

ISLAMISING COOPERATIVE SOCIETIES IN NIGERIA: ISSUES AT STAKE

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Abstract: Islamic Cooperative Societies (ICSs) have come to be in Nigeria, though very recent. These societies are presently prototypes of the conventional cooperatives. This means that they operate by adapting the system of the latter to *Shari'ah*. The objective of this paper is to examine some issues which view the ICSs as interest based societies in the sight of some critics. These issues include the sources and expenditures of funds in the ICSs among others. The work studies the cooperative from the Islamic perspective, the basis of cooperative, current reality of ICSs in Nigeria as well as finance in the ICSs. Secondary data was used to achieve the objectives of this study. The study proves that sources of fund from registration fee, fine and levies, administrative fee, sale of stationeries like loan form and loan bond form, and others cannot make the ICSs interest based institutions as opined by the critics, since those funds serve as tools protecting both the members and the cooperatives from being collapsed. It also suggests that the ICSs should expand the scope of sources of fund to accommodate the practice of some Islamic Financial Products (IFPs) or improve those they operate presently and introduce the real Islamic mode of lending. The paper in addition, informs that *ijthad* should be adopted to handle the issues of ICSs.

Keywords: Islamic Cooperative Societies (ICSs); *Shari'ah*; Islamic Financial Products (IFPs)

A. Introduction

Cooperative or cooperation is all encompassing in Islam as it is being advocated for in the Qur'an 5 verse 2. Therefore, the Islamic Cooperative in Nigeria today is just a minute part of Islamic mode of cooperation. It can also be confirmed that some of the indigenous modes of cooperation in Nigeria also form parts of cooperation in Islam. The modes may be modified using *Shari'ah* principles where necessary, the Islamic Cooperative Societies (ICSs) inclusive. The ICSs in Nigeria today have made some people to realise that interest free

economy can be practised through the introduction of some Islamic Financial Products (IFPs) which were not familiar with by the Muslims and non-Muslims respectively prior to the introduction of Islamic Cooperative in 1990s. These ICSs are presently prototypes of the conventional cooperatives in which they adapt the practices of the latter to *Shari'ah*. However, this does make them a *Shari'ah* non-compliant institution. There is no doubt that the cooperative system as it is today in Nigeria and throughout the world requires people with surpluses to team up for the purpose of helping themselves financially through these surpluses.

They use these surpluses for various financial transactions in their societies, Islamic Cooperative inclusive. This is why all ICSs do engage in transactions such as loan and trade through the surpluses they pull together. The ICSs claim they practise benevolent loan (*qard ḥasan*), *musharakah* (partnership), *mudarabah* (partnership by trust financing), *murabahah* (mark-up/cost). Consequently, these ICSs have been alleged of engaging in some anti-Islamic activities, most especially in finance. This paper therefore seeks to examine these issues with a view to strictly scrutinise some of the sources and expenditures of fund in the ICSs in Nigeria based on provision of *Shari'ah* which does not handle the financial issue with levity.

B. Cooperative Movement in Nigeria

There were various indigenous modes of cooperative before the advent of the conventional system in Nigeria with the formation of the Ibadan Agricultural Society and Agege Planters Union in 1904 and 1907 respectively.¹ This brought about some cooperative movements which later led to the registration of the first conventional cooperative society in Nigeria, the Gbedun Cooperative Produce and Marketing Society Limited in 1937 and subsequent rapid spread of the cooperative societies in Nigeria.² These cooperatives are not Islamic in nature and in activities since they represent the Western cooperative ideologies which are devoid of Islamic law but which many Muslims joined as

¹S. O. Ighomereho, et al., "Making Cooperatives Effective for Poverty Alleviation and Economic Development in Nigeria", *Cooperative Finance in Developing Economics*, 2012 International Year of Cooperatives, (Lagos: Soma Prints Limited, 2012), 24.

²A. D. Adeyeye, "General Agriculture II (COP 112)", *A Course Guide of National Open University of Nigeria*, (2008), 5.

members. The un-Islamic nature of these conventional cooperatives and the need to engage in economic activities for economic improvements according to the *Shari'ah* suggest the formation or joining of one cooperative or the other by the Muslims, which they term as Islamic Cooperative Society (ICS). Generally, ICS is a recent association in Nigeria. The ICS took off in the 1990s³ but started to proliferate in the year 2000s because of the positive impact of the Global Financial Meltdown (GFM) in favour of the Muslims.⁴ Today, there are many ICSs in Nigeria, which proves those who think that no cooperative can operate without engaging in interest or usury wrong.

