure draft of Sharia’s Standard No. 62, which, if adopted as anticipated in 2025, would require a genuine transfer of legal ownership and risk in the underlying *Sukuk* assets to investors a requirement that bears directly on the doctrinal adequacy of Purchase Undertaking-based structures such as Nigeria's (AAOIFI, 2023). At the domestic level, emerging Nigeria-focused scholarship has begun to interrogate investor behaviour and market development in the country's *Sukuk* space(Akinde et al., 2025), yet a doctrinal, Maqasid-centred critique of the structuring itself remains conspicuously absent. This study addresses that gap directly.

Consequently, this research is propelled by three interrelated objectives: to deconstruct the legal and financial architecture of Nigeria's sovereign *Sukuk*, exposing the mechanistic role of the Purchase Undertaking; to critically evaluate this architecture against the non-negotiable principles of Islamic finance, particularly the prohibition of *Riba* and the imperative of risk-sharing, as viewed through the teleological lens of *Maqasid al-Shari'ah*; and to proffer a normative framework for structural and regulatory reforms that can bridge the existing gulf between fiscal pragmatism and religious authenticity. To deconstruct the legal and financial architecture of Nigeria’s sovereign *Sukuk*, exposing the mechanistic role of the Purchase Undertaking. To critically evaluate this architecture against the non-negotiable principles of Islamic finance, particularly the prohibition of *Riba* and the imperative of risk-sharing, as viewed through the teleological lens of *Maqasid al-Shari'ah*. To proffer a normative framework for structural and regulatory reforms that can bridge the existing gulf between fiscal pragmatism and religious authenticity.

This inquiry, therefore, is not merely an academic exercise; it is a necessary intervention aimed at safeguarding the future of Islamic finance in Nigeria by ensuring its development is both commercially robust and doctrinally sound.

LITERATURE REVIEW

A robust scholarly analysis must be anchored in a clear theoretical framework (Barnes et al., 2023; Luft et al., 2022). This paper situates its critique at the intersection of conventional financial theory and the ontological foundations of Islamic economics.

From a conventional standpoint, Agency Theory(Jensen & Meckling, 2019; Melzatia et al., 2019; Santoso et al., 2022, 2023) provides a pertinent, albeit incomplete, lens. The theory elucidates the inherent conflicts of interest between principals (investors) and agents (managers). In the context of *Sukuk*, the complex web of Special Purpose Vehicles (SPVs), trustees, and servicing agents can be interpreted as a mechanism to mitigate agency costs and align interests. The sovereign's credit enhancement via the Purchase Undertaking can be seen as a drastic, nevertheless effective, means of reducing the agent's (issuer's) risk, thereby reassuring the principals (*Sukuk* holders). However, this theory fails to account for the ethical and religious dimensions that are paramount in Islamic finance.

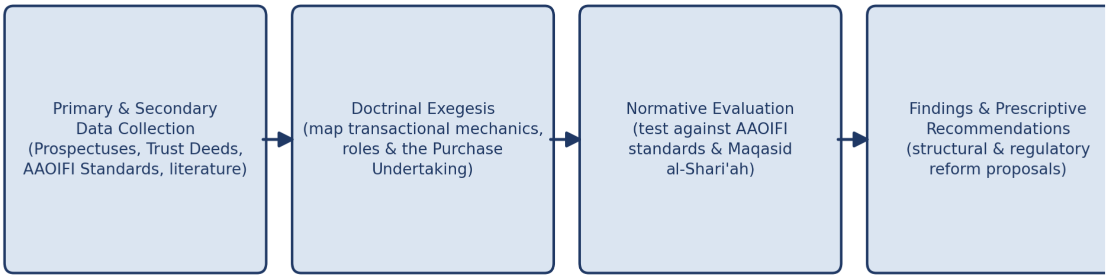
The core of this analysis is therefore rooted in Islamic Financial Theory, which is predicated on the axiomatic prohibition of *Riba* (usury/interest), *Gharar* (unreasonable uncertainty), Rishwah (financial corruption), Jahl (Profiting from the ignorance of others), Maysir (Gambling-like transactions akin to zero-sum games) and the promotion of participatory finance such as *Mudarabah* (profit-sharing) and *Musharakah* (joint venture). (Agustin et al., 2021; Alam, 2017; Saidu, 2020). An authentic *Sukuk* must be a certificate of ownership in a real asset, where returns are generated from the asset's actual performance or usufruct. This is not a mere technicality; it is a philosophical commitment to linking finance to the real economy, thereby promoting tangible value creation, economic justice, and the prevention of exploitative financial practices.

