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Islamic Finance and Sustainable Development: Key Ethical Features and Proactive Initiatives Promoting Financial Inclusion

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Abstract

The 17 Sustainable Development Goals set forth by the UN 2030 Agenda require the adoption of proactive initiatives by countries in a global partnership and by companies, consumers, and citizens. SDGs recognise that ending poverty is strictly intertwined with strategies to reduce inequality and spur economic growth, all while tackling climate change and preserving the environment. In this context, the lack of financial inclusion increases poverty and frustrates economic development since access to essential financial services helps people nurture their education and financial plans, and financial inclusion can help alleviate poverty and lift economic development. The study highlights how, within this scenario, Islamic finance can play an important role in promoting sustainable and ethical development and financial inclusion, specifically in environmental sustainability, by increasing the so-called "green sukuk" or "ESG Sukuk." Accordingly, the article analyses, from the comparative law perspective, the context of two Asian countries, Malaysia and Indonesia, that are pivotal markets for developing Islamic financial instruments and that of Sub-Saharan Africa, highlighting the potentialities of Islamic finance to foster sustainable development (in particular, SDG-01 No Poverty; SDG-05 Gender Equality; SDG-08 Decent Work and Economic Growth; SDG-09 Industry Innovation and Infrastructure; SDG-10 Reduced Inequalities; SDG-11 Sustainable Cities and Communities). It also provides significant examples of initiatives adopted by Malaysia and Indonesia, grounded on the tools of Islamic finance, to support sustainable economic and social development in sub-Saharan Africa. As a result, the article stresses, through the adoption of the comparative law methodology, the importance of a proper transnational legal framework – in a broad sense, including legal language and formation of scholars and practitioners - to promote Islamic finance and financial inclusion: such aspect tends to be neglected in current literature, seemingly more focused on techno-economic aspects.

Keywords: Islamic finance; Sustainable Development (SDGs); Green or ESG Sukuk; Fintech; South-East Asia; Sub-Saharan Africa

1. Introduction

The UN Agenda 2030 has set seventeen sustainable development goals (SDGs): SDGs recognise that ending poverty is strictly intertwined with strategies that reduce inequality and spur economic growth, all while tackling climate change and preserving the environment. Islamic finance, with its core ethical principles, is crucial in promoting sustainable development

and financial inclusion (Jimoh and Kolawole, 2024), particularly in environmental sustainability through the rise of 'green Sukuk' or 'ESG Sukuk'.

1.1 The key features of Islamic finance

In consideration of the decisive role played by the doctrinal formant, where the figure of the jurist tends to coincide with that of the theologian, Muslim countries are classified as belonging to the so-called *rule of tradition*, i.e., those countries in which the divorce between law and religious (or, in other cases, philosophical) tradition has not occurred (Mattei and Monateri, 1997). The absence of separation between the religious and legal spheres and the need for regulatory rules to comply with the precepts of sharia (Hallaq, 2009) are the salient features of such a legal model (Gambaro and Sacco, 2004). In this context, it is crucial to identify the guidelines of Islamic business law because religion, morality, law, economics, and finance constitute an inseparable whole in the Muslim world (Biancone, 2020). At the same time, it has been authoritatively observed that, for a correct understanding of the Islamic model, it is also necessary to consider the historical dialectic between *sharia* and *siyàsa*, that is, between religious law and political power-secular law, which is the primary key to understanding the legal dynamics of the Islam, so that the claimed formal supremacy of *sharia* must be confronted, at an operational level and State by State, with its implementation in concrete norms and applications (Castro, 2007). Hence, the diversity and heterogeneity of the individual legal systems are attributable to the Islamic model.

This dialectic is even more evident when regulating financial markets. It takes on particular importance because, alongside state legislation, legal tools and rules of other legal systems, widespread law, concur in shaping such markets (Giustiniani, 2006). In Islamic law, therefore, since there is no separation between the religious and legal spheres, even the sector of contractual relationships and financial investments must conform to the Koranic precepts and other sources specific to that tradition: even business relationships and Islamic finance must, therefore, be *sharia-compliant*. The notion of "Islamic" finance, thus, indicates the set of financial activities that conform to the principles of the Shariah (Biancone, 2020).

In this regard, the term "Islamic finance" can be understood according to two meanings: in the strict sense, as a banking-financial activity subject to the precepts of Islamic law; in a broad sense, as a complex of legal-economic relationships, also subject to the same precepts. This second meaning, therefore, also includes contractual relationships and commercial exchanges. In the Islamic context, the distinction is not always so clear, especially in light of those doctrinal interpretations that advocate creating a general Sharia-compliant economy. Accordingly, in the article, the expression "Islamic finance", unless otherwise specified, will be used in the broader sense.

In this context, a leading role is attributed to *fiqh*, which has reworked Sharia rules (Lambton, 1981). Fiqh is intended for "Islamic jurisprudence as an important source of Islamic rules" (Biancone, 2020). It is, therefore, the knowledge of the fivefold Shariatic division of human actions, in the sense of obligatory (fard or wàgib), prohibited (haram), recommended (mandùb), discouraged (makrùh), and permitted acts (halal) (Castro, 2007). Fiqh Muamalat, or Islamic Commercial Law, is a subdivision of the fiqh discipline related to human activities. It deals with Shariah rulings related to business and financial activities in Islamic society, but not comprehensively with factors impacting economic behaviour, since it is concerned solely with the legal relationships between members of the society (Ridhwan Ab. Aziz, 2016).

The interpretation of the sources and the deductions deriving from them through *ijtihad* (intellectual 'effort') is carried out taking into account two essential principles: the common good (*maslahah*) and the state of necessity, whereby a prohibited behavior can be allowed when compliance with the prohibition leads to a greater evil (Aldeeb Abu-Sahlieh, 2008; Mustafa and Ab Rahman, 2023). Organisations such as the Accounting and Auditing Organisation of Islamic Financial Institutions (AAOIFI) and the Islamic Fiqh Academy based in Saudi Arabia are considered authoritative sources for developing Islamic finance rules. The AAOIFI is a body created in 1991 in Bahrain, which was responsible for drawing up the *Sharia-compliant* standards (AAOIFI *sharia standard*) and accounting and auditing standards for Islamic financial institutions and industry (Jouaber-Snoussi, 2012).

Therefore, one of the most significant elements of Islamic finance, especially in the eyes of the Western observer, is the leading role played by legal doctrine. Since this area, too, like any human action, must be sharia-compliant, and considering the not-always-easy need to interpret religious precepts to conform to a given initiative, the opinion of experts becomes an essential element. This is also to guarantee that the given investment complies with *Sharia*, thus attracting the public of Muslim investors. *Fatāwā*, i.e., legal opinions issued by a committee of experts (sharia advisory board), are significant. This committee can operate both as an internal but independent body of a bank or financial institution and as an external body (Alvaro, 2014). The effort of these experts in reaching a consensus on the legality of the structures used in Islamic finance and investment

activities has enabled the development of sophisticated and highly complex operations that incorporate both elements of conventional finance and Sharia-compliant institutions.