Consequently, these ICSs are expected to distinguish themselves from the conventional cooperatives in practice, not only in the area of *riba* but in the financial products, other requirements concerning trade or business in Islam, social and religious issues and so on. What aids these ICSs more is that generally, cooperative is the easiest place for every individual to improve himself socially and economically because cooperative allows equal participation which definitely brings about fair equitable share of returns and loss sustained. This contributes to the ability of the ICSs to fulfill the collective religious obligation (*farḍ kifāyah*) for their members and become exemplary to non-members in the society. This is because they operate as financial intermediaries for the individual members who join them in order to comply with Islamic law (*Shari'ah*). They therefore perform the obligations and recommended actions that their members cannot perform individually.⁵

Though the ICSs in Nigeria are prototypes of the conventional cooperative societies, they are not expected to really follow the patterns of the latter in deviant of the Islamic law relating to the business and other activities of the cooperative. In order to operate as cooperatives, the ICSs mobilise fund from within the members and expend it mostly for cooperative activities within themselves. Consequently, the ICSs make use of some Islamic Financial Products (IFPs) to make both the cooperatives and their members fulfill their

³ M.A. Ajani, *An Assessment of Islamic Cooperative Societies in Nigeria*. Unpublished Ph. D. Thesis submitted to the Department of Religions, University of Ilorin, Ilorin, 2016, 5.

⁴ A. I. Abikan, "Regulatory Response to the Impact of the Global Financial Meltdown on Islamic Finance in Nigeria", *Journal of Islamic Banking and Finance*, Vol. 28, No. 4, October – December, (2011), 99 - 104.

⁵ Sayd Farook, "A Standard of Cooperate Social Responsibility", in M. Obaidullah and H. S. H. Abdul Latif, (ed), *Islamic Finance for Micro and Medium Enterprise*, (np., February 2008), 39 – 40.

religious obligations and recommendations to improve them socially and economically. Among the IFPs mostly used by the ICSs in Nigeria are *qard*, *musharakah*, *mudarabah*, *murabahah*. In making use of these products, the ICSs are very keen to avoid some anti-Islamic economic activities like *riba*, *gharar*, *maysir* among others. These IFPs and other cooperative activities have been used to create mutual cooperation between the ICSs and their members as responsible and profitable financial services through which the ICSs are able to facilitate commerce, investments and legitimate socio-economic activities for their members. More importantly, they are working concertedly towards the alleviation of poverty and the more equitable distribution of economic activities among their members by using some innovative schemes to meet the needs of their members. This means that the ICSs in Nigeria have potentials to play an important role in widening the use of funds mobilised to enable their members to purchase or build homes and to have access to properties for income generation.⁶

C. Basis for Cooperative in Islam

Islam supports every mode of cooperation provided it is beneficial to the individual and society at large and not evil-based. For example, Allah asks the believers to hold fast all together by the rope which Allah (stretches out for them), and they should not be divided among themselves (Qur'an 3, verse 103). It is therefore not reasonable to forbid that which Allah commands.⁷ In addition, the word "*ta'awun*" which means cooperation is directly mentioned in the Qur'an 5, verse 2 where Allah asks people to cooperate with one another.

According to Aṣ-Ṣabūnī, Allah enjoins man in the above verse of the Qur'an to cooperate with one another in righteousness as they should also cooperate in disengaging in abominable actions.⁸ As-Sa'dī adds that virtue is a collective noun used for every open and hidden deed which attracts love and pleasure of Allah, while heedfulness as a collective noun is also used for every distasteful act in the sight of Allah and His Messenger (S.A.W.), either open or

⁶ M. S. Sait and H. Lim, *Islam, Land and Poverty, Paper 8: Islamic and Microfinance*, (UN-HAABITAT, 2005), 13.

⁷ A. N. 'Ulwān, *Baynal-'Amal Al-Fardī Wal-'Amal Al-Jamā'ī* (Al-Azhari: Dārus – Salām, 1988 – 1408H), 175.

⁸ M. A. Aṣ-Ṣābūnī, *Ṣafwatut – Tafāsīr*, Part III, (Beirut: Dāru'l – Qur'an Al-Karīm, 1981 – 1408H), 5.

hidden. He further stresses that heedfulness has to do with cooperation in engaging in righteousness and disengaging from the prohibitions which Allah commands and prohibits respectively, in deeds or in words accordingly. Consequently, vice and aggression respectively means engaging in sinful activities and hostile actions against character, blood, wealth and dignity of others in which the believers cooperatively help themselves to avoid accordingly.⁹

From the contemporary studies in economics, production cannot occur without the cooperation of land, labour, capital, management and entrepreneur as factors, though these studies are not directly mentioned by the early scholars of Islam in their books and they did not compose an independent book on them. Even their technical use of economic terms is different from that of the contemporary economists; still, the technical terms they used are so clear that they reveal the economic pictures of the modern economics. For example, the rules guiding *al-muḥārah* (sharecropping contract) and *al-muḍārah* (partnership by trust financing) in the Islamic jurisprudence explain clearly the Islamic style of thought in the use of land, labour, capital and management. In *muḥārah* for example, the land belongs to somebody and another person cultivates it and two of them benefit from its gains. In *muḍārah* also, the capital belongs to a man and another man invests it and two of them share the profit.¹⁰ It is therefore deserved to conclude that Islam recognises the factors of production as a recognition of successful cooperation of each factor as it is evident in the mentioned Islamic economic terms, whereas these factors are not directly discussed by early Islamic scholars in their books. Islam will even intervene when one partner oppresses another in the dealings as well as when the partners or one of them derails from the dictates of *Shari'ah* in any of the economic components.