This philosophical commitment finds its ultimate expression in the framework of *Maqasid al-Shari'ah* (the objectives of Islamic law). The *Maqasid*, as classically articulated, aim to protect and promote five essential values: religion, life, intellect, lineage, and wealth (*Din, Nafs, 'Aql, Nasl, Mal*). The protection of wealth (*Hifz al-Mal*) is not merely its preservation but its productive and equitable circulation within society (Islam, 2018). A financial system compliant with *Maqasid al-Shari'ah* must, therefore, transcend the avoidance of prohibition; it must actively foster societal welfare (*Maslahah*), justice (*Adl*), and the removal of hardship (*Raf' al-Haraj*). A sovereign *Sukuk* used to build public infrastructure holds the potential to fulfil these objectives magnificently (Augustine, 2024; Naz et al., 2025; Onoh (Ph.D), 2025). However, if its internal structure relies on mechanisms that mimic interest-based debt and negate risk-sharing, it fails to achieve the *Maqasid* in its totality, compromising its ethical legitimacy for the sake of operational convenience. It is imperative to note that beyond the highfalutin presentation of the Maqasid al-Shari'ah, the ultimate "maqsad" of the Islamic Shari'ah is "obedience to Allah" which a Sukuk must be seen to adhere to.

Previous research has extensively documented the global *Sukuk* phenomenon, with Malaysia often cited as a paradigmatic success story of sovereign-led market development (Ahmad, 2020; Aman et al., 2022; Shahimi et al., 2022). Studies on the GCC region highlight the role of *Sukuk* in economic diversification (Baita et al., 2023; Gedikli et al., 2020). The Nigerian narrative, as previously stated, has been predominantly descriptive. This paper builds upon this foundation but takes a decisive step further by applying a *Maqasid*-centric, critical doctrinal lens to reveal the structural contradictions within the Nigerian model, a level of analysis that has been conspicuously absent in the literature to date.

METHOD

This research is firmly grounded in the doctrinal legal research tradition. This methodology is predicated on the systematic and analytical exposition of legal rules, principles, and doctrines as found in primary sources(Bhaghamma, 2023; Hutchinson & Duncan, 2012; MD, 2019). It is the principal method for legal scholarship, concerned with what the law *is* and, critically, what it *ought to be*.



Source : Author

Figure 2. Research Flow Of The Doctrinal Analysis.

Figure 2 describe that the primary data for this doctrinal analysis comprises the official transactional documents of Nigeria's sovereign *Sukuk* programme. These were meticulously examined and include:

- The Prospectuses and Offering Circulars for the FGN Sovereign *Sukuk* issuances (2017, 2018, 2020, 2021, 2022, 2023).
- The underlying legal agreements referenced therein, including Trust Deeds, Purchase and Sale Undertakings, Ijarah (Lease) Agreements, and Agency Agreements.

Secondary data was synthesized from a comprehensive review of authoritative texts, peer-reviewed journal articles, and pronouncements from standard-setting bodies like the Accounting and Auditing Organization for Islamic Financial Institutions (AAOIFI). The selection prioritized scholarly works from the last decade to ensure contemporaneity.