In consideration of the remarks above, it was highlighted that Islamic Finance Law constitutes - due to its peculiarities, due to its transversal character to the various state systems, due to the heterogeneity of the sources, the role of tradition, and, at the same time, that of standards set forth by authoritative international institutions - a legal system in itself, of particular interest for the comparatist (Foster, 2007; Ercanbrack, 2015; Ferreri and Di Matteo, 2019).

Specifically, the precepts that characterise Islamic finance are: (i) the prohibition of ribà or 'growth' (commonly understood as a prohibition of interest); (ii) the prohibition of introducing elements of uncertainty (*gharar)*; (iii) the prohibition of speculation (*maysir*); (iv) the prohibition on investing in prohibited activities (*haram*), positively, (v) the principle of sharing profits and losses (so-called profit-loss sharing or PLS); (vi) the duty to work for the satisfaction of needs, justice, efficiency, growth and freedom (Siddiqi, 1988). Accordingly, the following contracts are prohibited: the conventional loan contract, given the obligation for the borrower to pay interest; the sale of a future thing declined in the guise of *emptio spei*, as an aleatory contract; the sale of someone else's property, since it is characterised by an element of uncertainty, as well as conditional sales; the sale at an undetermined price even if determinable; the sale at a future and uncertain date; aleatory contracts *tout court*, including insurance contracts; gambling and betting; the bond loan because it falls within the prohibition of ribà (Vogel, 2006). The loan contract is therefore allowed only if free of charge: in particular, this type of contract, called *quard-al-hasanah*, is used for small sums and charitable purposes (Nienhaus, 1994). Furthermore, investments in the sectors of production, processing, trade of pork, alcoholic beverages, the tobacco industry, weapons production, pornography, casinos, and other activities related to gambling and betting are prohibited, as they are considered *haram*. However, while the ban is absolute for some activities, for others, there is no unanimity of consensus (for example, for the film industry, the recording industry, and the production, processing, and marketing of tobacco and its derivatives). In this case, the admissibility of the activity is assessed either on a case-by-case basis or by allowing some tolerance thresholds (Forte et al., 2011). It has been pointed out that Sharia tracing, through the precepts of the Koran and the Sunnah, the right and perfect path to obtain every benefit on earth, directs the path of each believer to justice by outlining the objectives (*maqāşid al- Sharī'ah*) that every Muslim must pursue to achieve Maşlahah (Papa, 2023).

An indication of the current opinion regarding *ribà* is provided by the Sharia Standard on Debit, Charge and Credit Cards published by the AAOIFI in 1998, under which debit and recharge cards were deemed permissible, while credit cards, based on a contract giving rise to interest, are prohibited (Sharia Standard (2) *Debit Card, Charge Card and Credit Card*, AAOIFI; Abozaid and Khateeb, 2022).

It has been observed that deeming the ban on *ribà* referred only to the case of excessive interest is common among those jurists who defend the Arab civil and commercial codes, most of which allow interest. Conversely, the more rigorous interpretation, according to which the ban on *ribà* would prohibit interest *tout-court*, is typical of the proponents of Islamic finance intended as 'interest-free finance', opposed to the conventional one, typical of the Western tradition and capitalist economies (Bälz,2020). The absence of interest is therefore understood, at the same time, as the ethical and commercial basis of Islamic finance.

Furthermore, derivative contracts, being typical instruments of conventional finance, conflict with both the prohibition of *gharar* and *maysir* because they give rise to a speculative transaction characterised by elements of uncertainty, moreover not anchored to tangible assets, which, lastly, would attribute an enrichment in the form of interest (thus also violating the prohibition of ribà) for pure causality and without any merit: the ban has therefore traditionally included the creation or subscription of futures, options, credit default swaps, as well as short sales. The prohibition on the use of these tools was sanctioned by the International Islamic Fiqh Academy of the Organisation of Islamic Cooperation (OIC) (Usmani, 1999). However, in light of the developments in global financial markets and to keep in line with them, Islamic jurists distinguish between financial contracts aimed at mitigating pre-existing risks in economics and finance (lawful) and contracts aimed at creating new risks and new uncertainties (prohibited) (Jobst, 2007). A further contract raising critical issues concerning the precepts of Sharia is that of insurance, due to its aleatory nature: within the Islamic context, a form of Sharia-compliant insurance, *takaful*, has therefore been developed based on the principle of profit-loss sharing.

A typical characteristic of the indications coming from *fiqh*, in the event of an activity that is not strictly compliant with the sharia or admissible within tolerance thresholds, although abstractly prohibited, is requesting 'purification' as compensation. This allows the cancellation of the negative effect of the prohibited activity: a common form of purification is to donate part of the proceeds originating from the investment as *zakat* (McMillen, 2011). The *zakat*, or Koranic tax, requires every Muslim to have the fiscal ability to allocate part of their income to public assistance. It is the third of Islam's so-called "five pillars"

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(Fiorita, 2002). *Zakat,* therefore, has a dual function: on the one hand, social, of redistribution of wealth for public assistance; on the other, purely religious, as a necessary act of purification of the wealth possessed. In the latter sense, it demonstrates the disfavour towards money as an end, which refers to the other principles governing Islamic finance (Giustiniani, 2006).

A further consequence of the above-mentioned fundamental principles of Islamic finance is the preference for exchange contracts with immediate effect and with the exchange of instantaneous performance, looking with disfavour at sales in instalments or deferred prices because the time could benefit one party (in this case, the debtor of the financial performance) to the detriment of the other. More generally, the principle's rationale is to prevent any increase or decrease in the asset's value from altering the originally established commutative relationship between performances by conferring on a party an unforeseen or unjustified advantage (Khoulidi, 1994). This also explains the caution and rigour with which Islamic law looks at the assumption of debts, imposing on the debtor the moral and legal obligation to properly fulfil his contractual obligations (Quran, II, 282). The propensity of the Islamic world is to resort to debt only as an *extrema ratio* since contracting debt is not considered natural. As an alternative to debt, profit sharing is encouraged: for this reason, profit-loss sharing constitutes a characteristic and fundamental feature of Islamic finance. The aim is to counteract the disinterest and indifference of the creditor concerning the use that the debtor will make of the capital: such an approach, indeed, clashes with the Islamic conception of money, understood as an instrumental good and not an end in itself, to be used according to ethical criteria and for socially and morally appreciable purposes (Hamaui and Mauri, 2009). Accordingly, the prohibition of *ribà* aims to promote fairness, equality, and solidarity between the contracting parties.