The Prophet (S.A.W.) has also given a clue to the issue of cooperative when he commented on the cooperative attitudes of Ash'ar tribe in Madinah. This tribe used to gathering whatever in their possession in a sheet of cloth then sharing it equally among themselves using the same container whenever

⁹ A. N. As-Sa'di, *Taysir Al-Karim Ar-Rahman Fi Tafsiri Kalamil-Mannan*, (Beirut: Resalah, 2000 – 1421H), 219

¹⁰ Abul – A'la Al-Mawdudi, *Mafahimu Al-Islamiyyah Hawla Ad-Din Wad-Dawlah*, (Kuwait: Darul – Qalam, 1977 – 1397H), 120 – 122

their provisions finish in the battle or the sustenance of their dependants in Madinah become small in quantity. The Prophet (S.A.W) commented that they are from him and he is from among them.¹¹

Apart from the above, there were instances when the Prophet (S.A.W.) displayed the spirit of cooperation or ordered the companions to cooperate in certain actions or they jointly came together to carry out certain assignment. Even before he became Prophet, it is on record that he settled what was to become rancor among the Quraysh through the use of cooperative spirit. When the House of Allah (Ka'bah) was reconstructed, there was a dispute among the Quraysh as regard who was supposed to place the Black Stone on Ka'bah. The Prophet (S.A.W.) introduced them to a joint effort that settled the dispute by asking them to place the stone on a sheet so that each tribe that made up of Quraysh could handle the sheet at the edges allotted to them and this was done in a cooperative manner.¹²

When the Prophet (S.A.W.) got to Madinah, one of those steps he took was an agreement he reached with the Jews to cooperate with the Muslims so that all the parties in Madinah would be living in peace as he also settled the long year dispute between Awz and Khazraj tribes.¹³ If cooperation was not needed for the peaceful existence of a community, the Prophet (S.A.W.) would not have signed an agreement with those concerned in Madinah and would have allowed the dispute between those tribes to continue. The importance of cooperation also reveals in the attitude of the Prophet (S.A.W.) towards the building of mosques where the foundation for cooperation was made. For example, the Prophet (S.A.W.) during his migration from Makkah to Madinah established a mosque at Qubā' when he resided there for four days and built another one at Rānū' valley, a place between Qubā' and Madinah where he observed the first Friday (*Jum'ah*) prayer in Islam, and the first thing he did when he got to Madinah was the establishment of a mosque.¹⁴ This also reveals the cooperative role of mosque in Islam. It is therefore not an exaggeration to conclude that mosque, in Islam, possesses social and spiritual messages which

¹¹ M. I. Al-Bukhārī, *Ṣaḥīḥ Al-Bukhārī*, Vol. II, (Istanbul: Dārul – Fikr, 2005 – 1426H), 110.

¹² A. Rahim, *Islamic History*, (Lagos: Islamic Publications Bureau, 1987), 14.

¹³ A. Rahim, *Islamic History*, 25.

¹⁴ M. As-Sibā'ī, *As-Sīratun – Nabawiyyah*, (Beirut and Damascus: Al-Maktab Al-Islāmī, 1985 – 1405H), 73 – 74.

improve the life of the Muslims since it is a means of uniting their voices and their aims. This means that, the Muslims cooperate with one another for virtue and heedfulness in the mosque which also keeps their files in unity.¹⁵

Another fundamental evidence for the basis of cooperation in Islam is the historic brotherhood which the Prophet (S.A.W.) established between the Muslim Emigrants from Makkah called *Muhājirūn* and the host, the people of Madinah called the Helpers (*Al-Anṣār*). He (S.A.W.) fraternized between the Emigrants and the Helpers in the manner in which the host shared their belongings including land, money, articles of trade and so on with their visitors who came to them without sustainable properties. This is social justice of Islam found in this type of cooperation which dissolved the tribal ego of the period of ignorance forever.¹⁶

Although, the Islamic cooperative is a new phenomenon, the later Islamic scholars have provided basis for it. For example, Al-‘Uthaymīn argues that the *Ḥadīth* reported by Abū Mūsā (R.A.)¹⁷ in respect of the Ash‘arites¹⁸ is a fundamental evidence for the cooperative societies which people form nowadays. He reiterates that people can establish a purse in which they contribute money based on the agreement they made and use such money to help any one of them out of the calamity which befalls him.¹⁹ Similarly, Ibn Khaldūn has advocated for the cooperation among human race if they want to live a happy life. He argues that humankind is naturally civilian and that civilisation lies on their coming together to help one another to achieve what they cannot achieve individually as the majority of them will abundantly achieve

¹⁵ M. As-Sibā‘ī, *As-Sīratun – Nabawīyyah*, 74 – 75.

¹⁶ S. A. Al-Mubārakafūrī, *Ar-Rahīqu Al-Makhtūm*, (Beirut: Dārul – Fikr, 2003 – 1433H), 133.

¹⁷ Mūsā (may Allah be pleased with him) is the authority of this *ḥadīth* who is suggested to be from this tribe (Al-Ash‘ar).