The analytical process was twofold, involving both exegetical and normative dimensions: Doctrinal Exegesis: This involved a precise deconstruction of the transactional mechanics as laid out in the primary documents. The cash flows, roles and obligations of each party (the SPV, the DMO, the Federal Ministry of Works, the investors), and the function of specific clauses most notably the Purchase Undertaking were mapped and critically examined. Normative Evaluation: The identified structures were then subjected to rigorous evaluation against the benchmarks of established Islamic finance principles (Agustin et al., 2021; Alam, 2017; Baita et al., 2023; Saidu, 2020, 2024) (Zulkhibri et al., 2016)and the AAOIFI Shari'ah Standards(AAOIFI, 2015; El-Halaby et al., 2021; Hassan & Raza Rabbani, 2023). This evaluation was not merely technical but was framed within the broader, teleological objectives of *Maqasid al-Shari'ah*. The analysis asked not only "Is this structure formally compliant?" but, more importantly, "Does this structure fulfil the spirit and higher objectives of Islamic finance?". This methodological rigour ensures that the conclusions drawn are not speculative but are firmly rooted in a critical reading of the law and the governing principles of the field.

RESULTS AND DISCUSSION

Result

Commercial Development of Nigeria's Sovereign Sukuk Programme

The examination of the official Federal Government of Nigeria (FGN) sovereign Sukuk prospectuses issued between 2017 and 2023 demonstrates that Nigeria's sovereign Sukuk programme has achieved remarkable commercial success since its inaugural issuance in 2017. This finding is consistent with previous studies that identify sovereign Sukuk as an increasingly important instrument for mobilising long-term capital, broadening the government's investor base, and reducing dependence on conventional debt financing in emerging economies (Abdurraheem & Naim, 2018; Aman et al., 2022; Baita et al., 2023). Across successive issuances, the programme consistently attracted substantial investor demand, with several offerings recording oversubscription rates exceeding 400 percent, reflecting a high level of market confidence in the government's non-interest financing strategy (Akinde et al., 2025; Omiunu & Aniyie, 2024).

The analysed prospectuses further demonstrate that Sukuk proceeds have been allocated primarily to the construction and rehabilitation of strategic federal road corridors across Nigeria. These findings corroborate previous scholarship suggesting that sovereign Sukuk has become an effective financing mechanism for addressing infrastructure deficits while supporting broader economic development objectives in Sub-Saharan Africa (Augustine, 2024; Onoh (Ph.D), 2025; Salaudeen, 2021). Consequently, under conditions of declining hydrocarbon revenues and persistent fiscal constraints, the Nigerian sovereign Sukuk programme has fulfilled its immediate public financing objectives by providing an alternative source of infrastructure funding while simultaneously promoting fiscal diversification (Akinde et al., 2025; Baita et al., 2023).

Doctrinal Exegesis of the Transactional Structure

The doctrinal examination of the official transaction documents reveals a remarkable degree of structural consistency across all sovereign Sukuk issuances. Every issuance adopts the Sukuk *al-Ijarah Mawsufa fi al-Dhimmah* structure through a government-owned Special Purpose Vehicle (SPV), indicating the continued reliance on a single contractual model throughout the programme. This structural consistency reflects the conventional legal architecture commonly employed in contemporary sovereign Sukuk markets, where SPVs function as bankruptcy-remote entities responsible for issuing certificates and holding beneficial interests on behalf of investors (AAOIFI, 2015; Billah, 2021).

The transactional sequence follows an identical legal pattern throughout all issuances. The Federal Government transfers the rights to develop designated road infrastructure projects to the SPV, which subsequently raises capital through Sukuk certificates subscribed by investors. Construction is financed using the Sukuk proceeds before the completed infrastructure assets are leased back to the Federal Government under an Ijarah agreement. Periodic lease rentals generated under the lease agreement constitute the returns distributed to Sukuk holders. From a legal perspective, this sequence reflects the asset-based financing model promoted within the AAOIFI Shari'ah Standards, where ownership of identifiable assets and usufruct forms the legal foundation of Sukuk transactions (AAOIFI, 2015; Billah, 2021). Similar contractual arrangements have also been recognised in previous studies as mechanisms intended to connect Islamic capital market instruments with real economic activities while distinguishing Sukuk from conventional interest-bearing bonds (Alam, 2017; Saidu, 2020).