In particular, since the scope of the *maqāṣid al- Sharī'ah* encompasses the protection and promotion of values such as equality, the fair distribution of wealth, economic and technological progress, and the fight against poverty and the waste of natural resources, as well as the protection of the environment and the pursuit of sustainable and conscious consumption, many commentators have placed particular emphasis on the absolute compatibility (if not complete interpenetration) between finance Islamic and sustainable development objectives: the former is therefore considered a paradigmatic tool for the achievement of the latter (Benarafa, 2022). Indeed, the concept of Maqashid al-Sharia originates from the word Maqsad or Maqsid, which comes from the Arabic word that means "purpose, wisdom, and intent", and the term Sharia (Shinkafi et al., 2017). Muslim scholars have agreed that the ultimate goal of Maqashid al-Sharia is to serve all human beings' interests and save them from any danger in life (Dusuki and Bouheraoua, 2011). Maqashid al-Sharia is a valuable instrument for developing society and humanity to achieve human perfection throughout life in this world and the hereafter (Arsad et al., 2015). In Maqashid al-Sharia, the protection of public interest (Al-Maslahahi) includes three subsections: necessities (Al-Daruriyat), complements (Al-hajjiyat), and jewellery (Al-Tahsiniyat). The necessity section (Al-Daruriyat) consists of five elements: protection of faith (Al-Din), protection of self or soul (An-Nafs), protection of intellect (Al-Aql), protection of posterity (An-Nafs), and protection of property (Al-Mal). Protection of property is related to the characteristics of something that is desired and obtained by the owner with effort (muktasab), can be hoarded (iddikhar), can be measured (miqdar), and must undergo transfer exchanges (tadawul) (Esen, 2015; Harahap et al., 2023). Therefore, property protection includes the protection of wealth and ownership, acquisition and development, preservation of wealth and damage, preservation of the circulation of wealth, and protection of wealth values (Dusuki and Bouheraoua, 2011). It broadly means guaranteeing the property rights of citizens by the state, ensuring the welfare of citizens, such as eradicating poverty, equitable distribution of the community's economy and regional development, providing a sense of security and honour, technological developments, and others related to the progress of the state and citizens (Esen, 2015). Accordingly, the values contained in the objectives of Islamic law prove that Islamic law supports the sustainability of a better and just human life (Harahap et al., 2023).

Like Maqasid al-Shariah, the SDGs set by the UN are also aimed at achieving and preserving human development. Both encourage the ultimate goal of creating wealth as a means for comprehensive human development, not just for oneself. Islamic scholars have therefore discussed the paradigm of Islamic finance as a tool for sustainable development, as stated in the UN SDGs in the form of Islamic finance as a circular economy (Khan, 2019). The shift from a linear economy to a circular economy to attain sustainability occurs when human products can be internalised into the financial system (Ayub, 2020) as a financial market connected to the real economy (Khan, 2019).

2. Literature review

Many countries with large Muslim populations exhibit high rates of poverty and rank low in SDG achievement, indicating the need for more significant investment in key productive sectors, including the financial industry: this goes hand in hand with the suitability, according to most commentators, of Islamic finance to pursue sustainable development objectives, hoping for its wider use (Harahap et al., 2023; Ahmed, 2017; Paltrinieri et al., 2020).

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Islamic finance is continuously growing: according to one projection, it should reach 4,940 billion dollars in 2025 (Hararap et al., 2023). The activities composing Islamic finance are: (1) *Islamic banking*, by far the most developed sector, which grew by 17% in 2021, especially in countries that do not represent the hub of Islamic finance, such as Ethiopia and Burkina Faso; (2) *Sukuk*, the second most important sector, which grew by 14% in 2021, reaching $713 billion: notably, new issues increased by 9%, reaching the record figure of $202.1 billion; in particular, long-term sukuk with the tenor of five years or more has increased, indicating a shift in investment towards a longer post-pandemic horizon; sovereigns and quasi-sovereigns bonds continued to dominate new issuance; (3) the *Islamic funds' sector*, less developed than the first two and concentrated almost entirely in three specific countries, namely Iran, Saudi Arabia, and Malaysia. In this context, the so-called ESG funds (i.e., Environmental, Social, and Governance Funds) stand out since they grew significantly in 2021: the most relevant event was the announcement by the Employee Provident Fund of Malaysia. This entity invests almost entirely in Islamic funds and intends to become a sustainable investor with a 100% ESG-compliant and climate-neutral portfolio by 2050. Following in the ranking of sectors falling within Islamic finance are the activities of the so-called (4) *other Islamic financial institutions*, for example, financial technology companies (Calandra et al., 2022), investment companies, finance companies, leasing and microfinance companies, brokers and traders: the most considerable growth in these activities occurred in Kazakhstan (44%), Egypt (38%) and Maldives (31%). The paradigmatic sector of this category is undoubtedly that of FinTech, mainly concentrated in Saudi Arabia, which plans to triple the number of FinTech companies, going from the initial 82 to 230 in 2025. The last sector, the smallest in Islamic finance, is (5) *takaful*, with a growth rate of 17%, consolidating especially in the area of the Gulf Cooperation Council ("GCC") countries and willing to expand into new markets, for example, the Philippines (Report Refinitiv, 2022).

In particular, it is believed that the most used instrument in sustainable Islamic finance is the sukuk. Hence, the widespread denomination of 'green sukuk' (or *ESG-sukuk*): the issuance of *ESG-sukuk* in 2021 reached a new high of $5.3 billion. Saudi Arabia, Indonesia, and Malaysia are the undisputed leaders in this segment, and they are expected to continue to grow, given the strong demand from GCC countries, specifically to help finance green and sustainable transition projects. (Report Refinitiv, 2022). Issued green sukuk were labelled green following the International Capital Market Association's (ICMA) Green Bond Principles (GBP). In addition to the International Capital Market Association's GBP, several green sukuk are labelled following the ASEAN Capital Market Forum's ASEAN Green Bonds Standards. Green sukuk issued in Malaysia and Indonesia follow not only international green bond standards, GBP and ASEAN Green Bonds Standards, but also their own national, i.e., Malaysia's Sustainable and Responsible Investment (SRI) Sukuk Framework and Indonesia's Green Bond and Green Sukuk Framework (World Bank 2020).

