

THE ROLE OF ISLAMIC SUKUK IN ACHIEVING ECONOMIC DEVELOPMENT

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Abstract:

This study aims to highlight the role of Islamic sukuk in activating various Islamic financing formulas as an alternative to traditional sukuk and securities. We will review the concept of Islamic sukuk by defining Islamic sukuk, its origin, and the types of Islamic sukuk that the bank may allow to be used. We will then discuss a brief comparison between Islamic sukuk and traditional securities, as well as the most important formulas and methods that can be adopted by the bank to finance various economic projects.

Keywords: Islamic sukuk, Islamic banking products, traditional securities, economic development.

Introduction:

Modern technological development has driven the wheel of development, through the creation and support of various major economic projects by various means and devices. Banks and financial institutions are among the key players in promoting and supporting these projects in all their forms. The bank has full authority to impose conditions on investors and to determine the interest rate resulting from the support. The support process has been widely adopted by major countries, especially the United States, France, and Britain.

As for the Third World countries, the financing process by banks is facing some obstacles and difficulties, especially the Islamic countries, because the interest resulting from the lending process is considered illegal. Therefore, most of these countries have turned to a new strategy to support these projects by granting loans without interest, and banks have adopted a new financing structure based on modern methods and means that comply with the provisions of Islamic law. This is what is known in the new Algerian law as Islamic banking products, which are based on some legal methods such as Murabaha, Mudarabah, istisnaa, ijarah, and others.

On this basis, we decided to study the subject by raising the following question:

What is the effectiveness of Islamic sukuk in achieving economic development?

Answering the question requires us to study the subject according to two axes. In the first axis, we discussed the concept of Islamic sukuk, and in the second axis, we discussed Islamic banking products.

Axis One: The Concept of Islamic Banking

Islamic sukuk is a new pattern adopted by Islamic banks to finance various economic projects. These banks have resorted to Islamic sukuk to finance projects because they are considered one of the effective means and tools for providing money and support to project owners.

Section One: Definition of Islamic Sukuk

Islamic jurisprudence has differed in defining Islamic sukuk. One side defined it as: “Issuing documents or financial certificates of equal value that represent common shares in the ownership of assets, usufructs, or rights, or a mixture of usufructs, assets, debts, and money.”¹ Another defined it as: “Documents of equal value that represent common shares in the ownership of assets, usufructs, services, or in a specific project or private investment activity after the value of the Sukuk has been collected and the subscription door has been closed and its use has begun for what it was issued for.”² It is noticeable from this definition that it included the term “Islamic sukuk” to distinguish them from shares and loan bonds.

Another opinion, it sees that Islamic sukuk is: “A certificate that represents a common percentage so that it represents a group of tangible and mixed assets paid in a specific project to finance investment in it according to the provisions of Islamic law.”³

As for the **legal definition of Islamic sukuk**, we find that the Algerian legislature did not address their definition. By referring to Egyptian law, we find that it defined them as follows: “Financial papers of equal value issued for a specific period not exceeding 25 years based on a legal contract in Egyptian pounds or foreign currencies through public or private subscription.”⁴ They represent common shares in the ownership of their assets according to what is determined by the subscription prospectus.”

From the above, Islamic sukuk is a certificate that carries a significant financial value that represents the capital that allows participation in a commercial project or any other investment, to share profits and bear losses, according to the requirements of Islamic law.

Section Two: Types of Sukuk

Islamic sukuk are diverse, reflecting the variety of sources and perspectives from which they can be analyzed. The Accounting and Auditing Organization for Islamic Financial Institutions (AAOIFI) has identified several types of sukuk, including:

1. Sukuk of Ownership of Leased Assets:

These sukuk are typically issued by the owner of the leased asset (the lessor), or the person authorized to manage the asset under a power of attorney, to sell it and collect its price from the sukuk holders⁵.

2. Sukuk of Ownership of Benefits:

This category of sukuk can be further divided into several subcategories:

✓ Sukuk of Ownership of Benefits of Existing Assets:

These sukuk are equal-value documents issued by the owner of the existing asset (the lessor) to lease the benefits inherent in the asset and collect rental income from them. This is done by offering the sukuk for subscription by tenants. Additionally, the owner of the benefit of the existing asset can offer these sukuk for subscription by new tenants. This method allows the owner of the benefit to receive rent from the new sukuk holders, which is known in law as subleasing.