The examination of the legal documents also identifies several recurring contractual instruments that collectively constitute the legal foundation of the Nigerian sovereign Sukuk programme. These include the Trust Deed, Agency Agreement, Ijarah Agreement, Purchase and Sale Undertaking, and Offering Circular, each of which performs a distinct yet interdependent function within the overall contractual architecture. Rather than operating as isolated legal documents, these agreements function as an integrated governance framework that regulates the creation, management, and termination of the Sukuk transaction while defining the respective rights, obligations, and liabilities of all participating parties. The repeated use of these contractual instruments across successive sovereign Sukuk issuances further demonstrates the adoption of a standardized legal structure designed to ensure legal certainty, operational consistency, and compliance with both domestic securities regulations and internationally recognised Islamic finance standards.

Collectively, these legal instruments establish the contractual framework governing ownership rights, agency relationships, lease arrangements, asset transfers, payment obligations, and investors' legal interests throughout the entire lifecycle of each sovereign Sukuk issuance. The Trust Deed establishes the fiduciary relationship between the trustee and Sukuk holders, ensuring that investors' interests are represented and protected in accordance with the contractual terms. The Agency Agreement appoints designated entities to administer the underlying assets and execute various operational responsibilities on behalf of the Special Purpose Vehicle (SPV), thereby facilitating efficient management while preserving the legal separation between beneficial ownership and day-to-day administration. Meanwhile, the Ijarah Agreement provides the contractual basis for the lease of the infrastructure assets and specifies the rental payments that constitute the primary source of periodic distributions to investors. Complementing these arrangements, the Purchase and Sale Undertaking governs the transfer and eventual repurchase of the underlying assets at maturity, thereby providing legal certainty regarding the conclusion of the transaction. Finally, the Offering Circular consolidates the essential commercial, financial, legal, and Shari'ah-related information required by prospective investors, promoting transparency and enabling informed investment decisions.

Taken together, these contractual arrangements establish a sophisticated governance structure that clearly allocates decision-making authority, operational responsibilities, ownership interests, and legal accountability among the Federal Government of Nigeria, the Special Purpose Vehicle (SPV), trustees, transaction agents, and Sukuk holders. The contractual architecture therefore extends beyond a purely financing function by creating an institutional framework through which fiduciary duties, contractual obligations, and mechanisms for investor protection are formally distributed across multiple actors. This multi-layered governance arrangement is intended to minimise operational uncertainty, reduce contractual disputes, and strengthen market confidence by clearly defining the legal responsibilities associated with each stage of the Sukuk transaction.

The observed contractual architecture further illustrates the complex agency relationships among the Federal Government, the SPV, trustees, and Sukuk holders, thereby reflecting many of the governance characteristics discussed within Agency Theory and contemporary Sukuk governance literature. From the perspective of Agency Theory, the SPV and trustees act as intermediaries entrusted with safeguarding investors' interests while simultaneously facilitating the implementation of government financing objectives. This separation of ownership, management, and control inevitably generates potential agency problems, including information asymmetry, conflicts of interest, and monitoring challenges, thereby necessitating robust contractual safeguards and governance mechanisms. Consequently, the legal documentation serves not only as a means of structuring the financial transaction but also as an essential instrument for mitigating agency conflicts through clearly defined fiduciary responsibilities, reporting obligations, contractual enforcement provisions, and accountability mechanisms. These governance characteristics are consistent with the broader literature on sovereign Sukuk, which emphasises that effective contractual design is fundamental to balancing investor protection, issuer flexibility, Shari'ah compliance, and overall market credibility (Jensen & Meckling, 2019; Melzatia et al., 2019; Santoso et al., 2022, 2023).

The Central Role of the Purchase Undertaking

Among all contractual documents examined, the Purchase Undertaking emerges as the defining legal mechanism within the Nigerian sovereign Sukuk structure. The analysed agreements consistently provide an irrevocable undertaking by the Federal Government to repurchase the Sukuk assets at a predetermined value upon maturity or the occurrence of specified dissolution events. Similar contractual undertakings have become common features within contemporary sovereign Sukuk structures because they provide greater certainty regarding investors' capital while reducing perceived investment risks (AAOIFI, 2015; El-Halaby et al., 2021; Hassan & Raza Rabbani, 2023).