The *Sukuk* is one of the typical financial instruments of Islamic finance and is commonly referred to as an "Islamic bond." Traditionally, it is considered the same as a conventional bond, although these instruments differ in various aspects (Safari, 2011). In particular, the differences between the traditional bond and the *sukuk* mainly concern the nature of the underlying, which, in the first case, tends to be purely financial. In contrast, the second coincides with one or more tangible assets of which the investor purchases a share, the AAOIFI Sharia Standard No. (17) - *Investment Sukuk*, at §2, provides for the following definition of *Sukuk*: "*Investment Sukuk are certificates of equal value representing undivided shares in ownership of tangible assets, usufruct, and services or (in the ownership of) the assets of particular projects or special investment activity. However, this is true after receipt of the value of the Sukuk, the closing of subscription and the employment of funds received for the purpose for which the Sukuk were issued*" (AAOIFI). Since the sharia prohibits the sale of debt, *sukuk* are not representative of third-party capital but of the share of co-ownership of the underlying assets, which therefore fall into communion between the various sukuk-holders, for example, the AAOIFI Sharia Standard No. (10) - *Salam and Parallel Salam*, at §7 "Salam Sukuk Issues", rules that: "*It is not permitted to issue tradable Sukuk based on the debt from a Salam contract*" and "*The basis for the impermissibility of tradeable Salam Sukuk is because trading with such Sukuk is a form of sale of debt which is prohibited*"(AAOIFI). Accordingly, further differences between the two financial instruments are highlighted: the coupon payment in the conventional bond coincides with a predetermined and fixed percentage, while in the *sukuk* it is linked to the market-value trend of the underlying assets. The relationship between the issuing company and the investor is also different because it is not a credit-debt relationship deriving from the traditional financing scheme but depends on the type of contract used, which must, in any case, be Sharia-compliant (the most common forms are those of *ījāra, musharāka or mudāraba*) (Miglietta, 2012). More specifically, it was observed that sukuk should be defined as "Islamic investment certificates" as they are participation certificates representing undivided ownership shares in an asset consisting of tangible goods (Moghul and Safar-Ali, 2014). It has been observed that, in practice, the *Sukuk* is similar to a securitisation transaction due to the creation of a corporate vehicle (i.e., special purpose vehicle, SPV) to which the originator of the operation (i.e., the subject that needs the financing) sells certain assets, against which the SPV issues certificates (*sukuk* notes) which will be subscribed by investors

(Alvaro, 2014). The funds thus collected will be used as consideration for the assets sold by the originator, and these funds must be used to finance Sharia-compliant activities. The investors will, therefore, become co-owners of the assets transferred to the SPV, and the latter, on their behalf, will stipulate a Sharia-compliant agreement with the originator to regulate their use.

Furthermore, the Sharī'ah Board of the Accounting and Auditing Organisation for Islamic Financial Institutions (AAOIFI) has concluded its 87th meeting in September 2023. During this time, the Board announced the resolution to release the draft standard on Sukuk (Standard no. 62), marking a significant milestone in Islamic financial regulation. Sukuk are defined as: *"[Certificates of] Sukuks are investment securities of equal value for common share that establish ownership of assets (tangible assets, usufructs, rights, debts, cash, or a mix of [all of] them or some of them) that are already in existence or that will be acquired or created, and it will implicate rights for the certificate holder arising from its interest in ownership of those underlying assets and obligations on [the certificate-holder] to the extent of its share in them*". (AAOIFI, 2023).

In particular, the AAOIFI Standard no. 62 highlights that Sukuk have characteristics that distinguish them from conventional bonds, the most important of which are: (i) Sukuk are not based on lending against interest; (ii) the principal amount and the profit amount of Sukuk will not be recognised automatically as an obligation owed by the originator once the subscription to the certificates of Sukuk and the payment of the principal amount was carried out; (iii) Sukuk are an investment instrument wherein their owners share the reward (*ghunm*), as well as the liability (*ghurm*) of the underlying assets of the Sukuk that are owned jointly by the certificate-holder with the other certificate-holders of Sukuk of the same issuance. Also, it is usually a financial instrument for the originator; (iv) Sukuk are issued based on one or more Sharia contracts by Sharia rules that regulate issuance, trading, and maturity of Sukuk; (v) risks of Sukuk are not confined to credit risks of the originator; and its credit rating is not limited to the financial worthiness of this entity (AAOIFI, 2023; Cupri, 2022).

As of September 2020, a $10 billion value of green sukuk has been issued by 11 entities from four countries, namely Indonesia, Saudi Arabia, the United Arab Emirates, and Malaysia (in descending order), and from one multilateral development bank (Azhgaliyeva, 2020). Green sukuk is issued by the top four sukuk-issuing countries. More than half of sukuk (65%) and more than half of green sukuk (64%) are issued in the Asia and Pacific region (Indonesia and Malaysia). Indonesia is the largest issuer of green sukuk (54%). The large amount of green sukuk ($5.5 billion) is due to the issuance by the Government of Indonesia. Although Malaysia is the smallest issuer of green sukuk ($1 billion), it has the most significant number of private issuers supported by green bond grants and tax incentives. Both Malaysia and Indonesia introduced national green sukuk standards: Sustainable and Responsible Investment (SRI) Sukuk Framework (Malaysia) and Green Bond and Green Sukuk Framework (Indonesia) (Azhgaliyeva, 2020).

The development of the sukuk market was characterised by a very heated doctrinal debate, especially in the Islamic context: a significant part of the interpreters believed that the sukuk issued (especially in an early period) were utterly similar to traditional bonds, raising critical severe issues from a sharia-compliant perspective (Usmani, 2007; Miller et al., 2007; Wilson, 2008; Rahim and Ahmad, 2014); vice versa, another part of the doctrine has emphasised the structural differences between the two instruments, remarking the undoubted compliance of Sukuk with the principles of Islamic finance and, according to some scholars, their lower levels of risk (Cakir and Raei, 2007; Alam et al., 2013) also thanks to the guidelines developed by the AAOIFI. Hence, the precise choice of this institution is to name sukuk "investment sukuk" to differentiate it from conventional shares or bonds.

However, there is no doubt that green sukuk are now universally recognised as suitable tools for pursuing sustainable development objectives, in a sharia-compliant context (Suriani et al., 2024; Dey et al., 2020).

In particular, in a recent study, the authors analysed the effects of green sukuk - in particular, those issued from 2018 to 2022 - concerning the negative consequences of climate change, going so far as to argue that, both in the short and long term, green sukuk can contribute to reducing these adverse effects in the issuing countries (Suriani et al., 2024).

Technology development has caused innovations in Islamic financial technology, including combining fintech with products from Islamic finance (Calandra et al., 2022), such as Sukuk and waqf. The combination of blockchain and Sukuk can increase the transparency of cash flows, and the underlying assets of Sukuk can improve investment decision-making with an ample supply of information, which is also beneficial for the realisation of the SDG program in the economic field (Harahap et al., 2023). However, caution is still needed when combining innovative technology in Sukuk, as is the case with other Islamic financial products, such as protecting these products from legal, regulatory, Shariah, and other risks. Although the Sukuk blockchain innovation has many benefits, there will still be risks that must be overcome in running the Sukuk blockchain (Kunhibava et al, 2021).

