

## LITERATURE REVIEW: THE IMPLEMENTATION OF SUKUK STRUCTURES

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### *Abstract*

*This article seeks to review the implementation of Sukuk structures following Shariah-compliant and Maqasid Al Shariah principles. The analysis of this work employs a qualitative methodology based on the thesis, journals, papers, websites, and other sources to understand the implementation of the Sukuk structure. The findings of this research demonstrate that the application of Sukuk structures is the principal contribution instrument to the Islamic financial system in the money growth and preservation of hifth al-mal, one of the Maqasid Al Shariah pillars. Despite the considerable risks associated with investments in the Sukuk sectors (in comparison to conventional bonds), Sukuk markets nevertheless generate a substantial return in the financial market. In addition, the Sukuk legislation utilises international standards such as IFSB or AAI OFI structures, which play a crucial role in elucidating the rights of Sukuk issuers and holders and fostering transparency in Sukuk contracts and dispute settlement.*

**Keywords:** *implementation, Sukuk structure, Maqasid Al Shariah, and standard.*

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## INTRODUCTION

Islamic Sukuk is an alternative financing mechanism for a conventional bond to finance investments and infrastructure projects that the state's budget may not cover. The use of Islamic Sukuk has attracted billions of dollars in investment and generated success and tangible returns not only in Islamic countries but also in western countries such as Britain, the United States, and Germany. Countries finance these projects through individuals and the private sector by issuing Sukuk.

Implementing the Sukuk is critical since it is the mould in which this instrument is formed and issued. The local legislation that rolls the financial institutions and how far to be Shariah-compliant are the most significant aspects of the financing industry and the implementation of Sukuk.

Besides adopting an international Islamic standard to achieve transparency in the Islamic finance system. The three main elements of corporate governance are transparency, accountability, and adequate disclosure. In addition, attaining an international credit rating is one challenge in the Islamic finance industry which relies on all previous factors. Despite all these elements, the implementation of the Sukuk, however, presents the jurisprudence view of the legislative committee in the institution which issued the Sukuk.

## **METHODOLOGY**

This study employs a qualitative methodology based on the thesis, journals, papers, websites, and other sources to understand the implementation of the Sukuk structure. Furthermore, to analyse and explain the implementation of Sukuk. To address this paper's challenges, this qualitative study aims to explore, investigate, and evaluate more systematic studies.

## **SUKUK STRUCTURES**

According to Hanan Al Madani (2018), the ultimate purpose of this research is to ascertain whether or not the Islamic Development Bank's (IDB) Medium Term Note (MTN) Sukuk complies with Maqasid Al Shariah in hifth al mal, where Sukuk are issued. The programme serves as the research's case study. To conduct this study, the researcher has developed a theoretical framework. The first step is to analyse the positions held by Maqasid Al Shariah and how this concept defines human evolution. This has important implications for the idea of benefits (maslaha). The essay goes on to introduce the first model of Maqasid Al Shariah to appear in the hifth al mal. Research in this area suggests a conceptual understanding of Sukuk in light of Maqasid Al Shariah in hifth al mal as an essential tool for advancing human flourishing and long-term economic growth.

The researcher employed a qualitative approach based on semi-structured interviews with the field and subject experts (senior experts) from institutions and lecturers. The bulk of the information was gleaned from exclusive interviews with IDB experts and decision-makers whose extensive knowledge developed the criteria for asset preservation following Maqasid Al-Shariah.

The outcomes of this study indicate that the MTN Sukuk Program efficiently serves the main components of the Maqasid Al Shariah model and that the Program has tremendous potential to serve Maqasid Al Shariah in hifth al mal. In addition, the MTN Program has had a good impact on human well-being and sustainable development within the Maqasid Al Shariah paradigm. Lastly, it is maintained that adopting Maqasid Al Shariah in hifth al mal to financial transactions will promote global prosperity and the well-being of Islamic objectives.

The purpose of the IDB is to promote socio-economic progress among member nations in line with the principles of Muslim communities in non-member countries. Its AAA grade reflects its leadership and facilitation within the Islamic financial industry. According to the Boston Consulting Group's assessment, The IDB Group's successes over the past four decades have allowed it to create fundamental strengths and distinctive characteristics, such as a relationship with clients based on trust.