¹⁸ Al-Ash‘ariyūn or Ash‘arites were a tribe whose habit was to gather whatever in their possession and share it centrally and equally among the members of the tribe. The *ḥadīth* was reported in respect of their glorious action. See page 110 of Volume Two of Al-Bukhārī’s, *Ṣaḥīḥ Al-Bukhārī*, printed in 2005 – 1426H in Istanbul by Dārul – Fikr.

¹⁹ M. S. Al-‘Uthaymīn, *Sharḥu Riyādis – Sāliḥīn*, (Al-Qāhirah: Dārul – Manār, 2003 – 1424H), 233 – 234.

what they cannot achieve individually. He doubts whether man can survive in isolation.²⁰

D. The True Picture of ICSs in Nigeria

The situation of the ICS in Nigeria can be best described through the definition of Ajani which puts it as prototype of conventional cooperative in which the Muslims come together with the aim to subject the conventional cooperative practices to the dictates of *Shari'ah* so as to accomplish their individual and collective duties by pooling their resources together to fulfill their economic, social and cultural needs and aspiration through a jointly-owned enterprise which is controlled using the *Shari'ah* principles.²¹ This is based on the reality of the practices of the ICSs in Nigeria presently.

It can be revealed from the above that the ICSs in Nigeria today are operating based on the system of the conventional cooperatives by subjecting the latter system to *Shari'ah* to some extent. The implication of this is that while the western world invented what is known as cooperative today, the Muslim world fails to realise the need for the real Islamic cooperative. Unlike in Islam where the issue of cooperative is discussed in the Qur'an, the effects of unchecked economic competition of individualism, colonisation and exploitation, industrial revolution, the agricultural revolution, e.t.c. on a number of people who worked desperately for long hours in miserable condition, but earned inadequate wages to sustain themselves in the late eighteenth and early nineteenth centuries, occasioned the idea of conventional cooperative movement.²²

Lesson can be learnt from the above that the cooperative issue is divinely institutionalised in Islam while exploitation occasioned for it in the western world. Therefore, Muslims should not turn deaf ear to the Qur'an and *Hadith* facts on issues such as economic, scientific, political, social and educative. They have to discover facts about these issues and others from the Quran and *Hadith*, exploit them accordingly for human development and benefit. In other words, they should not allow the western world to make

²⁰ A. R. Khalidūn *Muqaddimah Ibn Khaldūn*, (Al-Qāhirah: Dāru Ibn Al-Haytham, 2005 – 1426H), 34 – 35.

²¹ M.A. Ajani, *An Assessment of Islamic Cooperative Societies in Nigeria*, 54.

²² M. Digby, *The World Cooperative Movement*, (Great Britain: Fisher, Knight and Co. Ltd, nd.), 9-11.

discoveries ahead of them since most of the discoveries like the issue of cooperative are found in the Qur'an and *Hadith*.

E. Operations of the ICSs in Nigeria

Every cooperative society's operation in Nigeria is based on the 1990 bye-law of Nigeria cooperative societies which spells out the objectives of the societies. Parts of the objectives are: to promote economic interest of the members by giving loan, to promote the economic performance of members by giving necessary advice and other productivity of members in their respective profession. Others include, to design together measures based on cooperative principles and to encourage in members the spirit and practice of thrift, mutual help and self-help.²³

Membership rights are granted to anyone who joins a cooperative society upon his admission just like in the conventional cooperative.²⁴ The new and every member will subscribe to share and savings funds and other special or prescribed funds. The cooperatives engage in businesses and investment accordingly in which dividends are given to the subscribers at the Annual General Meetings (AGMs). Likewise, any interested member can request for loan which he/she pays back instalmentally without interest. In a nutshell, the cooperatives mobilise funds for their activities and expend such funds on loan given to the members, investment, for operational expenses and deposit the cash balance as a deposit in the society's bank account. They also make surpluses on maintenance levy, fines, dividends received on investments they have in other places, income from other viable projects like farming, small scale businesses, and donation to the societies during the AGM.²⁵

Administratively, the executive committee of the ICSs consists of a chairman, vice chairman, secretary, assistance secretary, financial secretary, treasurer, Public Relation Officer (PRO), welfare officer, social officer, e.t.c. The executive meets at the agreed upon period like once in a month, e.t.c. while the general meetings also take place as agreed upon by the members. There may also be emergency meetings. The AGM also takes place at the end of each

²³ R. I. Adebayo, *Integrating Islamic Financial Principles in the Cooperative Society in Nigeria*, A Paper Presented at a Seminar of the National Council for Islamic Credit and Savings Schemes held at (Alhaji Abdul Aziz Arisekola Central Mosque, Iwo Road, Ibadan on the 5th June, 2010), 3.

²⁴ D. Adesina, *Essential Information on Cooperative credit Societies*, (Ibadan: DAC Prints, 1998), 47-48.

²⁵ M.A. Ajani, *An Assessment of Islamic Cooperative Societies in Nigeria*, 116-117.

financial year.²⁶ This reveals that the issue of Islamic Cooperative in Nigeria presently should be discussed based on *ijtihād* (independent judgment in a legal question, based on interpretation and application of the four fundamentals) before any blame can be made against it.