3. Methodology

The present article applies the comparative law methodology. Namely, it considers how culture determines the parameters of the judicial legal reasoning, the systems of law that jurists would borrow from, and even the extent to which they would borrow, as well as how such approach determines the standing of each individual within the culture; also arguing how the nature of this culture varies from one society to another, and concluding that unless one has an awareness of the importance of this rootedness in a particular legal culture, one can never understand the parameters of legal debate (Watson, 1995). Furthermore, it contemplates that comparative law's primary purpose is acquiring knowledge and that the connected "legal formants" must be considered to understand a legal system properly. In particular, legal formants are elements that characterise a specific legal system. Paradigmatic examples include legislative provisions, court rulings, academic writing, and professional and administrative practices developed in a particular context.

Furthermore, hidden factors ("crittotipi") affecting the interpretation and application of the rule of law shall be considered, too (Sacco, 1991). Concerning this aspect, the Article also applies the concepts expressed in Trento's Theses – i.e., the cultural manifesto of comparatists – according to which one of the aims of comparatists is to highlight the dissociations between theoretical statements and operational rules (Gambaro et al., 1989). Under the First thesis, "The task of legal comparison, without which it would not be a science, is the acquisition of a better knowledge of the law, just as the task of all comparative sciences, in general, is the acquisition of a better knowledge of the data belonging to the area to which it applies. Further research and promotion of the best legal or interpretative model are very considerable results of comparison, but the latter remains a science even if these results are lacking"; the Second thesis stresses the importance of facts and legal phenomena realised in the past or the present; according to the Third thesis: "Comparison does not produce useful results until the differences that exist between the legal systems considered are measured. Comparison is not made until one limits oneself to cultural exchanges or the parallel exposition of the solutions explained in the different areas; under the Fourth thesis: "Knowledge of legal systems in comparative form has the specific merit of checking the coherence of the various elements present in each system after having identified and reconstructed these same elements. In particular, it checks whether the operational rules present in the system are compatible with the theoretical propositions elaborated to make the operational rules knowable". Finally, the Fifth thesis states: "Knowledge of a legal system is not a monopoly of the jurist belonging to the given system; if, on the one hand, he is favored by the abundance of information, however, he will be more hindered than anyone else by the assumption that the theoretical statements present in the system are fully coherent with the operational rules of the system considered" (Sacco, 1991).

Finally, it considers that comparative law methodology operates in a rapidly evolving social, economic, and political context, where cultural and legal uniformity, dictated by the global model, clashes with the different cultural contexts in which it spreads and that challenge its effectiveness. Nowadays, the relationship between legal rules and their effectiveness is transforming, influenced not only by their juridical content but also by the complex web of social relationships and cultural influences originating in the space in which norms are supposed to be applied. While globalisation tends to impose a single legal rule valid worldwide, the social complexity forces the law to dialogue in transnational, intercultural, and multilingual contexts, requiring continuous and complex adjustments that often prove borderline (Ioriatti and Pradi, 2023).

4. Results

The choice to focus attention on Malaysia and Indonesia, on the one hand, and the countries of sub-Saharan Africa, on the other, is because both models, for different reasons, are particularly interested in the objectives of the SDGs and the problems related to these. Furthermore, both contexts are characterised by the influence of Islamic law: dominant in the former and highly significant in the latter. The sub-Saharan area, on the other hand, constitutes a very heterogeneous context, characterised by the fact that a large part of the population is Muslim, and which, alongside some countries with a more structured economy and social development (for example South Africa, which however has recently been suffering from a crisis in access to energy resources, so much so that interruptions in the supply of electricity and sudden blackouts are frequent in the country), there are many others characterised by a high rate of poverty and illiteracy, by the scarcity of infrastructure and limited access to energy sources. All key themes of the United Nations 2030 Agenda.

In this regard, the case of Nigeria is emblematic because, although the country is the leading producer of oil and gas on the African continent, these resources, in any case, are not compatible with the sustainable development objectives, are in the hands

of a few private corporations, and the population has limited access to them. According to data updated to 2024 from the World Poverty Clock, 31% of the Nigerian population lives in conditions of extreme poverty (World Poverty Clock, 2024). Furthermore, while Malaysia is in the group of OIC member countries with the best score in terms of initiatives and SDGs' achievement (the other countries are: UAE, Turkey, Qatar, Tunisia, Kazakhstan, Jordan, Morocco, Azerbaijan, Egypt, Kyrgyzstan), many sub-Saharan African countries not only fall within the group of OIC countries with the lower score (i.e., Mozambique, Mali, Gambia, Sierra Leone, Nigeria, Guinea, Burkina Faso, Chad, Niger) but even among the countries with the worst score at all (i.e., Nigeria, Guinea, Burkina Faso, Chad, Niger, Democratic Republic of Congo, Liberia, Central African Republic (Ahmed, 2017; World Bank Group, 2018).

The selected models, therefore, fall respectively at opposite ends of the spectrum about the initiatives and results in terms of SDGs, as well as the level of development of Islamic finance (more advanced in Southeast Asia, still limited in sub-Saharan African countries), represent, for these reasons, an exciting model for examination and comparison.

Furthermore, Malaysia and Indonesia constitute for the comparatist a model of investigation worthy of attention, especially for recent developments in the fields of Islamic finance, transnational trade, and international arbitration; Sub-Saharan Africa, due to its historical, cultural, and legal peculiarities, has long been the subject of comparative studies (Sacco, 2012; Vanderlinden, 1987).

Establishing Zakat and proper collection and distribution processes ensures social security and equality (Rehman & Pickup, 2018). Many countries, such as Malaysia and Indonesia, have adopted policies relying on the Zakat for sustainable development. Moreover, Malaysia, Indonesia, the UAE, and Qatar have established government-linked organisations that collect and distribute Zakat funds. Recently, a few countries, including Malaysia and Indonesia, have started donating Islamic Social Finance funds from local needs to international priorities (Tok et al., 2022). In the case of poverty alleviation, particularly in Malaysia, Zakat distribution has always been a vital and significant factor in reducing income inequalities among the various strata of the community: this, in connection with the development of Fintech and the use of mobile phone services has resulted in a significant improvement of financial inclusion in Malaysia (Yahaya and Ahmad, 2018). These countries spend part of their Zakat funds to support needy people living outside their territories through their national Zakat agencies, through international organisation platforms that collect Zakat, or through non-profit organisations. (OECD, 2020). Indonesia has established a National Sharia Finance Committee and an Islamic Economy Masterplan for 2019-24, with the central goal of boosting the role of Islamic finance in driving economic growth (OECD, 2020). For example, the Indonesian National Amil Zakat Agency delivers scholarships, humanitarian aid, refugee support, food aid, and cooperation related to peace and security to other countries using Zakat funds. In addition, international organisations have been showing a high interest in collecting Zakat through their transparent and accessible platforms aimed at using their funds in global aid activities. Different UN entities have already introduced platforms, mainly in the region of Zakat trust funds and international equity philanthropy funds (UNESCWA, 2021).