According to Mohammed Waleed Alswaidan (2017), Islamic finance is a relatively new subject, and research in Islamic finance brings with it its special difficulties. These are two main factors:

- 1) There is still disagreement among researchers, scholars, practitioners, governments, and regulators on how the basic principles of Islamic finance should be interpreted, applied, and implemented in the modern world.
- 2) Data for empirical research in Islamic finance is extremely limited compared to the data available for conventional finance. This is especially the case for research in Sukuk. Consequently, there are few empirical contributions to Sukuk markets. The research objectives are designed to examine how Sukuk markets have been developed and progressed.

To evaluate the risk/expected return performance of Sukuk compared to their counterpart conventional bonds. To identify the common Sukuk structures in the global Sukuk market. To identify, measure and analyze the key financial Sukuk risks, including credit risk, maturity risk, investment rate risk, and structure risk. In particular, to evaluate Sukuk structure risk as a risk factor in Sukuk pricing. To demonstrate how the understanding of Sukuk risks, including Sukuk structure risks, may contribute to minimizing Sukuk risk from the standpoint of issuers and investors.

The deductive technique is used in empirical research. On a unique private Sukuk data set given by Ideal ratings, statistical approaches, including multifactor regression analysis, are performed. The legal framework, Shariah structure, maturity, and Sukuk rating are currently potentially the most important risk factors in pricing Sukuk. In practice, however, empirical research into the Sukuk market reveals that it is inefficient to separate Sukuk from conventional bonds. The results confirm the views of some authors that market participants do not distinguish between Sukuk and other bonds. From a theoretical approach, it is clear that the Sukuk structure has a major influence on the Sukuk price.

According to Abdulrahman Alfatta (2019), the goal of this research is to assess if the Saudi Arabian government is succeeding in growing its economy. The Vision 2030 initiative can strike a compromise between preserving the Kingdom's Islamic heritage and advancing the Kingdom's economic interest with Saudi Arabia's cultural heritage and foreign investor protection. It concludes, based on a comprehensive study of the literature, that the government has so far been unable, due to the strict interpretation of the Shariah by the government, it is difficult to establish that delicate balance. Academicians who were traditionalists and anti-Western (anti-international) doctrinaires following the 'closure of the gates of ijtihad' (independent reasoning). In addition, the research proves that Shariah has been inherently flexible since its inception, and the early Muslims favoured free commerce and arbitration as a means of resolving disputes mechanism that is gender-neutral. Thus, this study investigates whether the strict interpretation imposed by doctrinaire conservatives explains why the employment of Shariah to resolve disputes in Saudi Arabia is a barrier to FDI. This study used qualitative methods. The research methodology for this study relies initially on primary sources (shariah sources, Saudi legislation, and regulations) and secondary data sources obtained from articles, textbooks, and international bodies.

Shariah is more than just a religious law; it regulates personal life, as well as commercial and political activities. The advent of Islam was characterised by free trade and prosperity, with many successful Islamic traders engaging in arbitration and conciliation to settle disputes. After the sixteenth century, many Islamic empires became increasingly poor and underdeveloped while Western empires rose in prominence across the world. Despite the lack of codification, important reforms have been implemented over the past two decades that ensure foreign investors are

adequately protected in Saudi Arabia. A review of the literature shows that non-Saudi legal communities generally view Hanbali Fiqh as antithetical to free trade. Adjudicators in Saudi Arabia may refer to another school of Islamic Jurisprudence other than the Hanbali school to invoke another interpretation of the sharia. Judges in Saudi Arabia have a margin of discretion to adopt interpretations of the Sharia by other schools of Islamic Jurisprudence. This may enable judges to avoid the rigour of the Hanbali Fiqh to protect foreign investments that benefit society as a whole.

According to Al Saeed Khalid Sulaiman (2012), although the Sukuk are debt instruments used to raise money for the public and private sector in Saudi Arabia. However, in Saudi Arabia, there is currently no established secondary market for Sukuk trading. Although Tadawul, the Saudi Stock Exchange company established in March 2007 as a joint-stock company to regulate the market for trading in the capital market under the sole regulation and monitoring of the Capital Market Authority (CMA) (Tadawul 2011), launched a Sukuk and bond trading platform in 2009, the uptake has been minimal to date. Equity or government financing cannot meet all of the rising demand for long-term financing for public and private businesses (Parker 2007). The objective of this research is to assess the potential for corporate Sukuk in Saudi by examining issuance so far and seeking opinions from market makers as to how this type of financing can be taken forward. The research considers the appropriateness of Sukuk as a long-term Shariah-compliant financing instrument. One objective is to investigate how Sukuk issuers can tap liquid funds and harness them to contribute to the funding of infrastructure and industrial projects. This study adopted a qualitative method and will carry out systematic analyses focusing mainly on reviewing and analyzing the local corporate Sukuk issuances within the Kingdom between 2004 and 2010.

