THE POSSIBILITY OF INTEGRATION BETWEEN ISLAMIC BONDS (AL-SUKUK) AND WAQF SYSTEM IN THE CASE OF AL-MUDARABA

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Abstract

The Islamic bonds (AL-Sukuk) have achieved great successes at the local and the international level, it contributed to the growth and development of many societies, they have achieved financial returns, which give back profits to their investors. This aspect has helped to face many contemporary problems and challenges. The researcher in this paper tries to reveal the role of these instruments in supporting Waqf system, which is based on the prominent and important role in achieving the social solidarity and the advancement of the communities and save the Muslim wealth. The study, based on some of the previous studies in this field that have shown a correlation between the two systems The study concluded that there is a possibility theoretically and practical, for the integration between the Islamic bonds and Waqf system for the development of the Islamic Waqf sector, but this needs more research studies and specialized marketing tools.

The keywords: Islamic bonds, Islamic Waqf, Sukuk Al-Mudarabha.

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1. INTRODUCTION

Anyone who has followed the great renaissance of the Islamic financial industry finds that the most important thing that makes it a strong challenger for the usurious global system is the activity of the Islamic bonds at the main of its tools. The size of the investments in the Islamic bonds exceeds the expected magnitude, not only at the local level of the Islamic countries, but it became the concerns of many countries all over the world to take advantage of this successful experience.

The Islamic bonds, as convinced by many researchers, have the ability to accommodate large-scale projects that need large capital that cannot be afforded by one supporter or investor (Othoman, 2012). They have also, the ability to harmonize with many ventures in various forms of the agricultural, industrial, commercial and real estate, etc., This because of its varied tools and their ability to integrate with many sale contracts, such as Mudarabah, Murabaha, Ijara and the Istesna’.

This research will try to detect the ability of the Islamic bonds to support the Islamic Waqf system, which suffered from a period of a strong stagnation, as a result of the foreign colonization of the Arab and Islamic world, and the division of the Islamic state into small states which cause the loss of many important and holy Waqf. We do not only talk here about masjids and the Door al-’elm (education centers) but many of agricultural and industry projects. The Islamic Waqf due to its importance that exceeded the worshipful role into many important roles including the realization of the Islamic solidarity and the distribution of Muslims capital fairly, so as not to be limited to a small group of people. Therefore, it is important to develop and improve their tools in order to be able to harmonize with the great development in various fields of science as a whole.

The researcher in this paper will show many of the important aspects of the Sukuk product and Waqf. Also, reveal the possibility of the Sukuk instrument to be supportive of the Waqf system, to encourage researchers and those who are interested in this aspect to work on the development of the scientific research in this area and to establish the realistic mechanisms to be applied practically.

2. ISLAMIC BONDS (AL-SUKUK)

Introduction:

The Islamic bonds are considered recently one of the most important Islamic industrial tools in the world for its successes and huge investments, which are in fact the legitimate alternative to the conventional bonds, and it is similar to the stock. It’s compatible with the stock system in many of the important points. Thus, they have the ability to attract investors from Muslims and non-Muslims. The follower of Sukuk product may find it has expanded
and spread to reach the global and foreign market. The researcher in this section will try to define, characterize and mention its benefits.

2.1 THE CONCEPT OF ISLAMIC BONDS (AL-SUKUK)

The concept of Sukuk semantically in a simple meaning: is the book that is used in keeping the transactions (Al-Zaid, 1993). Sukuk in idiomatically meaning, according of the Accounting and Auditing Organization for Islamic Financial Institutions (AAOIFI) means: an equal value document represents common shares in the ownership of people or benefits, services or assets of a particular project or a particular investment activity after the collection of the value of Sukuk and starts using them for the particular purpose (AAOIFI, 2010).

It is also known as financial securities, which prove to their own the real ownership of the money to be used in a commercial project in order to get profits. It is close to an investment unit in mutual funds (Al-Zaid, 1993).