✓ Sukuk of Ownership of Benefits of Assets Described in Dhimmah:

These are equal-value documents issued to lease assets described in dhimmah and offered for subscription to receive rent. This process allows sukuk holders to benefit from these assets described in dhimmah. For example, a specific institution may issue this type of Sukuk to provide part of the capital needed to purchase the asset or benefit it intends to acquire⁶.

✓ **Sukuk of Ownership of Services from a Specific Party:**

These are fixed-value bonds issued in the service sector, such as universities. The Sukuk is offered for subscription at a fixed and specified value stated in the Sukuk, and return, the Sukuk holders acquire ownership of the services provided⁷.

✓ **Sukuk of Ownership of Services from a Party Described in Dhimmah:**

These are fixed-value financial documents issued by a party described in dhimmah to provide a described but not specific service, such as the educational benefit of a university without mentioning its name. Ownership of the services provided in this field belongs to the Sukuk holders⁸.

3. Sukuk Al-Salam (deferred delivery sale):

Sukuk Al-Salam represents the sale of a commodity with deferred delivery at an advanced price. The commodity is considered a debt because it is described and established in dhimma, and therefore it is not tradable. Whether issued by the seller or the buyer, these sukuk do not have any effect until their due date⁹.

4. Sukuk Al-Istisnaa (manufacturing contract):

The AAOIFI defines Sukuk Al-Istisnaa in Standard No. 17 as "equal-value documents issued for subscription to finance various projects, and the manufactured good becomes the property of the subscribing sukuk holders." The purpose of issuing Sukuk Al-Salam is to provide the necessary funds to finance investment projects. These sukuk are considered an alternative to interest-bearing loans provided by commercial banks. Bahrain is among the countries that have adopted this approach to financing their industrial projects¹⁰.

5. Sukuk Al-Murabaha (cost-plus financing):

The AAOIFI defines Sukuk Al-Murabaha in Standard No. 17 as "equal-value documents issued to finance the purchase of a Murabaha commodity, and the Murabaha commodity becomes owned by the sukuk holders."¹¹ The purpose of issuing Sukuk Al-Murabaha is to find sufficient financing to purchase the Murabaha commodity. Sukuk holders secure the amount of the murabaha commodity by subscribing to shares of Sukuk Al-Murabaha, in exchange for ownership of the commodity.

This method is often used for large-scale projects such as the purchase of ships and aircraft or the construction of dams and power plants¹².

6. Sukuk Al-Musharakah (Partnership):

Sukuk Al-Musharakah is defined by the AAOIFI in Standard No.17 as "equal-value documents issued to use their proceeds to establish a new project, develop an existing project, or finance an activity based on a Musharakah contract. The project or activity assets become owned by the Sukuk holders in proportion to their shares. Sukuk Al-Musharakah is managed based on a partnership, mudaraba, or agency for investment."

It is clear from the above that the purpose of issuing Sukuk Al-Musharakah is to find capital to establish, finance, or develop a project within the limits allowed by the Musharakah contract. These shares are managed based on a partnership, mudaraba, or agency for investment.

✓ **Sukuk Al-Sharikah (Partnership):** These are participation documents that represent projects or activities. They are issued to finance these projects and activities and are managed by appointing one of the partners or others to manage them¹³.

✓ **Sukuk Al-Mudarabah(profit-sharing):**Sukuk Al-Mudarabah is defined by the Securities Commission Malaysia as "equal-value documents that prove the ownership of these undivided documents by the holder to a specific percentage of the assets of the Mudarabah

project." The first issuance of Sukuk Al-Mudarabah was by PG Municipal Assets BHD in 2005 at a value of eighty million ringgit¹⁴.

The AAOIFI defines Sukuk Al-Mudarabah as "participation documents that represent projects or activities managed based on mudaraba by appointing a mudarib from the partners or others to manage them."

Therefore, it is clear that the purpose of Sukuk Al-Mudarabah is to finance projects and activities by sukuk holders who own shares in these projects and activities, and the management is entrusted to a mudarib from the company or others.

- ✓ **Sukuk Al-Wakalah bil Istithmar (Investment Agency Sukuk):** The AAOIFI's definition in Standard No. 17 states that Investment Agency Sukuk are fixed-value documents issued to finance projects and activities through subscription to shares, and the management is entrusted to a person acting as an agent for the Sukuk holders

Section Three: Differences Between Islamic Sukuk and Conventional Securities

Islamic Sukuk share some similarities with certain securities such as stocks and bonds, but they also differ in some key aspects that conflict with Islamic law principles.

1. Islamic Sukuk and Stocks:

To study the differences between Islamic sukuk and stocks, we must first examine their similarities and differences.