The UNHCR has been seeking fatawa from religious institutions, including from the OIC Fiqh Academy, to collect Zakat and to raise funds using other Islamic social finance tools to support refugees residing in Egypt, Iraq, Jordan, Bangladesh, Yemen, Lebanon, Mauritania, and Myanmar (UNESCWA, 2021). Religious organisations in some countries, such as Malaysia, issued fatawa to use Zakat funds to provide humanitarian aid to those who need it, regardless of their religion (IFRC, 2024). The Malaysian National Zakat Council and the Kenya Red Cross undertook support for people living in the Keitu region in Kenya. The Malaysian Zakat organisation donated nearly 1.2 million USD through the International Federation of Red Cross and Red Crescent Societies to support poor social groups in Kenya affected by the 2016 drought. They use cash-based interventions to help communities cope with drought. The IFRC, together with the Zakat Council of Malaysia, uses Zakat funding from Malaysia to make use of untapped contributions that Islamic social financing can bring in the area of global priorities and development cooperation. The justification for delivering the Zakat fund to a non-Muslim society is to support or save humanity (IFRC, 2024).

Furthermore, the IFRC, in collaboration with the Islamic Development Bank, launched a new fund using Islamic social finance instruments. The fund, known as The One WASH (Water, Sanitation and Hygiene) Fund, aims to fight cholera and other diarrheal diseases in 29 OIC member countries. By the end of 2030, the project is expected to cut cholera deaths by 90 percent and to improve the lives of 5 million people in 29 OIC member countries. The project is financed using partnership modalities: philanthropic donor financing (Zakat and Sadaqat funds) and proceeds from the issuance of impact Sukuk. The IFRC's global One WASH program supports UN Sustainable Development Goals 3, 5, 6, and 17 (Tok et al., 2022).

In addition, providing access to banking and other financial services has been deemed a powerful tool to foster financial inclusion and reduce poverty: according to a recent study (Okudowa et al., 2023), the banking sector development contributed

significantly to poverty reduction in Nigeria, while stock market development and financial inclusion had an insignificant effect in that country. The study concluded that the relationship between financial development and poverty reduction depends on how financial development is measured. Hence, the study recommends that the banking sector increase the volume of loans to people experiencing poverty and ease constraints on credit accessibility for people with low incomes. Moreover, in the opinion of the authors of the study, special financial instruments such as SME Bonds will help to raise funds for SMEs and other small business units (Okudowa et al., 2023).

Furthermore, the relationship between financial inclusion, institutional quality, and bank stability in sub-Saharan Africa has been recently examined. Using a sample of 48 countries from 2002 to 2021, a study suggests that financial inclusion, measured by account ownership, ATMs, borrowers, depositors, and bank branches, positively impacts bank stability, indicating its importance in reducing transaction costs and addressing asymmetric information. The study also explores the moderating role of institutional quality, revealing that the presence of institutions enhances the positive effects of ATMs, borrowers, and depositors on bank stability while negatively impacting the relationship between bank branches and stability (Ofoeda et al., 2024).

Moreover, it is interesting to highlight that financial inclusion fosters gender empowerment as well, contributing to achieving the UN SDG number 5 (Senghore, 2023). In this regard, it is interesting to consider the development of so-called "gender bonds" within the Asian context. Aside from documented outperformance, academic literature points to gender diversity on boards lessening the frequency of securities fraud (Cumming et al., 2015), enhancing a firm's corporate social responsibility (Shaukat et al., 2016) and a positive relationship between board gender diversity and renewable energy consumption (Atif et al., 2020). With these significant benefits associated with investing in gender equality, gender bonds provide a precise mechanism to match investors with investment opportunities in these firms that have shown heightened levels of success (IISD, 2021). Currently, the number of investors in gender bonds has been quite limited. Gender bonds have typically been offered to a limited number of large institutional investors and allow customisation to meet the financial and impact-related needs of both the issuer and investor. Prominent examples of these private placements include the Asian Development Bank's (ADB) ¥10 billion gender bond, issued in 2017 and purchased in its entirety by Dai-ichi Life Insurance Company, Limited of Japan; the International Finance Corporation's (IFC) and Deutsche Investitions- und Entwicklungsgesellschaft's (DEG) USD 220 million subscription of Bank of Ayudhya's Gender Bond issuance in 2019, and the IFC's 2020 commitment to fully support Indonesia bank OCBC NISP's gender bond (IISD, 2021). As highlighted by the International Institute for Sustainable Development, despite the modest size of the gender bond market in the ASEAN region and globally, there is reason for optimism regarding its expansion, given the example of the trajectory of the green bond market. As investors have become more sensitive to sustainability issues, demand for green bonds seems to outstrip supply, issuer premiums have increased, and issuers enjoy lower capital costs. Even as the green bond market matures and the issuances increase, plenty of capital remains ready to invest. Gender bonds will likely follow a similar path as a greater acknowledgement by investors, which will induce demand for more bonds and capital from more diverse investors. A key catalyst to this acknowledgement will be a deeper understanding of the impact that gender bonds can deliver alongside the financial returns they can generate (IISD, 2021).

5. Discussion

5.1 Critical elements of Islamic finance Law

Despite the undoubted activism and attention to achieving sustainable development objectives, it has been observed that the emerging picture needs to be more cohesive and consistent, as well as characterised by the absence of a consistent legal framework (Richardson, 2020). Though this is a common feature when dealing with financially sustainable instruments at a transnational level, the context at stake is particularly enhanced due to the peculiar features of the Islamic Finance Law, which is in continuous tension between positive law and Sharia's respect. The legal framework of countries involved in developing Islamic Finance Law, especially in the MENA area (i.e., Middle East/North Africa), is not yet consolidated. Critical elements remain: for example, the lack of transparency, the problematic interaction between Sharia principles and positive law, the absence of mechanisms for practical enforceability of contractual obligations assumed, and the unpredictability of judicial decisions. As pointed out by a scholar, "Several systemic legal issues or 'legal gaps' undermine investor confidence and impede the sustainable development of the Islamic finance industry. Legal gaps include but are not limited to undeveloped securities laws, enforceability issues, and a lack of clarity concerning the role and effect of Sharia in the municipal legal systems of many

MENA states. More generally, these highly complex legal environments are associated with a reduced flow of information (lack of transparency), which results in diminished legal certainty and foreseeability" (Ercanbrack, 2019).

5.1.1 The case of Dana Gas Sukuk

A paradigmatic example of the above remarks is a Sukuk issued in the UAE.