2.2 BENEFITS OF ISLAMIC BONDS (AL-SUKUK)

The Islamic bonds have many benefits, Othoman (2012), has mentioned some of the fundamental benefits of Al-Sukuk, including:

- It is one of the best formulas to finance large-scale projects that do not afford by one investor or supporter.
- It provides a good channel for investors who wants to invest their surplus liquidity, and at the same time, they want to regain their money easily when they need it.
- It provides a good approach for the Islamic banks and the financial institutions to manage their money. If it had a surplus of liquidity bought Sukuk, and if needed liquidity they will sell them into the second market.
- It is a way of an equitable distribution of wealth because it will enable all the investors to get benefit from the real profit generated from the project fairly, thus, the wealth will spread more widely without being circulation between the small numbers of rich people.

2.3 THE SUKUK CHARACTERISTICS

The Islamic bonds have specific characteristics that distinguish them from any other financial instruments. Al-Joriyah (2009), has clarified in his master's degree thesis that the most important characteristics of the Islamic bonds are:

- Sukuk are free of usury, based on the words of Allah almighty:

(Quran 2:278) (يَا أَيُّهَا الَّذِينَ آمَنُوا اتَّقُوا اللَّهَ وَذَرُوا مَا بَقِيَ مِنْ الرُّبَا إِنْ كُنتُمْ مُؤْمِنِينَ)

The translation: “O ye who believe! Fear Allah, and give up what remains of your demand for usury, if ye are indeed believers”.

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- Islamic bonds do not lead to debt and do not promote it, based on the words of the prophet Mohamad (peace be upon him).

(اللَّهُمَّ إِنِّي أَعُوذُ بِكَ مِنْ غَلَبَةِ الدَّيْنِ، وَغَلَبَةِ الْعَدُوِّ، وَشِمَاتَةِ الأَعْدَاءِ)
(Sunan Abi Dawood, Hadith N.1555)

The translation: "O Allah! I seek refuge with you from being overcome by debt or enemy and from gloating of enemies".

- Sukuk proves to their holders the right to the common ownership of the project in the area of services.

- Sukuk are used in a permissible invest activity.

- Sukuk are based on the principle of the permissible participation.

- Sukuk are based on the principle of participation in the profit and loss.

2.4 THE DIFFERENCE BETWEEN ISLAMIC BONDS (SUKUK) AND CONVENTIONAL BONDS

The conventional bonds are the long-term loans, and the corporate borrowers undertake to pay the amount of bonds on specific dates (Shalabi, 2014). The Saudi corporation system defines the bonds (Sanadat) as an instrument represents the loans that are held by the company of equal value, tradable and indivisible (Al-Motleq, 2014).

The most important thing that the Islamic bonds compatible with the conventional bonds, both of them intended to finance a certain economic project, but they differ in a fundamental matter, which is that the conventional bonds are a loan from the bondholder In favor of its issuance within a pre-determined interest rate returns to the bondholder. Sukuk is a contract, which is based on the profit and loss, whether by a Mudarabah, Murabaha, and Al-ijara (leasing) contract, or other tools that do not require the certain returns and the Islamic bondholder assume a part of the risk.

Moreover, the right of Sukuk holder is regarding the assets of the project or the company, while the right of the holder of the conventional bonds, considered the debt owed by the company in favor of the bondholder, and that does not represent any type of assets. The conventional bonds are a certificate the essence committed to paying to the bondholder the par value of the bonds at the maturity date with interest payment agreed upon or arrange a conditional benefit, whether the distribution of prizes by lot or a lump sum (Al-Motleq, 2014).

