

Achieving the Maqasid of Islamic Finance through Social Impact Bonds (SIB) and Sustainable and Responsible Investment (SRI) Sukuk

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Abstract: This paper looks into the underlying principles of Social Impact Bond (SIB) and Sustainable and Responsible Investment (SRI) sukuk as compared to the values embodied within maqasid al-Shari'ah and maslahah. Through a critical review of literature related to SIB, SRI sukuk, maqasid al-Shari'ah and maslahah, the paper attempts to delineate the elements embedded within these financial tools from an Islamic perspective. The paper explicates that SIB and SRI sukuk are financial mechanisms that epitomises the ethical and moral framework of the Shari'ah as their underlying principles are congruent with the concepts within maqasid al-Shari'ah and maslahah. Thus, the SIB and SRI sukuk models should be given more attention by Islamic banks and Islamic financial institutions whose philosophical foundation is built upon the principles of maqasid al-Shari'ah and maslahah.

1 INTRODUCTION

In recent years, the Social Impact Bond (SIB) and Sustainable and Responsible Investment (SRI) sukuk models have been receiving increasing global interest, especially from governments which are looking to find alternative financing models to help cover their dwindling resources. Many countries including the UK and the US have adopted the SIB model for a variety of social programmes that cover issues such as poverty, homelessness, care for orphans and elderly, youth unemployment, criminal reoffending, and healthcare. While SRI sukuk was just recently launched in Malaysia in May 2015 by Khazanah National Berhad (Ghani, 2015). Various literatures have argued that the SIB and SRI sukuk models provide more efficiency, emphasises on transparency, encourages cooperation and resource sharing, as well as providing an avenue to link private corporations with their social responsibility (Center for American Progress, 2012; Cox, 2012; Liebman, 2011; RAM Ratings, 2015a; Ronicle et al., 2014; So & Jagelewski, 2013). From these perspectives, we can see that the characteristics of

SIB and SRI sukuk serve noble and honourable objectives, congruent with Islamic principles.

Thus, this paper offers an insight into the SIB and SRI sukuk model from the Islamic perspective, in particular with regards to the concepts of maqasid al-Shari'ah and maslahah. By doing so, we may shed some light on the similarities of SIB and SRI sukuk principles with the values that Islam brings through the principles of maqasid al-Shari'ah. By doing so, this can potentially attract more interest from organisations such as Islamic financial institutions and Islamic banks towards the development of SIB and SRI sukuk as they seek to fulfil their social aims without sacrificing their business-side operations. This paper is conceptual but may have some practical relevance, serving as a guide for interested parties. Mostly, the paper fills an essential gap within the literature of SIB and SRI sukuk, maqasid Shari'ah, as well as maslahah. The structure of the paper is as follows: The following section explains what is a Social Impact Bond (SIB), its objectives, and the social areas of its implementation. This will be followed by a section regarding SRI sukuk - in particular Ihsan SRI sukuk in Malaysia. Following that, the paper talks about the fundamentals of

maqasid al-Shari'ah and the concept of *maslahah*. The paper then delineates the concept of SIB and SRI sukuk from the perspective of maqasid al-Shari'ah and *maslahah*, taking into consideration of the foundations that underlie these models. Finally, a conclusion and some suggestions will be provided in the final section.

2 LITERATURE REVIEW

2.1 The 'Social Impact Bond' (SIB) Model

SIBs can be understood as contractual relationships between the government and private enterprises which aims to deliver positive social outcomes (Center for American Progress, 2012). While Kohli et al. (2012) defines SIB as “an arrangement between one or more government agencies and an external organization where the government specifies an outcome (or outcomes) and promises to pay the external organization a pre-agreed sum (or sums) if it is able to accomplish the outcome(s)”.

The SIB model was borne out of the growing acknowledgement that existing social programmes especially the government-funded ones, are not efficient and not being managed well enough (Liebman, 2011). This has prompted a growing number of private organisations such as philanthropic foundations, non-governmental organisations (NGOs), policymakers, social service providers, and researchers to initiate their own social services. However, despite their socially driven motivation, these organisations face quite a challenge to search and acquire funds needed for long-term social intervention programmes. SIB provides them with the avenue and opportunity to attract funds from the private sector and channel them towards programmes that seek to improve social outcomes. This may include programmes that seek; to improve the livelihood of homeless people; to help care of foster children, elderly, and chronically sick; to improve socioeconomic conditions of the poor and needy; provide training for ex-prisoners, unemployed, and the youth; as well as many more (Finance For Good, 2017). Figure 1 below illustrates the general model of Social Impact Bond.