F. An Overview of Sources of Fund in the ICSs

Every cooperative society commences its activities from zero capital. This is why the founders deliberate on issues such as capital mobilisation and directions to which it is expended. Following are discussions on some of the areas from which the ICSs source for funds.²⁷ It is to be mentioned that while the sources of fund must be lawful, the area to which it is expended should also be lawful.

Entrance fees:

These are non-refundable fees paid by members on their wish to join the cooperative. Every ICS gives forms and some necessary documents like pay-in-slip, society's constitution, personal passbook and so on, to the member on payment of these fees as new member. The payment of this money by a new member makes him/her to be legitimately and formally a partner in the society. It can be compared with the purchase of registration form in some establishments. The money got from these fees is used to produce the same documents for sale for the incoming members and the existing members whose document is exhausted. The fees are therefore placed under recurrent expenditure. Failure to register members through these fees will socially and economically affect the society. Some critics call these fees interest fee while others opine that the fees are too expensive. There is no basis for any of these claims since services are offered by the ICSs in term of giving some documents to the cooperative members on receipt of the money and there is no religious crime in selling these documents for the price already agreed to by the members generally and pleased by the new and old members. The fees only indicate the membership of the ICSs and not mainly or originally for obtaining loan. More importantly, without registration, the ICS becomes loose and will not be able to identify its members, control them and it will be very difficult to assign

²⁶ Read pages 131-176 of M.A. Ajani, *An Assessment of Islamic Cooperative Societies in Nigeria*.

²⁷ M.A. Ajani, *An Assessment of Islamic Cooperative Societies in Nigeria*, 197-201.

anyone of them with any responsibility as none of them can also be dealt with constitutionally should there be any issue against him. Consequently, anybody can claim to be member of any ICS if these fees are not institutionalised. Without these fees and documents the ICSs will be informal organisation.

Share capitals

Every member of the ICSs subscribes for this capital which is payable once or instalmentally at every sitting. The total payable amount is also pegged to certain amount in most of the ICSs. For example, an ICS may decide that it pegs the share of each member to twenty thousand Naira (N20,000) only payable instalmentally at the rate of five hundred Naira (N500) or one thousand Naira (N1,000) at each sitting. It is also required in some ICSs that the amount should be paid once, especially by the new members. Every member must subscribe to this accordingly. This fund is generally used to conduct businesses in the ICSs and the profit generated is also shared at the AGM in consideration of the capital capacity of each member. In the majority of the ICSs in Nigeria, the fund is an essential pre-requisite for membership.

The justification for this source of fund can be confirmed on the basis that trade or business is lawful and sanctioned by the *Shari'ah* (Qur'an 2 verse 275). In addition, partnership as being practised in the ICSs is also lawful in Islam. For example, the concept of partnership is mentioned in Qur'an 4 verse 12 in respect of distribution of inheritance while the Prophet (SAW) reported Allah to have said that He is the third partner to the two partners unless either of them betrays the other. If that one happens, He quits them.²⁸ It is imperative to state that the sources of members' income should be lawful otherwise, the business carried out with such fund is invalid. Meanwhile, it is not in good interest of the ICSs to limit capital investments to share subscription alone like the conventional.

The ICSs should either identify themselves with a single IFP which they can operate better, expand subscriptions to various IFPs they practise or segment the subscription based on the intention of the subscriber rather than spreading meager share capital subscriptions on various IFPs. This will allow the ICSs to utilise the IFP they practise fully and attempt many others. Limiting

²⁸ Abū Dāwud, *Sunanu Abī Dāwud*, Vol. 2, (Beruit: Dārul-Fikr, 2011), 127.

the investments fund to capital subscription of ICSs' members proves the fact that the ICSs are prototypes of the conventional cooperatives.

Savings

While share fund is made compulsory by the ICSs, savings are also given priority by the members because they are used for borrowing money from the ICSs, and that is why each member is more eager to make vast subscription for savings so that he/she will have access to huge loan when there is need. This shows that many of the ICSs in Nigeria are consumption based. In the majority of the ICSs, any interested member gets as twice as his/her savings contribution while few of them grant triple of the interested member's savings contribution. In the meantime, a very few cooperatives grant loans to the interested member in consideration of both his/her shares and savings subscriptions. This may be double or triple of the total savings and shares of the loanee.²⁹ Granting loan in consideration of both savings and share capitals should be discouraged to avoid cheating (*ghbarar*) and collapse of the cooperative soonest.

It is allowed in Islam to keep surplus of someone's wealth as Islam also disapproves extravagancy (Qur'an 17 verses 26-27). It is also reported that the Prophet (SAW) also kept surplus wealth deposited with him by the people of Makkah and asked Alli (RA) to return them to owners on his behalf when he was migrating from Makkah to Madinah.³⁰ Islam approves keeping wealth during one's heyday for future and lawful responsibilities. Therefore, savings made in the ICSs in order to generate loan is legal provided it is sourced from lawful and expended on lawful as it can be revealed in the Qur'an 9 verses 34 where Allah condemns those who accumulate wealth and spend it on the path rather than that of Allah. The implication of this is that wealth should be accumulated from lawful sources and expended freely for good whether for oneself or for neighbour.³¹ It is also to be reiterated that Islam encourages Muslims to leave wealth for the heirs so that they will not be left in poverty.³²

Fines and levies

²⁹ M.A. Ajani, *An Assessment of Islamic Cooperative Societies in Nigeria*, 198.