2.5 THE DIFFERENCE BETWEEN ISLAMIC BONDS (SUKUK) AND STOCKS
Stocks defines as a *Sukuk* that issued by the public limited company (PLC) given to the shareholder to represent his share in the company's capital. It is the main financing instrument for the capital formation of the (PLC), and it is offered for public subscription within a specified period, announced by the same time of issuing date (Shalabi, 2014). Stocks and bonds are similar in many aspects; both are represented a common right in a variety of assets, acquired for investment purposes, and then the distribution of profits to its holders. On the other, the assets in both are managed by a particular entity that will be responsible for the shares and *Sukuk* holders, both of the holders have the right to sell what they own when they are deciding (Al-Motleq, 2014).

The stocks also distinct from Islamic bonds in some cases, the shareholder of stocks has the rights to choose company's management through the electoral voice also has the right to approve the final accounts and the distribution of profits to shareholders and dividends. Islamic bonds are not related to the election, appoint or isolate the CEO or the Islamic bonds management.

### 2.6 TYPES OF ISLAMIC BONDS

**Introductions:**

The Islamic bonds have the ability to integrate with the most various components of the Islamic financial instruments such as *Murabaha, Mudharabah, Salam, Ijara* and other tools. Each tool has its own mechanism and manner according to the project nature, and this gives the Islamic bonds more importance in the stage of implementation. They are able to adapt to the large and medium-sized enterprises smoothly and within the principles of *Shariah*.

These are some of the main types of *Sukuk*:

#### 2.6.1 THE SUKUK OF AL-MUDHARABAH

In accordance with the base (Al-Ghonm Be AL-Ghorm), that is the participation in the profit and loss, there is no dispute among scholars in its legitimacy. For example, funding of an investment project medium or long-term process by a particular party (*Rab al-Mal*), and the working and management by the second party. This type of *Sukuk* without a specific financial return, but it is expected from reading the company's activity through exporting their budgets presented over the past years as well as market indicators (Al-Motleq, 2014).

#### 2.6.2 SUKUK OF AL-SALAM

They are based on selling something or a contract whereby the payment is made in cash at the point of contract, but the delivery of asset purchased will be deferred to a pre-determined date. For example, the Bahrain Financial Enterprise has issued *Sukuk* Al-Salam, and they sell aluminum delivery in futures and payment is made in cash (Al-Motleq, 2014).
2.6.3 SUKUK OF AL-MURABAHA

Al-Motleq (2014), argues that the purpose of the issuing of Sukuk of Murabaha is as a financing contract for the sale of goods under Murabaha contracts, such as the equipment and devices. The financial institution begins to sign the contract with the buyer as a Murabaha contract because it represents the director of Sukuk issuance, on behalf of the Sukuk holders. The financial institution uses the proceeds and the amount of Sukuk to own the commodity and taking possession of it before sold it another time as Murabaha, and these Sukuk are issued for the purchasing of ships, aircraft and the establishment of the power station, which the financial institution does not intend to fund from its own regular resources.

3. ISLAMIC WAQF AND ITS IMPORTANCE

Introduction:

The Islamic Waqf has the main role in the serve of the Islamic nations in various fields, and it’s not limited to the particular construction like Masjids or Door al-’elm (education center); but it was significant in the field of security, health, culture, and infrastructure. There is no doubt that it contributed to the building of communities and advancement. The Waqf is not contemporary or newly but it was present throughout the ages, and after the Islamic state originated gave it the legislation that is based the Qur'an and Sunnah which has preserved its lifetime and development and save it from annihilation (Kahf, 2003).

Islamic Waqf has proved its success through the stages of the Islamic state since the beginning, however, and during the period of the fall of the Ottoman Caliphate and the colonialism of Arab and Muslim countries, imposed Waqf to the stalemate and recession as a result of the division of the countries of the Islamic world. But as a result of the development of the Islamic financial industry, it starts to regain its role in the construction and the advancement of the Muslim society.

3.1 THE CONCEPT OF THE ENDOWMENT (WAQF)

In semantically: Waqf is an Arabic word and it means the imprisonment of the asset (Mahdi, 2003), so no one allowed to dispose of sale, gift or inheritance, and the imprisonment is the prevention.