The doctrinal analysis further demonstrates that the Purchase Undertaking effectively protects investors' principal regardless of fluctuations in the value or performance of the underlying infrastructure assets. Consequently, investors' economic exposure is directed primarily towards the sovereign's creditworthiness rather than the commercial risks associated with the leased assets themselves. While this contractual arrangement undoubtedly contributes to investor confidence and marketability, it simultaneously alters the practical allocation of commercial risk envisaged within classical Islamic financial contracts (Billah, 2021; Hassan & Raza Rabbani, 2023).

Accordingly, although the underlying infrastructure assets remain legally embedded within the transaction, their practical function is largely confined to satisfying the formal legal requirements of an asset-based Sukuk structure. From a legal perspective, these assets are indispensable because they provide the identifiable underlying assets necessary to establish beneficial ownership and distinguish the Sukuk from conventional interest-bearing debt instruments. However, the empirical evidence suggests that their economic significance is considerably more limited than their legal significance. In practice, the infrastructure assets neither constitute the principal source of investor returns nor expose investors to meaningful commercial risks associated with fluctuations in asset performance, operational efficiency, or market valuation. Instead, the assets primarily fulfil a documentary and structural role by ensuring that the transaction complies with the formal contractual requirements prescribed under contemporary Islamic finance standards while leaving the underlying economic substance substantially unchanged.

Economically, repayment depends predominantly upon the sovereign undertaking rather than the productive performance, cash-generating capacity, or market value of the underlying infrastructure assets. Investors therefore rely principally on the creditworthiness and fiscal capacity of the Federal Government of Nigeria to meet its periodic rental obligations and eventual purchase undertaking at maturity. As a result, the financial outcome of the investment remains largely insulated from the actual economic performance of the financed assets, thereby significantly reducing the degree of commercial uncertainty that would ordinarily accompany genuine asset ownership. Even if the infrastructure projects fail to generate the anticipated economic returns or experience operational challenges, investors' contractual entitlement to payment remains substantially protected through sovereign commitments rather than through the intrinsic profitability of the assets themselves.

This allocation of rights and obligations illustrates the defining characteristic of many contemporary asset-based Sukuk structures, in which the legal transfer of beneficial ownership does not necessarily result in the corresponding transfer of substantive economic risk. While the contractual documentation formally establishes an ownership relationship over identifiable assets, the practical allocation of commercial risk remains concentrated upon the sovereign issuer through legally enforceable undertakings and contractual guarantees. Consequently, the infrastructure assets perform a predominantly legal and symbolic function, providing the contractual foundation required for Shari'ah compliance without fully operating as the economic engine that determines investment returns or allocates business risk between the contracting parties.

The documentary evidence therefore indicates that the infrastructure assets operate primarily as legal collateral supporting the contractual framework rather than serving as the genuine source of investment risk and financial return envisaged within classical Islamic finance. This distinction between legal form and economic substance is particularly significant from the perspective of Islamic commercial jurisprudence, which places equal importance on contractual authenticity and the actual distribution of ownership rights, liabilities, and commercial risk. Consequently, although the transaction satisfies the formal legal characteristics of an asset-based Sukuk, its economic structure continues to resemble a credit-based financing arrangement in which sovereign credit support, rather than asset performance, ultimately determines the security of investor returns (AAOIFI, 2015; El-Halaby et al., 2021; Saidu et al., 2021).

Discussion

Between Commercial Success and Doctrinal Authenticity

The findings reveal the central paradox underpinning Nigeria's sovereign Sukuk programme. On one hand, the programme has demonstrably succeeded as an innovative public financing mechanism capable of attracting substantial investor participation, mobilising long-term capital, and financing strategic national infrastructure. These findings are broadly consistent with previous studies that portray sovereign Sukuk as an effective instrument for infrastructure financing, fiscal diversification, and Islamic capital market development in both Nigeria and other emerging Islamic finance jurisdictions (Abdurraheem & Naim, 2018; Akinde et al., 2025; Aman et al., 2022; Baita et al., 2023). From a commercial perspective, therefore, the Nigerian programme represents a notable achievement in expanding alternative public financing beyond conventional sovereign borrowing.