³⁰ Muṣṭafā Najīb, *Ḥumātul-Islām*, (Riyādh: An-Nadwatul-'Alamiyyah Lish-Shabābil-Islāmī, nd.), 92.

³¹ *The Holy Qur'an, English Translation of the Meanings and Commentary* (Kingdom of Saudi Arabia: King Fahd Holy Qur'an Printing Complex, 1410H), Footnote 1292, 509.

³² M. I. Al-Bukhārī, *Ṣaḥīḥ Al-Bukhārī*, (Istanbul: Dārul-Fikr, Vol. 3, 2005), 186.

These funds are collected from any member of the ICSs who violates one rule or the other of the ICS. The fines or levies are mostly placed on any member who comes late to the meeting or absent him/herself from such meeting or other obligation as enshrined in the ICSs' constitution or directed by the ICSs' authority in its deliberation which is ratified by the general house. The rates chargeable on various offences also vary in the ICSs. The justification for these fines and levies is based on the fact that it serves as means of curbing the members from misbehaving (*ḥaddu dhar'in*). Claiming that fines and levies are illegal is baseless since nothing prevents the Muslims from emplacing rules that ensure the well-being of individual or the society at large and this is why Islam institutionalises *maṣāliḥul mursilah* (any action which improves public welfare or interest but not mentioned or disapproved by *Shari'ah*).³³ In order to ensure discipline in the society like the ICS, there must be instrument like fines and levies to check and keep the members in order. Cooperative is based on partnership. It becomes cheating and failure to keep societal trust if some partners are keeping the rules and regulations of the cooperative to the letter and others don't do so. Fines and levies serve as make up for the responsibilities failed to be carried out by the default member.

Building fund

It is a refundable fixed fund payable by each member of the ICSs. It is meant to procure permanent office/residential building(s) for the ICS. Every member must pay it at every sitting. Whether or not the office is built during the membership, the total amount contributed to building fund purse by a person who is ejected or wishes to leave the ICS will be given to him because he is no more in the society as a person and as a shareholder in that building and the cooperative at large. Since the fund is based on partnership, its legality cannot be contested.

Sales of stationeries

This fund is generated through the sale of loan form or bond, documents used to pay-in money into the ICSs' account and other documents. It is also a non-refundable fund. The fund collected from the sale of stationeries is used to produce same stationeries as replacement when those in use are

³³ A.J. Al-Jazā'irī, *Ḥurmatul-Ibtidā'ī fīd-Dīn*, (np: Jamu'iyatu Ihya'ut-Turāthil-Islamī, nd.), 26-27 and 29.

exhausted, therefore the legality of the sale. This fund has been criticised, most especially the loan form and bond, both of which are being alleged to be usurious because the intended loanee has to buy form and bond before the loan can be granted. According to the critics, money paid for these documents is interest paid over the principal. It is obvious that these documents usually contain information about the intended loanee. These include the loanee's financial status and the amount of loan, among others. In other words, the documents serve as record in respect of the ICSs and the loanee and consequently, Islam requires the Muslims to keep adequate record of financial transactions among themselves (Qur'an 2 verse 282). It is therefore necessary to produce these documents because of those who will soon need them in the cooperative. The sale of these documents is permitted simply because the sale service has been rendered by the cooperative to the intended loanee who must pay for the service accordingly.

Furthermore, the commercial bank in which the cooperative funds are kept will make some charges in respect of the loan against the cooperative's account, not against individual of the cooperative. These charges, according to an investigation carried out by an ICS (Olohunsogo (Ibadan) An-Najah Fi Sabilillah) with its banker (First Bank PLC), include among others, the stamp duty, VAT on account maintenance, account maintenance charge, SMS alert charge. The fact that loan obtained only benefits the loanee justifies the make-up of the charges by the concerned member so that the reduction made by the commercial bank through the charges will not affect the society entirely. It should be noted that action which benefits the entire society is given priority in Islam over individual benefit.³⁴

The administrative fees paid by the members and fees other than the savings and shares are used to service bank charges and other administrative activities of the cooperative. It is therefore clear that the commercial banks deduct certain amount of money in term of charges from the cooperative's account whenever any transaction is made either on behalf of individual member or the cooperative at large. The question is that from where will the cooperative get fund to service bank charges if there is no fund generation from the sales of forms and bonds for loan purposes? While bank charges in respect of business transactions carried out by the cooperative may be paid from the profits made from such businesses if any, it is not so in loan transactions

³⁴ A.J. Al-Jazā'irī, *Ḥurmatul-Ibtidā'ī fīd-Dīn*, 28.

because every member of the cooperative will benefit from the dividends at the end of financial year whereas only loanee benefits from the loan obtained.