In idiomatically meaning: there are so many definitions of the term Waqf, as there is disagreement in the contract of Waqf where it is binding or not. The researcher in this study has adopted Abu Zahra definition to the term of Waqf, because of its comprehensiveness in meaning. He said: Waqf is the imprisonment of the asset, property and (Tasbeel Thumarateha), or imprisonment the asset to be (Sadqa Jareya), and a grant from its productivity (Abuzahra, 1959).
3.2 THE IMPORTANCE OF WAQF AND ITS OBJECTIVES

The Islamic Waqf has a significant role in the Muslim society also has a multifunctional social, political, economic and educational. In addition to the devotional function, that is the essence of Waqf system, based on the words of Allah:

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(Quran \ 3:92)
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The translation: “By no means shall ye attain righteousness unless ye give (freely) of that which ye love; and whatever ye give, of a truth Allah known it well”.

Moreover, says:

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(Quran \ 5:2)
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The translation: “Help ye one another in righteousness and piety”.

Profit Mohamad peace be upon him says:

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\text{(Sahih Muslim, Hadith N.4310)}
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The translation: “When a person dies, his acts come to an end, but three, recurring charity, or knowledge (by which people) benefit, or a pious son, who prays for him (for the deceased).”

The importance of the Islamic Waqf can be summarized as the Islamic Research magazine highlighted as follows (Al-Zaid, 1993):

- Achieve the principle of solidarity between the Muslim nations, and find the equilibrium in the community.
- In Waqf, a guarantee of the survival of money and benefiting from it for a long time.
- In Waqf, there is the continuation of the mutual benefit from the money, and the reward and remuneration for the owner of an endowment is continuing in his dead or alive, and will be a part of the ongoing charity in which the prophet Mohamad -(peace be upon him) - It is from ongoing work.
- The Waqf has a target and holy goal compared to other objectives, which is the compliance with the command of Allah the almighty, spending, charity and giving for the sake of righteousness.
- Waqf aims at achieving social objectives such as Door al-’elm (education center), endowment the permissible science that are the requirements of the Muslim community and served Muslims.
- In Waqf, the Muslim can secure his future, and the future of his descendants by finding a steady supplier that guaranteed that protects them from the need and poverty.
- In Waqf, it is a way to get the reward from Allah almighty, and a way to get rid the sins and erased them.
- In *Waqf* system, there is a protection of money and keep it from hackers, such as the expenditure of a son or a strange behavior, so that the money remains and continue to benefit from the proceeds.

- In *Waqf*, the relation among the people will continue, interrupted hatred, and they will be kind to each other. In addition, avoid the maliciousness and to tend the productive beneficial work.

- In *Waqf*, the lengthening of the period of benefit for the use of money and extend its utility to successive generations.

The researcher observed from the previous clarification that the worship feature has dominated the importance of *Waqf*, therefore, the righteousness and reward is the supreme goal of the essence of the *Waqf*. The researcher finds that its importance also lies in its ability to achieve solidarity between Muslims to help each other, also its role in keeping Muslims money, and protect it from loss.

The technological revolution and the construction renaissance in the world as a whole require large-scale projects to fulfill their financial needs. Therefore, the Islamic *Waqf* needs to develop its tools, which is based on a legitimate basis. Thus, the financial and legal scholars have to focus on this matter.

4. **THE ROLE OF ISLAMIC BONDS IN THE SUPPORT OF WAQF SYSTEM**

*There are various types* of Islamic bonds can be effective tools for the Islamic *Waqf* system. This needs creative ideas based on the *Shariah* principles that have the ability to increase the solidarity between Muslims and preserve the communities and keeping Muslims money from being lost. In addition, contribute to many constructive projects that can develop the Muslim society. *Al-Sukuk* has an ability to promote the investors to adapt in many diverse and large-scale projects, in addition, their openness to the foreign market. It was necessary to take these significant advantages in the development of the *Waqf* system and focus on the integration between them.