However, the doctrinal examination reveals that commercial success alone cannot be equated with Shari'ah legitimacy. This finding directly addresses the research gap identified in the Introduction. Previous Nigerian studies have predominantly assessed Sukuk using financial indicators such as issuance performance, investor participation, and market development (Akinde et al., 2025; Omiunu & Aniyie, 2024; Salaudeen, 2021). By contrast, this study demonstrates that the legitimacy of an Islamic financial instrument depends not merely on its market acceptance but on whether its contractual structure genuinely embodies the substantive principles upon which Islamic finance is founded (Alam, 2017; Billah, 2021; Saidu, 2020).

From the perspective of Agency Theory, the extensive use of contractual safeguards such as the Purchase Undertaking may be interpreted as a mechanism designed to minimise agency conflicts between sovereign issuers and investors by reducing uncertainty and strengthening investor confidence (Jensen & Meckling, 2019; Melzatia et al., 2019; Santoso et al., 2022). Nevertheless, Islamic finance extends beyond the efficiency concerns of Agency Theory by requiring that contractual arrangements also satisfy ethical and religious principles. Consequently, while the Nigerian sovereign Sukuk programme has undoubtedly succeeded in mitigating investment risk and attracting capital, its continued reliance on capital-protecting mechanisms places the programme at what may appropriately be described as a doctrinal crossroads, where commercial pragmatism increasingly conflicts with the substantive ideals of Islamic finance.

Purchase Undertaking and the Form–Substance Divide

The doctrinal exegesis demonstrates that the Purchase Undertaking fundamentally reshapes the economic substance of the Nigerian sovereign Sukuk transaction. Islamic financial theory maintains that entitlement to financial return must be accompanied by genuine exposure to entrepreneurial or asset-related risk, thereby distinguishing Islamic finance from interest-based lending (Agustin et al., 2021; Alam, 2017; Saidu, 2020). However, by guaranteeing the repurchase of the underlying assets at a predetermined value, the Purchase Undertaking substantially weakens this relationship and reallocates commercial risk almost entirely to the sovereign issuer.

Consequently, although investors formally acquire beneficial ownership interests in the underlying infrastructure assets, both the repayment of principal and the expected financial return remain overwhelmingly dependent upon the sovereign undertaking rather than upon the actual economic performance of those assets. The resulting transaction therefore produces an economic outcome that closely resembles a sovereign-guaranteed debt instrument despite maintaining the legal form of an Ijarah-based Sukuk. This illustrates the distinction between legal form and economic substance, a recurring concern within contemporary Islamic finance scholarship (Billah, 2021; El-Halaby et al., 2021).

The present findings are also consistent with AAOIFI Shari'ah Standard No. 17, which cautions against contractual arrangements that effectively guarantee investors' capital because such guarantees undermine the genuine transfer of ownership risks expected in Sukuk transactions (AAOIFI, 2015). Similar concerns have been raised by (Hassan & Raza Rabbani, 2023), who argue that robust Shari'ah governance requires greater emphasis on substantive compliance rather than formal legal structuring. Likewise, (Saidu et al., 2021) argue that the widespread use of legally engineered contractual devices (*hiyal*) risks reducing Islamic finance to contractual mimicry rather than authentic Shari'ah compliance. Their argument is further reinforced by the earlier criticisms of Wilson (2015), both of whom warn that excessive reliance on capital-guaranteeing mechanisms gradually erodes the philosophical distinction between Sukuk and conventional bonds.

Furthermore, the documentary evidence demonstrates that the underlying infrastructure assets increasingly function as legal collateral rather than as the genuine source of investment risk and financial return. This observation acquires even greater significance in light of the emerging AAOIFI Exposure Draft of Shari'ah Standard No. 62, which proposes stronger requirements concerning genuine ownership transfer and investor exposure to commercial risk. As argued by (Nawaz, 2025), future implementation of this standard will require careful regulatory transition, particularly in jurisdictions where sovereign Sukuk structures remain heavily dependent upon Purchase Undertakings. The Nigerian experience therefore illustrates the growing divergence between existing market practice and the evolving direction of international Islamic financial regulation.