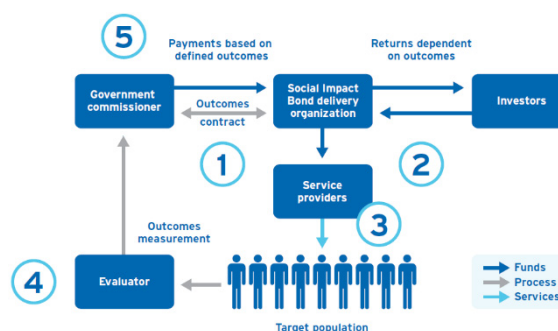


Figure 1: The Social Impact Bond Model. Source: So and Jagelewski (2013).

As illustrated in figure 1, there are a number of parties involved in the SIB organisational structure. The model itself involves a multifaceted set of agreements and guarantees to ensure that the programme can be carried out effectively. Firstly, the government identifies that there is a social problem that may be solved through an effective social programme. The government then contracts with a SIB delivery organisation (intermediary) from the private sector where certain outcomes are determined. Secondly, the intermediary raises initial capital by issuing bonds to private investors. These investors invest by buying the bonds in exchange for future payments plus additional returns which are dependent on the success of the programme. Their motivation to invest may not be purely financial but also “philanthropic” – as investors seek to contribute towards the betterment of society (Ciufu & Jagelewski, 2013).

Some investors may utilise their existing CSR or grant funds. Thirdly, the funds obtained from the bonds are then used by the intermediary to hire social service providers that are deemed likely to succeed in achieving the predetermined objectives. The objectives are structured specifically for the target population that are in need. Fourthly, in order to assess the success of the programme, external-independent-evaluators are selected. They will do the necessary appraisal and report the success, or failure, of the programme to all the parties. The evaluations are undertaken with a high degree of scientific accuracy, usually involving control groups and intervention (Warner, 2013). Fifthly, once the report is received, the necessary funds channelled from the government can be paid to the investors. However, if the programme is not successful, the investors may not get any return at all. Several benefits can be gained from the successful implementation of SIB, as seen in Table 1 below:

Table 1: Benefits of SIBs to Stakeholders.

Stakeholders	Benefits
Non-profit organisations	<ul style="list-style-type: none"> Provides access to capital that is needed to scale up operation Stable and predictable stream of funds without the need for intensive fundraising processes. SIBs facilitates coordination between organisations working on overlapping social problems. Increase the size of the pool of capital that can use fund social interventions.
Investors	<ul style="list-style-type: none"> Provides the avenue to achieve financial returns together with social impact. Offers participation in a new asset class that can be used to diversify the portfolio.
Government	<ul style="list-style-type: none"> SIBs provides an accountability mechanism for taxpayers' funds. SIB increases the supply of effective services without the financial risks. Create better market discipline and transparency. Align government funds directly with improved social outcomes and successful results. SIBs allow for more rapid learning about what works. Reduces the cost of policing and law enforcement.
Communities	<ul style="list-style-type: none"> Provide access to an increased supply of adequate social services. May reduce the need for crisis-driven intervention. Less societal illness and crime.

Sources: Liebman (2011), Social Finance (2011), Social Finance (2012)

The social financing tool is generally known as “Social Impact Bonds” (UK and Canada), “Pay for Success Bonds” (US) and “Human Capital Performance Bonds” (US), and “Social Benefit Bonds” (Australia). There are many variations of the SIB model in different counties, but they share the same philosophy in terms of social impact, payment by results, evidence-based approach, and multi-stakeholder involvement.

The world’s first SIB was implemented in the UK in 2010 to address the issue of recidivism (released prisoners reoffending). The SIB managed to raise £5 million from the private sector to fund the programme (Disley et al., 2011). The programme

was assessed to be successful in reducing the reoffending rates before its full tenure and was then implemented nationwide because of its effectiveness (Eccles, 2014; Ministry of Justice, 2014).