Saudi finance directors are optimistic about the plentiful liquidity in the local market for Sukuk. More Sukuk sales, according to finance directors, are needed to boost the economy. Many of the participants thought that it is critical to standardize the process of Sukuk issuance. Pricing, a wide range of structures, and the importance of the purchase undertaking were the most important considerations in the decision-making process. Demand for Sukuk in Saudi Arabia has surged in recent years. This optimism centered on several Sukuk market dynamics, including competitive pricing and the innovation of Sukuk structures.

According to Nasre bin Abdul Rahmaan Al Dawood (2017), this is one of the most significant scientific articles on the topic of the research, and it examines the Aramco-issued mixed Sukuk, which I used as a sample for the study. Where the researcher discussed the legal context, jurisprudential views, and supporting evidence for the issuing of hybrid Sukuk, then he described the form of these Sukuk and the legal processes governing their issuance, including the capital allocation and the proportion of the instrument assigned to Mudarabah and Murabaha. This article employs qualitative methods based on induction, deduction, and analysis. The researcher concluded that Aramco's Sukuk largely conforms to the standard adopted by AAOIFI for issuing Sukuk and the jurisprudential views upon which it relied, regardless of the fact that the AAOIFI standard was not officially adopted within the Kingdom of Saudi Arabia and instead relied on the Sharia committees within each institution to issue the Sukuk.

According to Muhammad Aizat Saad and Wan Nazjmi Mohamed Fisol, (2020), the major goal of this paper is to focus on rebuilding the national economy through the issuing of Sukuk Prihatin and the use of FinTech services to distribute them from the standpoint of Maqasid Al-Shariah. A qualitative technique based on journal papers and conversations with Islamic banking

experts, Students, and lecturers, as well as reading and other materials. Sukuk Prihatin is being issued to help the economy recover during and after the Movement Control Order. Many economic possibilities can be reopened for the advantage of all people when the country's economy is stimulated and regenerated as a result of such benefits, avoiding the country from continuing to collapse. A statement from the Minister of Finance about the program during the announcement of Sukuk Prihatin stated that [4], [5]: "It is a shariah-compliant instrument based on the Tawarruq principle through the Murabahah Commodity arrangement. The issuing of Sukuk Prihatin complies with Maqasid Al-Shariah philosophy because it uses a Shariah-compliant contract, which implies it is in harmony with religious preservation (ad-din). It also benefits the country's economy by avoiding harm and ensuring that justice and welfare for the people are realised, as well as boosting people's well-being.

According to Muhammad Shahrul Ifwat Ishak and Nur Syahirah Mohammad Nasir, (2021), this paper clarifies how Maqasid al-Shariah (objective of Shariah law) plays its role in Islamic finance, particularly in creating harmony between Shariah rulings in theory and their application in current circumstances. This study uses qualitative methods. Based on library research, this study applies an inductive approach and descriptive method in analysing various literature.

The finding reveals that Maqasid al-Shariah harmonises between the context of the verse and the actual situation, considers unusual circumstances, and overcomes current issues. To discuss this topic more practically, two cases are provided. The first case is the replication of conventional products to Islamic ones. As for the second issue, floating-rate should be allowed for Islamic financing prices to protect Islamic financial institutions from market volatility. Instead, this approach should provide a pragmatic solution to ensure Shariah rulings in financial activities can be gradually implemented, fulfilling the need for revelation and considering reality. Considering *maslahah* for all parties, the Central Bank of Malaysia has required all Islamic financial institutions to disclose an *ibra'* clause and its formula in their contractual agreements.

Next, study form Ahmad Almuhtar and Aznaan Hasan (2020), uses a qualitative method, a descriptive-analytical approach to address hybrid Sukuk cases in key prior juristic references to determine former jurists' verdicts. After that, in the form of Takhrij Alfuroo' 'Ala Alusool, the article examines contemporary Sukuk issuances to see if there are any common aspects between these issuances and the instances listed by prior jurists to see whether the past ruling can be applied to the current situation. The finding showed that these arrangements exist in a variety of shapes and sizes, with some ensuring only the capital and others ensuring both the capital and the return. Both versions are banned because they vitiate the Mudaraba contract by always leading to the unlawful goal of holding the Mudarib accountable for any financial loss regardless of the business outcome, as well as other Shariah concerns. The study then determined some Shariah standards for this structure to be allowed, and it offers a structure that meets issuers' desired purposes while avoiding Shariah concerns to the greatest extent feasible.