It is to be restated that while share capital which is used for businesses can increase through profit yielded, savings always decreases through loan grants which may not be paid back on time or at all. This confirms the consumption based of the ICSs in Nigeria. However, the charges paid on loan transactions by the commercial banks vary. Amount chargeable on a loan of fifty thousand Naira (N50,000) is lesser than the amount chargeable on twenty thousand Naira (N20,000) loan. This is why the ICSs should not fix the price of loan and bond forms but should consider the price based on the amount of loan required by the intended loanee. This implies that if the total amount of bank charges on a loan of fifty thousand Naira (N50,000) is twenty five Naira (N25), the loanee has to pay this amount including the cost of loan and bond forms while fifteen Naira (N15) and the cost of loan and bond forms is paid on a loan of twenty thousand Naira (N20,000) accordingly. This will allow economic justice in the cooperative and its members accordingly. Similarly, condemning this sale is an economic injustice to both cooperative and the members.

Administrative fund

This must be subscribed for at every sitting. It is used to manage the ICSs. The rate varies based on the viability of the ICS. It is also a non-refundable fee. The legality of collecting this fund from members rests on the fact that administration needs to be financed independently and should not be financed through other specific funds. If this fund is condemned, then the cooperative will be administered using both savings and share funds, the situation which may lead to the collapse of the cooperative. Consequently, corruption may set in if the administrative fund is not defined since the money used to carry out an administrative duty is most of the times not measurable. This fund is among the funds used to service the bank charges, transportation, payment of allowances to the members charged with certain responsibility and so on.

Funds for special projects

These funds have no minimum or maximum amount. It is paid according to the wish and capacity of the interested member in the project of his/her interest. For example, some members subscribe for these funds with

the aim to use them for *hajj* operation, medical treatment, wards' education, *'idul-Kabir* or *'idul-Fiṭr* festivals, and other projects. It is observed that the ICSs are not charging any amount on the deposits made in respect of these projects by the interested members, whereas charge should be made on them as it is done in loan wherein forms are sold for the intended loanee. This is because services are rendered by the ICSs and there is also bank charges deducted by the Commercial Banks from the cooperative's account whenever withdrawal is made by the ICS or services are rendered by the Bank in respect of the ICS. But most of the ICSs made some regulations in respect of withdrawal of these funds for the projects for which they are meant. For example, some ICSs request that they should be informed at least twenty four hours or more prior to the period the depositors want the money for use. These are funds which prove the responsibility of the ICSs as an exemplary financial intermediaries between them and their members in helping them in improving their socio-religious and economic activities with ease. Through these funds, some members of the ICSs in Nigeria have been able to sponsor their wards' education, medical treatment and other social or economic projects while some members have become visitors of Allah's house in Makkah (Alhaj) to perform the *hajj* rites.

Reserve

This fund is created by some ICSs by deducting certain percentage of the annual profit generated for keep by the ICSs concerned for certain projects. It is also kept to solve liquidation problem, e.t.c. Some even deduct certain percentage from members' share/savings funds and keep it in reserve or investment based on decision of the ICS.

Investment fund

Some ICSs in Yorubaland call for investment subscription funds from their members. For example, an ICS may wish to establish an educational institution and asks its members to contribute, as an investment, towards such project while some deduct certain percentage of members' share subscription for investment based on joint decision of the society. Sometimes, the issue of investment is contained in the ICS's constitution.

Net surplus

This is the excess fund got at the annual financial year which is based on the excess of income over expenditure. This is calculated based on the

administrative and other funds like fines and levies, entrance fees, stationeries and so on. It is the total income from these funds, less the total expenditure. The net surplus is not expected to be included among the profits to be shared as dividends to the members during the Annual General Meetings (AGMs) to avoid economic ambiguity which is condemned in Islam. Consequently, some of the remnants of the net surplus are recurrent.

Profit from the businesses

This has to do with the profits made by the ICSs in the businesses conducted every year. It is a profit generated by the ICSs which is shared as dividends to the members, based on their capital contribution, at the AGMs. Sometimes, some percentages are deducted for use by the ICSs either for *Ṣadaqah* or any other purpose as agreed by the members. Only share subscriptions are considered here. Another possible directions from which funds are sourced in the ICSs are; *Zakah*, pension scheme fund in the Departmental Cooperatives for which their members subscribed, development levy, and host of others.

G. Funds Expenditure in the ICSs

The most prominent direction to which every ICS expend funds is loan without interest, then businesses, acquisition of assets/profit oriented assets, administration, dividends, service of some loss/bank charges, deposits with the parent body if any. It is observed that while the ICSs make certain errors in the operations of certain Islamic Financial Products (IFP), their loan processes have also been criticised. This is because certain conditions must be met by the intended loanee before his eligibility for loan. He has to buy forms and provide guarantors. In addition, the amount loanable is based on the amount of savings he made and the granted loan should be paid back at a stipulated time. The guarantors whose parts of their savings are included in the granted loan also suffer financially since they cannot apply for loan or stand for another intended loanee until certain percentage of loan is paid back by the loanee.