Since then, the SIB model has been implemented in other areas such as programmes for children from broken families or orphans; programmes to improve outcomes for homeless people; programmes to increase the quality of education; programmes to improve health of people with asthma and many more. There are also researches ongoing that suggest that SIB should be implemented to support early childhood development, improve education and literacy, increase awareness to reduce diseases such as HIV/AIDs and Tuberculosis, and programmes to improve mental health and addictions (Social Finance, 2019).

The applications of SIBs are vast and flexible to accommodate different target areas. These areas mentioned are just the ‘tip of the iceberg’ of the many pertinent societal issues that need to be addressed in order to ensure a brighter future for the community. Most recently, The SIB database by Social Finance (2019) reports that approximately 137 SIB programmes have been implemented around the world including in countries such as India, South Africa, Cameroon, Congo, Mali, and Colombia. The database estimates that the total capital raised from the SIB contracts to be USD440 million. The figure below illustrates the SIB social areas and the number of SIBs implemented in that area.

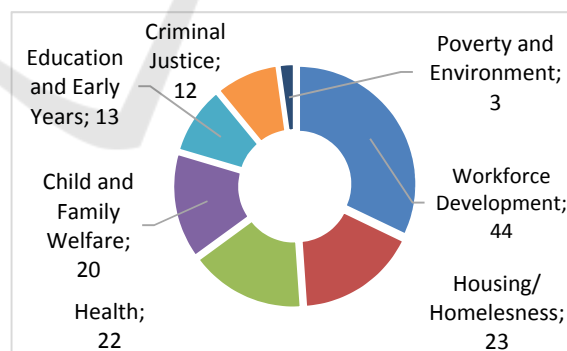


Figure 2: SIB Implementation Areas. Source: Social Finance (2019).

2.2 The Sri Sukuk Model

“SRI” is a generic terminology that can be denoted as “sustainable and responsible investment” as well as “socially responsible investment”. This terminology is used for any type of investment process that combines investors’ financial objectives

with their concerns towards issues of environment, society, and governance (ESG) (Moghul & Safar-Aly, 2014). The awareness and interest for SRI is growing globally as evidenced by the likes of supranational organisations such as the World Bank that has issued green and socially responsible investment bonds amounting to USD8.5 billion since 2008 (World Bank, n.d.). The World Bank has also issued Vaccine sukuk together with the International Finance Facility for Immunization (IFFIm) worth USD 500 million (Bennet, 2015).

In Malaysia, the government's strategic investment company, Khazanah, issued the "Ihsan SRI sukuk" in May 2015 worth RM 100 million. This issuance part of a more significant SRI sukuk programme worth of RM1 billion. The aim of the SRI sukuk is to improve the quality of education in Malaysia through various KPIs that have been set. The SRI sukuk programme has a 7-year tenure with a distribution rate of 4.3% per annum (The Star Online, 2015). The SRI sukuk was given a AAA(s) rating by credit rating agency, RAM (RAM Ratings, 2015b). The structure of the SRI sukuk was based on the Islamic principle of Wakalah Bi Al-Istithmar (investment agency), as per the guidelines on sukuk by Securities Commission Malaysia (2014). The following figure shows the SRI sukuk structure in further detail:

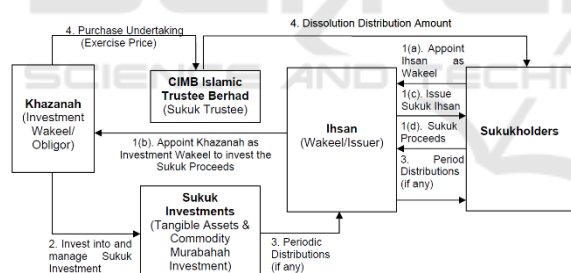


Figure 3: Ihsan SRI Sukuk Structure. Source: CIMB (2015).

The proceeds from the sukuk is given to Yayasan Amir, a non-profit foundation under Khazanah that goes into a Public-Private Partnership with the Ministry of education with the aim to improve the quality of education in government schools around Malaysia.