In 2017, Dana Gas, a company incorporated in the UAE and operating in the energy field, officially declared to its investors that it would not be able to pay for certificates issued under a US$700 million *sukuk* created in 2013 because, according to the company, the structure underlying the sukuk was no longer Sharia-compliant. Dana Gas, therefore, submitted a request to the UAE courts to ascertain the mudarabah sukuk's conflict concerning that country's law. It also obtained judicial injunctions prohibiting investors from suing against the *Mudarabah* agreement until the UAE courts had finally ruled on the merits of the action taken (Dana Gas, 2017). The purpose of Dana Gas was to restructure the sukuk issued in such a way as to halve the distribution of profits due in 2017, justifying it in light of the alleged unlawfulness of the Sukuk due to the evolution of Islamic financial instruments and their interpretation (Howard, 2017). This kind of episode, being the expression of opportunistic behaviour by the company involved, does not contribute to strengthening the confidence of both the market and investors in these forms of investment and represents a dangerous precedent because other companies could try to release from their contractual obligations, invoking the supervening non-compliance with sharia of the financial instrument issued (Ercanbrack, 2019).

5.2 The sub-Saharan Africa context

As already highlighted, the countries of sub-Saharan Africa represent an extremely heterogeneous context characterised by widespread poverty and illiteracy, exposure to the adverse effects of climate change (for example, desertification), water scarcity, and infrastructures that are still underdeveloped. All themes coincide with the SDGs identified by the United Nations 2030 Agenda. In addition, these countries are characterised by the presence, whether in the majority or not, of a large segment of the Muslim population; accordingly, many of them belong to the OIC.

As emphasised in para. 4 above, one of the most perceived problems is the need to promote forms of financial inclusion to guarantee access to this type of service to a large population segment, which is instead excluded from it. From this perspective, many commentators have highlighted the suitability of Islamic finance in contributing to the pursuit of the SDGs in a Sharia-compliant form (Kabir-Hassan et al., 2022). Islamic banks' financing activities are making significant contributions to real economic activities in the short and long runs, with the long-run contribution being more substantial. This finding suggests that the Islamic banks in Malaysia are effectively carrying out the financial intermediation role of pooling and channelling funds to productive investment activities. The above contributions of Islamic finance to real economic activities are made possible by the equity participation principle. The investor–investee relation between the depositors and the Islamic banks based on the concept of risk sharing should lead to better monitoring of investments, hence higher productivity, a more stable financial sector due to the absence of interest rate risk, among others, and therefore, more sustainable economic growth (Kassim, 2016).

Various innovations in the context of realising the SDG program were carried out in Malaysia, including developing green programs correlated with efforts to protect the environment sustainably. One application of this green economy is green banking. The green, inclusive behaviour of Islamic bankers significantly affects the growth of green banking. The five types of green behaviour, namely, conservation, sustainable work, avoiding harm, influencing others, and taking the initiative, have significant positive impacts on the growth of green banking (Ali et al., 2020). Global mobilisation to improve financial stability, achieve the SDGs, and mitigate climate change requires innovative structures and frameworks to develop new financing instruments and improve the efficiency of existing ones. The ethical principles and legal contracts inherent in Islamic finance offer a different avenue for financial innovation that incorporates the principles of Maqashid al-Shariah. The unleveraged green investment trust represents a case of financial innovation because it allows the pooling and allocation of investment funds for development projects and facilitates liquidity management for Islamic Finance and open market operations for central banks (Harahap et al., 2023).

It has been observed that the global financial crisis of 2008 has established the credentials of the Islamic financial system as a sustainable financial system that can save the long-term interests of the average citizens worldwide while adding value to the real economy. The fundamental ethical tenets available in the Islamic financial system make it more suited and ready to fight the economic aftershocks of a pandemic like COVID-19. The basic principles of ethical Islamic finance have solid connections to financial stability and corporate social responsibility within the wide-reaching business context (Raza Rabbani et al., 2021; Moosa, 2023).

Islamic social financing (ISF) is an untapped source of funds to finance humanitarian aid globally. ISF institutions play a facilitative role in society, ensuring economic development and social justice. They have a vital role in instrumentalising

religious development aid. Among others, Zakat and Waqf instruments are essential in reducing income inequality in society and channelling funds to meet humanitarian needs. Debt and high interest rates cause financial, social, and moral problems. Shariah-based ISF can be an alternative source of financial support for marginalised people in Muslim countries (Tok et al., 2022).

ISF has various hybrid instruments that link philanthropic and commercial activities, such as microfinance, Micro-Takaful and SRI Sukuk, and are used to support development activities. Islamic social finance's redistributive and social equality elements are essential in helping refugees residing in various countries and realising SDGs (Kassim, 2016; Tok et al., 2022). They address financial constraints, funding shortfalls, and financing inequalities. Therefore, through innovative hybrid approaches, it is possible to utilise the potential of Islamic social financing to stimulate economic activities, promote social welfare, enhance financial inclusion, and boost shared prosperity (Tok et al., 2022).

Namely, among the five categories into which Islamic finance is divided, the most important are, on the one hand, Islamic banking and Fintech (Corapi & Lener, 2019), especially to meet the needs of individual users; on the other hand, Sukuk, especially to attract investments in the business sector and for the development of infrastructure (Amuda, 2023).

From the first point of view, the so-called digital finance can open up new opportunities for low-income users and micro-businesses, currently without access to financial services. According to the World Bank Global Findex Report, in 2017, only 33% of the adult population held a bank account in sub-Saharan Africa (Demirgüç-Kunt et al., 2020). In recent years, the banking institutions operating in this context have expanded the range of the digital services offered to attract new customers and increase their competitiveness: the most significant forms of financial inclusion are those relating to home-based applications, mobile banking and other forms of payment, based on the use of mobile devices (Chinoda and Kapingura, 2023).

In particular, it is believed that to ensure greater financial inclusion of people in conditions of economic poverty, it is necessary to expand the offer of so-called 'user-friendly products,' especially low-cost financial services. From this perspective, it is thought that FinTech can open up new opportunities for low-income users and micro-enterprises without access to financial services (Amuda, 2023).

In recent years, banking institutions operating in this context have distinguished themselves by expanding the digital services offered to attract new customers and increase their competitiveness. The most significant forms of financial inclusion are home banking applications for mobile phones and other payment methods based on mobile banking functions that are easy to use, economical, accessible anytime and anywhere, especially at low cost: for example, financing at sustainable economic conditions, reasonable profits on investments and also on savings, availability of automated services and simplified forms of internet banking (Chinoda and Kapingura, 2023; Nutassey et al., 2023).

Specifically, two models have been identified in sub-Saharan Africa: the "additive model" and the "transformative model". The additive model allows bank account holders to access their bank account via mobile phone and benefit from additional services, such as transferring funds, paying bills, etc. Instead, the transformative model offers financial access to those who do not have a bank account: this always happens from a mobile device and through services provided by MNO - Mobile network providers and microfinance institutions (Yahaia and Khalid, 2018). An example of the transformative model is M-PESA: it is an application created in Kenya in 2007 by Safaricom, a company owned inter alia by the Vodafone Group and the Kenyan government, which allows to transfer funds, even abroad, make payments via the Paypal circuit, make purchases on e-commerce platforms, withdraw money at affiliated points and request financing for both consumers and businesses (Yahaia and Khalid, 2018). Another significant example is Ghana, where many people live below the international poverty line and do not have access to financial products or services. Furthermore, most of the population lives in rural areas, making it difficult to access banking or financial services in the main cities. Thanks to mobile banking, a large segment of the population now has access to these services, and it is estimated that financial inclusion has increased from 29% in 2011 to 58% in 2020 (Adabor et al., 2023).