The argument will be genuine if the loan practice in the ICSs is purely benevolent loan (*qard ḥasan*) commanded by Islam, otherwise, the processes should be viewed through *ijtihād* because the ICSs operation in Nigeria today is based on Rochdale Pioneers' cooperative philosophy which they intend to adapt to *Shari'ah*. Therefore, argument that the cooperatives have not been

able to strictly follow Qur'an 2 verse 282 in respect of loan may not genuine since the verse in question deals with the issue of record keeping and witness to it in loan and other commercial transactions, which the ICSs are doing. For example, the forms filled by the intended loanee serve as record in which he provides some information based on his knowledge while the guarantors serve as both witnesses to the terms of loan and guides as regard the direction towards the loan is spent and its repayment. This is a reason why loan in the ICSs is not benevolent but interest free loan. It is interest free loan because the loan beneficiaries in the ICSs do not pay more than the amount they collect and most of the times they do not meet up with the stipulated time of repayment. Consequently, the ICSs do not get any benefit, be it in term of interest, fees, charges, fine or gift from the loan beneficiaries. Every charge or fine is used to safeguard the monetary wealth of the ICSs in the commercial banks otherwise the principal capitals of the ICSs, namely the savings and share will soon be exhausted through the periodical deductions made by the commercial banks and administrative costs. It is fundamentally stated in Islam that any process that should be observed before a compulsory act can be carried out is also compulsory.³⁵ For example, ablution becomes a compulsory act when it is time for prayer (*Ṣalāh*). Therefore, collection of fees or charges is also inevitable in the ICSs for positive realisation of the cooperative goal.

H. A Need for Paradigm Shift

Though there is nothing prohibitive in the present loaning system of the ICSs, at the same time, they need to shift completely from the mode now. It is therefore suggested that the ICSs should form modality for composing a purse through which the loans will be disbursed to the interested loanees based on strict compliance with the *Shari'ah* approval on benevolent loan (*qard ḥasan*). The purse can be termed "benevolent loan subscription" of unrestricted amount in which everybody should participate with the aim that it is a voluntary almsgiving fund that demands no extra return. In addition, certain percentage of the accrued profits during a financial year is also allotted to this purse including voluntary donations from members and non-members. If it is possible, a business venture can be established by the ICSs mainly for the purpose of this purse. Every member of the ICSs is therefore entitled to loan from this purse when the need arises. Whether loan is emergency, soft, special

³⁵ M. Abū Zahrah, *Uṣūl Al-Fiqh*, (Dārul-Fikr Al-'Arabī, nd.), 288.

or benevolence in the ICSs, this modality will be sufficient to cater for all. If this is not introduced now, the future Islamic cooperators will grow up with the perception that the present loaning system is purely Islamic loaning system whereas it is an adopted conventional cooperative loaning system made to conform with *Shari'ah*.

The only thing that makes distinct between the conventional cooperative system of loaning and that of the IC presently is the issue of interest. There are other elements that make distinct between the two systems.³⁶ Meanwhile, this does not erase the issue of charges or fines collection from the Islamic cooperative system because these charges and fines have inevitable purposes for which they are introduced which are based on wellbeing of the cooperative and its members.

I. Conclusion

It is clear that the ICSs are recent in Nigeria. They presently operate based on adaptation of the conventional cooperative system to *Shari'ah*. Equally, the sources of fund from entrance fees, fines and levies, purchase of forms and bonds/stationaries, administrative fees and the like cannot make the ICSs interest based institutions because those funds are needed for the survival of both members and the cooperatives. Loan is determined through savings only in the ICSs. The ICSs can only become interest based institution if the loanee is required to pay certain amount of money over principal as it is done in the conventional cooperative where the sum of one hundred Naira (N100) is paid over one thousand Naira (N1,000) as interest. This is in addition to the purchase of loan and bond forms, payment of some charges, fines and fees despite the fact that the loanee's money is part of the money loaned to him or her.³⁷ However, there is need for the ICSs to rebrand their mode of operations as regard the sources of fund for businesses in order to cater for a specific or some Islamic Financial Products' operation rather than limiting it to share subscription like the conventional cooperatives. Consequently, the real benevolent loan as commanded by Islam should also be introduced as a matter of necessity. Consequently, introduction of real Islamic mode of loan does not

³⁶ See page 246 of M.A. Ajani's *An Assessment of Islamic Cooperative Societies in Nigeria*.

³⁷ D. Adesina, *Essential Information on Cooperative Credit Societies*, (Ibadan: DAC Prints, 1998), 42-47.

also mean that these controversial sources of fund will be removed from the ICSs' financial system accordingly.

It is to be noted that the ICS as it is today is just a part of Islamic mode of cooperation as contained in the Qur'an 5 verse 2 where Allah asks the Muslim to cooperate in the matter of righteousness and piety and not in sin and rancour. The implication of this is that cooperation in Islam is all encompassing since every act that brings about goodness to the individual or community or prevents them from evil is virtue and heedfulness if it is carried out with good intention.³⁸

³⁸ Y. Al-Qaraḍāwī, *Al-Ḥalāl wal-Ḥarām fil-Islām*, (Ad-dār Al-Bayḍā': Dārul-Ma'rifah, 1985), 262.