According to Nadhirah Sakinah Binti Sidik and Azlin Alisa Ahmad (2021), blockchain is a cutting-edge new technology that benefits society in many ways since it can be used in many sectors, including the financial sector. Default payments, confusing risks, the publication process, drawn-out transactions, and excessive fees are just a few of the problems with Malaysia's Sukuk procedures that have come to light. Sukuk plays a significant role in a country's growth and advancement, and blockchain technology has the potential to enhance the current Sukuk structure in Malaysia by utilising its features to make the Sukuk structure more efficient. Blockchain is a

technology that can be used entirely online. It works by keeping track of all company activities and securely storing data in a virtual format. The application of internet-based technology is blockchain technology. The information in blockchain technology is resistant to hacking by outside parties because of the sort of relationship between one block and another and the fact that it is spread to millions of computers worldwide. All of the components that make up the blockchain technology network must agree on any modification before it can be implemented. This research is a preliminary survey to identify Sukuk-related challenges, the potential of blockchain technology, and how this technology might support the Sukuk structure in Malaysia.

The document analysis approach was employed to gather data for this qualitative literature review study. According to research, the qualities of blockchain technology allow it to enhance Sukuk's structure as well as complement and expand Malaysia's Islamic capital market.

A literature assessment on the structure of Sukuk in Malaysia was part of this exploratory survey study on blockchain technology. Results demonstrate that blockchain technology has the potential to supplement the present Sukuk market in Malaysia in line with the existing digitalisation era and the new norm. The Islamic financial sector, particularly Sukuk, might benefit from using blockchain technology to create transactions that are thorough, transparent, fast, efficient, and Shariah-compliant. This is because Sukuk is now used in a variety of goods, most of which are applied in marketplaces with high value. Therefore, it is important to emphasise and assess Sukuk's implementation to prevent its exploitation by careless parties and to prevent problems with Sukuk structuring, particularly in Malaysia.

One of Sukuk's early adopters, Malaysia's economy has benefited from Sukuk's market value to minimise losses or credit incapacity while structuring Sukuk in Malaysia, as well as to sustain the performance and development of the Sukuk market, and blockchain technology plays a vital part in the process.

Next, research from Muhammad Shahrul Ifwat Ishak and Nur Syahirah Mohammad Nasir (2021) was to explain how *maqaid al-Shari'ah* (the purpose of Shariah law) functions in Islamic finance, particularly in achieving harmony between theoretical Shariah judgments and their practical application. This study uses an inductive approach and the descriptive technique to analyse numerous literary works based on library research. According to the findings, *maqasid al-funshun Shari'ah*'s include balancing the text of revelation with the context, taking into account peculiar situations, and resolving contemporary problems. Because of the contemporary circumstances, *maqasid al-shari'ah* is being used to do more than justify or prohibit the activity. Instead, this strategy needs to offer a workable answer to guarantee that Shariah regulations for financial transactions may be gradually adopted. Academics must analyse Islamic financial concerns by taking into account both the sources and the circumstances.

As long as a product complies with Islamic law, it can be approved. The replication is still needed to assist the Islamic financial industry, which is struggling to modernise its business operations. To protect Islamic financial institutions from market volatility, variable rates for Islamic finance pricing should be authorized. To avoid the problem of *gharar*, a floating price is established, with *ibra'* utilised to close the price discrepancy. The Malaysian Central Bank has ordered all Islamic financial institutions to include an *ibra'* clause and its formula in their contractual agreements to account for *maslahah* for all parties.

## CONCLUSION

In conclusion, the implementation of the Sukuk structures is the main contribution instrument to the Islamic finance system built on the shariah-compliant and a crucial instrument for promoting human well-being and sustainable development, serving both the society and the individuals in the money growth and preservation hifth al mal, which is one of Maqasid Al Shariah. In addition, the legislation of the Sukuk adopts international standards such as IFSB or AAIOFI structures, plays an essential role in the Islamic finance market to clarify the rights among the Sukuk issuers and it is holders and create transparency in the Sukuk contracts and disputes settlement. Although the high risks of investments in the Sukuk sectors compared to conventional bonds, the Sukuk markets still achieve a high profit in the finance market and attract numerous numbers of capital from domestic and international alike any instrument to achieve the shariah-compliant base on various Islamic contracts such as ijara “Lease”, Mudarabah, Murabaha, and istissna or a hybrid contract of different types of those contracts.

## CONFLICT OF INTEREST

The author has no conflicts of interest, whether financial or otherwise, in conducting this research.

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