In the Islamic bonds system, many instruments can be exploited in supporting *Waqf* system, the researcher in this paper will focus on one type of *Sukuk*, which is *Sukuk AL-Mudarabah*. That is based on the profit and loss for the issuing source of the *Sukuk* and their holder. The *Sukuk* holder endows the *Sukuk* in a particular project for the sake of Allah almighty. The revenue and earnings of this *Sukuk* are added to the capital of a project of *Waqf*, therefore, what comes from the proceeds of this *Sukuk* kept for the sake of Allah as long as the project continues.

*Sukuk of AL-Mudarabah* is investment tools that are based on the fragmentation of the *Mudaraba* capital through the issuance certificates of equal value evidencing the certificate holder’s undivided ownership in the *Mudharabah* venture. The returns to the Investors would represent accrued profit from the *Mudaraba* capital at a pre-agreed ratio between the
Rab al-Maal and the Mudarib, which would then pass to the investors according to their percentage of investments in Sukuk Al-Mudarabah (al-Damagh, 2009).

This Figure shows the Structure of Sukuk al-Mudaraba (Islamic banker website):

4.1 TYPES OF SUKUK AL-MUDHARABAH

Sukuk Al-Mudaraba can be classified into four types (al-Damagh, 2009):

- The Industrial Sukuk of Mudarabah: such as the purchase of fabrics with a Mudarabah capital and designed them into T-shirts or robes, as well as the purchase of the plastic particles and poured them in pipes, pitchers, and gallons.
-The Commercial Sukuk of Mudarabah: like trading in most of the operations purchase for the purpose of sale, within the concept of Islamic jurisprudence, and the issued Islamic bonds represent a part of the total assets including goods purchased.

-The Industrial Sukuk of Mudaraba: such as the purchase of lands and its development, the establishment of the residential buildings, industrial complexes and commercial markets.

-The agricultural Sukuk of Mudaraba: such as the rent of lands for a known price and payment or a part of the implanting according to the jurisprudence rules for the (muzara’a) agricultural, (Musaqah) watering and (Mugharasa) implanting.

The previous types of Sukuk Al-Mudarabah can be exploited according to its competence in support of the Islamic Waqf system and the encouragement of people to open the Ways (Afaaq) of goodness and righteousness in front of them. However, this needs a Successful and effective marketing tool that can show the detailed mechanism of these types of Islamic bonds, as well as the size of the reward from endow of the Islamic bonds in doing huge and long-term projects.

The researcher observed that the Islamic bonds have the ability to open new horizons for Waqf system. The Sukuk of Al-Mudaraba has the ability to open many ways to the owners of kindness and goodness for those who are looking for a continuous charity alms for the sake of Allah. It also encourages many people to grant their money to projects that serve communities and achieve the principle of solidarity between people in a beautiful image within the principle of the Shariah.

The researcher, through this study, revealed that the Sukuk by their tools have the ability to develop the Islamic Waqf system, but the implementation mechanism needs to be a concentrated effort by professionals and researchers to make that possible as practically and available for most goodness people.

5. CONCLUSION

The Islamic Waqf system has proved in previous ages, especially under the Islamic state, its ability to solve many problems in most societies. Its elegant aim, which is based on achieving solidarity between people, contributed to the stability of societies and their protection. The Islamic Waqf under the continuous evolution of the world had to develop its tools for adaptation with it.

The Islamic bonds (Sukuk) as a financial Islamic instrument competition, has achieved success, despite its modernity. It has to be exploited in the development of the Islamic Waqf system by encouraging people to endow certain types of Islamic bonds in some of the effective projects that achieve the real economic development and get the profits, also endow for the sake of Allah almighty.
Because this case still newly, the organizations and institutions, Islamic Waqf needs a management to market it in an effective and meaningful way, which show people the mechanism of this system of this system and the expected reward, to encourage them to grant endow their money as Islamic bonds for the sake of almighty God.

Endnote:


References