Evaluating the Nigerian Sukuk through Maqasid al-Shari'ah

The dual analytical framework adopted in this study permits the Nigerian sovereign Sukuk programme to be evaluated not only against formal legal requirements but also against the broader objectives of Maqasid al-Shari'ah. Within Islamic legal philosophy, compliance extends beyond contractual legality to include the achievement of justice, public welfare (*maslahah*), and the equitable circulation of wealth (*hifz al-mal*) (Islam, 2018; Saidu, 2020).

From the perspective of public welfare, the findings demonstrate that the Nigerian sovereign Sukuk programme has generated considerable socio-economic benefits through the financing of strategic road infrastructure, facilitating economic activity, improving connectivity, and supporting national development. These findings are consistent with previous studies that identify sovereign Sukuk as an important instrument for sustainable infrastructure financing and inclusive economic development within both Muslim-majority and developing economies (Augustine, 2024; Naz et al., 2025; Onoh, 2025). At this macroeconomic level, the programme clearly advances the *Maqasid* objective of preserving and developing wealth for the benefit of society.

Nevertheless, Maqasid al-Shari'ah requires that legitimate economic objectives be pursued through equally legitimate contractual means. Within Islamic commercial jurisprudence, the permissibility of an economic transaction is not determined solely by the beneficial outcomes (Aziz et al., 2026; Sutisna et al., 2023) it produces but also by the integrity of the contractual structure through which those outcomes are achieved. Consequently, the pursuit of public welfare (*maslahah*) must be accompanied by contractual arrangements that embody the foundational principles of justice (*adl*), transparency, accountability, and equitable distribution of rights and obligations among all contracting parties. In the case of the Nigerian sovereign Sukuk, the concentration of commercial risk upon the sovereign while simultaneously providing investors with highly predictable returns weakens the ethical relationship between ownership, responsibility, and reward that distinguishes Islamic finance from conventional debt-based financing. Rather than facilitating a genuine partnership in which both risks and rewards are proportionately shared, the contractual arrangement tends to replicate the economic characteristics of fixed-income instruments by substantially insulating investors from commercial uncertainty. Such a structure diminishes the practical realisation of the Shari'ah principles of al-ghunm bi al-ghurm (entitlement to gain is contingent upon bearing risk) and al-kharaj bi al-daman (the right to profit is inseparable from liability), both of which constitute essential foundations of Islamic commercial law.

Consequently, although the programme succeeds in delivering significant developmental benefits through the financing of roads, transportation networks, and other public infrastructure that contribute directly to national economic growth and social welfare, it only partially fulfils the broader ethical aspirations of Islamic finance concerning justice (*adl*), accountability, transparency, and authentic risk-sharing (Agustin et al., 2021; Alam, 2017; Saidu, 2020). The achievement of substantial socioeconomic outcomes therefore cannot, from a Maqasid perspective, be regarded as sufficient in itself to establish full Shari'ah compliance if the underlying contractual mechanisms remain insufficiently consistent with the normative ideals of Islamic commercial jurisprudence. This distinction highlights the important difference between achieving beneficial economic consequences and maintaining complete fidelity to the ethical philosophy that underpins Islamic finance.

Accordingly, the Nigerian sovereign Sukuk demonstrates a dual character. On the one hand, it possesses strong developmental legitimacy because it has contributed meaningfully to addressing Nigeria's infrastructure deficit, enhancing public welfare, and supporting long-term national development objectives. On the other hand, it exhibits comparatively weaker transactional legitimacy because its contractual architecture continues to rely substantially upon mechanisms designed to minimise commercial risk for investors, thereby limiting the practical implementation of genuine risk-sharing principles envisioned by the Shari'ah. This duality reflects the broader challenge confronting many contemporary sovereign Sukuk issuances, namely the need to balance market expectations for financial certainty with the normative requirements of Islamic commercial ethics.