Similarities:

- ❖ Both stocks and Sukuk represent shares in a company. Each subscriber owns several shares or units based on their subscription amount.
- ❖ The owner of a stock or Sukuk is entitled to a share of the profits generated by the project or activity.
- ❖ Both stocks and Sukuk represent a fixed portion of the company's capital.
- ❖ Both are considered documentary evidence, entitling the owner of the stock or sukuk to a common share in the company's assets¹⁵.
- ❖ Both have a nominal value, which is the original value at which the sukuk or stock was first issued and a market value that is determined by supply and demand¹⁶.

Differences:

There are some key differences between stocks and Islamic sukuk, including:

- ❖ A share holder is considered a partner in the company and is entitled to a share of its profits based on their contribution to the company. Shareholders have the right to participate in the management of the company through the board of directors, vote, and approve the financial statements and profit distribution. However, the owner of a Sukuk does not enjoy these rights, such as participating in management and voting. They can only sell their Sukuk to others, which is also a right enjoyed by shareholders¹⁷.
- ❖ Sukuk issuance must comply with Islamic Sharia rules and regulations, while stocks do not.
- ❖ Sukuk have a maturity date, as they may represent a lease ending in ownership or a diminishing Musharakah. However, stocks do not have a maturity date¹⁸.

2. Islamic Sukuk and Bonds:

To study the differences between Islamic sukuk and bonds, we must look at their similarities and differences.

Similarities:

- ❖ Both sukuk and bonds are considered financing tools for various activities and projects.
- ❖ Some sukuk and bonds are both tradable.
- ❖ Both have a nominal value, which is the original value at which the sukuk or bond was first issued and a market value that is determined by supply and demand¹⁹.
- ❖ Both sukuk and bonds are considered low-risk financial instruments with high stability²⁰.

Differences:

- ❖ Islamic sukuk are issued in compliance with Sharia rules and regulations, while these rules and regulations are not considered when are suing financial bonds.
- ❖ Sukuk represents a fixed financial value that represents assets in the company, while bonds represent a debt owed by the company, which is paid off at a specified time with the previously agreed-upon interest, regardless of whether the company makes a profit or not. In contrast, the owner of a Sukuk bears the losses and benefits from the profit, if any, according to the Islamic principle of "sharing profit and loss."²¹
- ❖ The return on bonds can be fixed for bonds, i.e., the loan plus interest, while it can be variable for Sukuk²².
- ❖ Islamic sukuk are subject to specific conditions that govern the trading process, while these conditions do not apply to bond trading.

Axis Two: Islamic Banking Products

Islamic financing formulas, known in the Algerian system as Islamic banking products, are among the optimal means used by Islamic banks to settle their commercial transactions with others.

Article 2 of Ordinance No²³. 23 20/02 defines banking operations related to Islamic banking and the rules for their practice by banks and financial institutions. It defines Islamic banking products as any banking operation that does not result in the collection or payment of interest. These operations must comply with Articles 66 to 69 of Ordinance No. 03/11 dated August 26, 2003, relating to currency and credit. Article 4 of the aforementioned ordinance mentions the banking operations related to Islamic banking, which are:

- ✚ Murabaha (cost-plus financing)
- ✚ Musharakah (partnership)
- ✚ Mudarabah (profit-sharing)
- ✚ Ijarah (leasing)
- ✚ Salam (deferred delivery sale)
- ✚ Istisnaa (manufacturing contract)
- ✚ Deposit accounts
- ✚ Investment accounts

First: Murabaha (cost-plus financing)

According to the Maliki school of thought, murabaha is defined as "selling a commodity at the price it was purchased for with a profit added." The Hanafi school of thought defines Murabaha as the sale of a commodity at the original price plus a profit, while the Shafi'I school of thought defines Murabaha as a contract in which the original price is added to a known increase²⁴.

From the above, we find that Murabaha is a contract that includes the original price plus a pre-agreed profit. Algerian law defines the Murabaha contract in Article 5 of Ordinance 20/02, mentioned above, as follows: "Murabaha is a contract by which a bank or financial institution sells a known commodity, whether movable or immovable, owned by the bank or financial institution, at

the cost of its acquisition with the addition of a pre-agreed profit margin, and under payment terms agreed upon between the two parties."

The basis of the Murabaha contract is the sale of the product at cost price with the addition of a pre-agreed profit margin.