In this context, it is believed that Islamic finance, combined with technological and digital innovations, can play a leading role in improving financial inclusion, especially for those who do not want to resort to conventional finance because it is not Sharia-compliant. Considering that the widespread use of interest characterises the products and services of traditional banks and that this constitutes an obstacle to the inclusion of Muslim customers, it is believed that the development of Islamic banking can overcome this inconvenience, allowing access to banking and financial services for a broader segment of the population.

6. Conclusion

The analysis carried out highlights the significance of Islamic Finance in promoting sustainable development and financial inclusion: the selected models of comparison give evidence of the achievements, even in terms of SDGs, fulfilled in countries – like Malaysia and Indonesia - where Islamic Finance is more developed, as well as of its potentialities in countries – like those of sub-Saharan Africa – more affected by the issues that the SDGs are aimed at overcome. As highlighted, financial

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inclusion plays a vital role in reducing poverty and inequalities (SDG-01 and SDG-10), promoting gender equality (SDG-05), contributing to decent work and the economic growth of the society (SDG-09), and developing industry, innovation, and infrastructure (SDG-09) as well as sustainable cities and communities (SDG-11). Among the different products of Islamic Finance, Islamic banking, Islamic fintech, and Sukuk appear to be the most suitable tools to promote financial inclusion for consumers and SMEs. However, the scenario is constantly evolving, and verifying the developments in light of the parameters set forth by the SDGs will be interesting.

The current topic appears particularly interesting from a comparative perspective, both for the developments that are transversally affecting the Islamic finance law sector - especially in some significant experiences, such as the South East Asia and the countries of sub-Saharan Africa - and because of some paradigmatic issues of comparative law that can be identified in it: indeed, the acquisitions of this science can offer a significant contribution.

First, consider the leading role played by the doctrine, for example, the AAOIFI and other equivalent institutions, as well as the business community. Both of them have led to the consolidation in the market of shared rules, which, especially in a transnational context in which uniform rules of law are lacking, constitute forms of self-regulation par excellence, increasing the certainty and trust of market operators and the heterogeneous public of investors. The reference is, for example, to two regulations voluntarily, somewhat similar to each other: on the one hand, the *Green Bond Principles* ("GBPs"), published by the International Capital Markets Association ("ICMA") and, on the other, the *Climate Bond Standards* ("CBDs") published by the Climate Bond Initiative ("CBI"). Both emphasise compliance with the requirements of transparency, information, and independent verification of the green character of a new product or financial instrument. The guidelines also identify a non-exhaustive list of suitable projects, which includes projects linked to renewable energy, eco-compatible transport, and infrastructure for water distribution. All objectives are consistent with the SDGs in the United Nations 2030 Agenda.

In addition, the Security Commission of Malaysia published the first standards to regulate responsible finance sukuk in 2014 to integrate the regulations already in force regarding sukuk. This regulation, however, applies only to sukuk issued in Malaysia. ICMA then released the "Social Bond Principles". They are very similar in content to the GBPs but aim at regulating financial instruments for social purposes. Currently, the trend is to distinguish between "social bonds", "sustainability bonds", and "social impact bonds", namely social bonds finance projects that seek to mitigate social problems or intend to achieve socially valuable objectives. In 2018, ICMA updated its Sustainability Bond Guidelines, providing that those instruments whose proceeds finance projects that have both a green and social purpose can be classified as sustainability bonds; social impact bonds are structured in such a way that the distribution of profits depends on the achievement of the objectives indicated in the financed project. The latter, however, are not yet subject to specific government regulations or guidelines developed on a customary basis (Richardson, 2020).

As can be inferred, such self-regulation phenomena undoubtedly have positive aspects and merit in responding to new market needs; however, these are sectoral and fragmented interventions. Accordingly, policymakers need to develop a uniform framework to enhance a consistent regulatory scenario to help practitioners deal with these issues and promote cooperation among countries while decreasing transaction costs and uncertainties due to this piecemeal context.

A further issue directly related to the above is the lack of a uniform and unambiguous terminology: currently, not only among practitioners and operators but also in scientific literature, terms such as "responsible finance", "impact finance", "sustainable finance," and "social finance" are adopted as equivalents. As has been authoritatively highlighted, "language" and "law" are an inseparable pair, and legal norms are indeed conveyed through a language that is neither common nor literary but rather scientific, which implies and expresses technical concepts, the expression of cultural heritage, and legal traditions (Sacco and Rossi, 2019). The absence of precisely defined boundaries enhances the risk of opportunistic behaviour (for example, the well-known phenomenon of greenwashing) and increases transaction costs (Ioriatti, 2023). Currently, the benchmark is the so-called Taxonomy Regulation (i.e., EU Regulation 2020/852) on establishing a framework to facilitate sustainable investment, which sets forth the criteria to assess whether a business activity can be deemed sustainable to determine the level of environmental sustainability of an investment. The EU Commission has amended such Regulation – Delegate Regulation 2021/2139, establishing the technical screening criteria for determining the conditions under which an economic activity qualifies as contributing substantially to climate change mitigation or climate change adaptation and for deciding whether that economic activity causes no significant harm to any of the other environmental objectives (Europa, EU).

For the same reason, the World Bank published 2020 a general guideline addressing the need among financial market participants for clarity and transparency in what is understood and what qualifies as green (World Bank, 2020). However, the scenario is constantly evolving, and alongside these interventions, numerous others aim at regulating this varied and complex phenomenon. Consequently, this is an additional concern for policymakers and practitioners.

A further aspect worthy of consideration is the perceived need for a suitable legal framework and jurists and operators equipped with the necessary transnational skills, i.e., what could be defined as an adequate "technostructure" (Gambaro and Sacco, 2018).

The issues above point out interesting topics for future research: as highlighted, legal concerns, in a broad sense, tend to be neglected in current analysis while playing an essential role in the development of Islamic finance and the achievement of the

SDGs. Moreover, this peculiar context further enhances the opportunity for a comparative law approach. The present research, therefore, contributes to promoting the development of this kind of analysis and future regulatory interventions that should consider the essential features of both conventional finance and Islamic finance to enhance the cooperation of these different models in fostering financial inclusion.
In light of the above remarks, it is worthwhile to recall the words of an Author, who observes: "The theme is that of change, innovation, the evolution of a legal system (Legal Change) over time due to the reception, transplantation, circulation, influence of models, institutions, rules originating in space from alien legal systems" (Guarneri, 2022).

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