Ultimately, as emphasised by (Saidu, 2020, 2024), the highest objective of the Shari'ah is obedience to Allah through both lawful outcomes and lawful contractual processes. Islamic finance therefore demands not only that investments generate socially desirable consequences but also that every stage of the financing process remains consistent with the moral and legal principles prescribed by the Shari'ah. From this perspective, while the Nigerian sovereign Sukuk represents a significant achievement in mobilising Islamic finance for national development, it cannot yet be regarded as fully aligned with the comprehensive ethical objectives of Islamic finance because its contractual design has not entirely realised the ideal balance between ownership, risk, responsibility, and reward envisioned by the Maqasid al-Shari'ah.

From Doctrinal Critique to Regulatory Reform

The doctrinal deficiencies identified in this study should not be interpreted as arguments against sovereign Sukuk itself but rather as evidence supporting the need for structural refinement. The future credibility and sustainability of Nigeria's Islamic capital market depend upon narrowing the widening gap between commercial pragmatism and doctrinal authenticity. Regulatory authorities, particularly the Securities and Exchange Commission (SEC) and the Financial Regulation Advisory Council of Experts (FRACE), should therefore strengthen governance over Purchase Undertakings while encouraging contractual structures that incorporate genuine ownership transfer and meaningful risk-sharing. In this regard, the proposed AAOIFI Shari'ah Standard No. 62 provides an important international benchmark for future reform by emphasising substantive ownership and commercial risk allocation rather than formal contractual compliance alone (AAOIFI, 2023; Hassan & Raza Rabbani, 2023; Nawaz, 2025).

At the legislative level, clearer statutory recognition of sovereign Sukuk assets and investors' proprietary rights would reduce the perceived necessity for extensive capital guarantees. Simultaneously, greater market education among regulators, arrangers, institutional investors, and Shari'ah advisers is required to encourage demand for Islamic financial instruments whose legitimacy derives not merely from legal form but from substantive compliance with the ethical principles of Islamic finance. Similar recommendations for strengthening governance and institutional capacity have also been highlighted within broader studies of Sukuk market development across OIC countries (Aman et al., 2022; Baita et al., 2023).

Accordingly, the findings support a gradual paradigm shift from capital-guaranteed Sukuk towards genuinely asset-backed and risk-sharing structures. Such reform would strengthen not only the commercial sustainability of Nigeria's sovereign Sukuk programme but also its religious legitimacy, thereby reconciling fiscal pragmatism with the normative objectives of Maqasid al-Shari'ah. This conclusion also resonates with the proposal advanced by Saidu, Cizakca, and Alhabshi (forthcoming), who advocate alternative sovereign financing models capable of preserving both market efficiency and doctrinal authenticity.

CONCLUSION

This critical interrogation has laid bare a fundamental truth: Nigeria's sovereign *Sukuk* programme, for all its commercial accolades, stands at a doctrinal crossroads. It has proven its efficacy as a tool for fiscal policy and infrastructure financing. However, its reliance on the Purchase Undertaking has created a structural facade that mimics the very interest-based debt system it purports to replace. The gulf between its form and its substance, between its commercial success and its conformity to Maqasid al-Shari'ah, is both wide and deepening.

This study is not without its limitations. As a doctrinal study, it relies on the analysis of documents and published literature. It does not incorporate primary data from interviews with regulators, structurers, or Shari'ah scholars, which could provide deeper insights into the decision-making processes behind the chosen structures. Future research could employ empirical methods to survey investor perceptions of the Shari'ah compliance of these instruments or conduct a detailed comparative case study of a Nigerian *Sukuk* and a more risk-sharing-oriented issuance from another jurisdiction.

Notwithstanding, the programme's current trajectory, if left unchecked, risks reducing Islamic finance in Nigeria to a mere labelling exercise a system of "Shari'ah-compliant" branding on conventional financial products. This would be a profound failure of intellectual and religious leadership. The challenge for Nigeria's policymakers, regulators, and financial architects is not simply to issue more Sukuk, but to issue *better* ones instruments that embody the true spirit of risk-sharing, asset-backing, and economic justice that is the hallmark of a genuine Islamic financial system. The future of this market depends not on the quantity of capital raised, but on the quality of its compliance with the divine law it seeks to serve.

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