Second: Musharakah(partnership)

Some define Musharaka as the participation of two or more persons in either money or business, or both, to acquire profits each according to their share in the money or business²⁵. Musharaka is realized by the participation of two or more persons with money or work to establish a specific project, with the sharing of the resulting profits and losses, each according to their share of the contribution²⁶.

Ordinance 20/02, mentioned above, defines the Musharakah contract in Article 6 as follows: "Musharakah is a contract between a bank or financial institution and one or more parties to participate in the capital of an institution or a project or in commercial operations to achieve profits."

This means that the Musharakah contract is between two parties, one of which is a bank or financial institution, which finances economic and commercial projects by issuing Musharakah certificates to subscribers to participate in the profits of the project. The profits are shared and the losses are borne together.

Third: Mudarabah (Profit-Sharing)

Mudarabah is an agreement between the owners of capital and the workers to earn and share profits. In the event of a loss, the owners of the capital bear it, provided that the workers are not negligent²⁷.

In other words, Mudarabah involves two parties: the first party provides the capital needed for the project, while the second party exploits it in the best way possible to develop the project while exercising due diligence²⁸. This is confirmed by Article 7 of Ordinance 20/02, which states: "A contract by which a bank or financial institution, called the lender, provides the capital needed for the contract or who provides his work in a project to achieve profits."

Fourth: Ijarah (Leasing)

Ijarah is the sale of a known benefit for a known price, which is called rent or lease. It has two forms: financing and operational. Financing leasing leads to ownership, while operational leasing does not end in ownership²⁹.

Article 8 of Ordinance 20/02 defines it as "a lease contract in which the bank or financial institution, called the lessor, places a movable or immovable asset owned by the bank or financial institution at the disposal of the customer, called the lessee, for a specified period, in return for payment of rent that is determined in the contract."

From the above, it is clear that ijarah is a contract in which one party is the bank or financial institution that plays the role of the lessor of the leased asset, whether movable or immovable, and the second party is the customer who owns the project, called the lessee. The leased asset provided by the lessor is exploited in return for payment of the rent agreed upon in the contract in advance.

Fifth: Salam (Deferred Delivery Sale)

Salam is the sale of a described thing in dhimma for an advanced price. This transaction results from the need for capital to complete production, and in return, the owner of the money needs the commodity. This is what the jurists called "the sale of necessities"³⁰.

Referring to Ordinance 20/02, we find that it defines salam in Article 9 as follows: "Salam is a contract in which the bank or financial institution, acting as the buyer, purchases a commodity, which is delivered to it at a later date by its customer in exchange for immediate and cash payment."

It is clear from the above that necessity is what produced the salam contract, whereby the bank or financial institution grants an urgent amount of money to the customer in exchange for a future commodity. This payment is made to complete the project and produce the commodity that is the subject of the contract.

Sixth: Istisnaa (Manufacturing Contract)

The istisnaa contract is concluded between two persons: the manufacturer who manufactures the commodity subject to the agreed contract for a known price, which is paid by the mustasni'³¹.

Article 10 of the aforementioned ordinance defines istisnaa as "a contract by which the bank or financial institution undertakes to deliver a commodity to its customer, the owner of the order, or to purchase from a factory a commodity that will be manufactured according to specific characteristics agreed up on between the parties, at a fixed price and according to payment methods agreed upon in advance between the two parties."

From the above, it is clear that the bank undertakes to provide the commodity that the customer wants to buy for a pre-agreed price. Here, the bank or financial institution issues istisnaa certificates for subscription by the customer, in exchange for a cash price agreed up on between the two parties.

Conclusion:

From the above, we have reached several conclusions, the most important of which are:

1. The importance of Islamic sukuk in promoting various financing formulas for Islamic banks, or what is known as Islamic banking products, where Islamic sukuk are considered an effective tool for marketing various Islamic methods of financing projects and commercial activities.
2. Islamic sukuk has proven to be a great success in Islamic banking transactions, which is why some countries, such as Malaysia, have adopted it.
3. Islamic countries should adopt an approach that ensures the participation of the public in investing their money and saving it in banks for development. This can be done by spreading Islamic banks and financial institutions that operate based on Sharia rules and regulations.
4. Encouraging Islamic banks to issue more Islamic sukuk using different methods and approaches to finance various economic projects.
5. Islamic sukuk, in its various types, is the ideal model for financing economic projects and various activities.

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⁵ هيئة المحاسبة والمراجعة للمؤسسات المالية الإسلامية، المعايير الشرعية [النص الكامل للمعايير الشرعية التي تم اعتمادها]، نوفمبر 2017، المنامة البحرين، مرجع سابق، ص468.

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