Although the SRI sukuk structure is somewhat different from the typical SIB, RAM Ratings (2015a) have argued that it is a form of SIB. This is because under the sukuk mechanism, "the issuer's obligation to pay is dependent on the performance of the relevant SRI project against a targeted benchmarks aimed at a better social outcome" (RAM Ratings, 2015a). Indeed, this is a significant

characteristic inherent in the SIB model. Therefore SRI sukuk can be said to a form of SIB.

3 ANALYSIS MODEL

3.1 The Underlying Objectives of the Shari'Ah (Maqasid Al-Shari'Ah) and the Public Interest (Maslahah)

"Maqasid" is an Arabic word that is plural of "maqсад", which brings the meanings of; the straightness of a path, justice and balance, and a directive destination (Al-Kaylani, 2009 in Laldin & Furqani, 2013). While "Shari'ah" is translated as a source of water or a path towards it. The Shari'ah epitomises the teachings of Islam, which establishes a set of norms, values, and laws that governs every single aspect of life. In other words, the Shari'ah establishes rulings which covers the whole belief system, the concept of morality and ethics, the relationship between man and God, and the relationship established between man and man (Laldin & Furqani, 2013). Together, "maqasid al-Shari'ah" can be loosely translated as "the higher objectives of Islam".

Under traditional classifications, maqasid is divided into three levels: necessities (*daruriyyat*), needs (*hajiyyat*), and luxuries (*tahsiniyyat*). While Abu Hamid al-Ghazali, as quoted in Dusuki and Bouheraoua (2011) classifies five fundamental necessities under the Shari'ah (*Al-Dharuriyyat al-Khams*), namely: safeguarding the faith of the people (*deen*), their lives (*nafs*), their intellect ('*aql*), their posterity (*nasl*), and their wealth (*mal*). According to Auda (2008), some jurists adds another dimension, which is "the preservation of honour". These necessities are considered essential to promote the well-being of people. In Phar (2009), Ibn Tamiyyah expanded the work of Al-Ghazali by broadening the list of *maqasid al-Shari'ah* to things such as fulfilling contracts, preserving ties of kinship, honouring the right of neighbours, honouring he acts for love of God, sincerity, trustworthiness, and moral purity. Abu Zaharah, in Amin et al. (2013) also widened al-Ghazali's scope of maqasid to include education, justice, and public interest (*Maslahah*). He explained that Islam's focus is on the development and education of the individual in order to build a good society. Additionally, he sees justice as a noble objective of Islam and expands it to include judicial justice, social justice, and economic justice.

Ibnu Ashur, in Dusuki and Bouheraoua (2011) explains that the overall objective of the *Shari'ah* is to promote the well-being and virtue of human being so that the social order of the community may be preserved and progress healthily. He continues that the virtues consists of the soundness of intellect, righteousness of deeds, and the goodness of the things of the world which we live and at our disposal. Ashur (2006) also explains that in order to protect the well-being of the world, the *Shari'ah* has enclosed the essential welfares of human beings with eternal means of protection, even where there is no benefit. Even the life of an ignorant, weak, senile, and diseased man with no outward benefit to the society must be protected and sanctified as the preservation of the order of the world depend on the sanctity of the human souls under any circumstances.

Therefore, *maqasid al-Shari'ah* incorporates all the principles, values, and messages provided by the divine revelation (*wahy*) together with the various dimensions of human needs in order to achieve human wellbeing (*maslahah*) at the micro-level of the individual as well as at the macro-level of the society (Laldin & Furqani, 2013).

The word "*maslahah*" means utmost righteousness and goodness (Ashur, 2006) and is plural for "*masalih*", which is a synonym to *manfa'aah* (benefit, utility, welfare, or interest) in the Arabic language. According to Dusuki and Bouheraoua (2011), *maslahah* can be translated as seeking benefit and repelling harm as directed by the Lawgiver. Al-Ghazali, in Dusuki and Bouheraoua (2011) defines *maslahah* as "*an expression for the acquisition of benefit or the repulsion of injury or harm, but that is not what we mean by it, because acquisition of benefits and the repulsion of harm represent human goals, that is, the welfare of humans through the attainment of these goals. What we mean by maslahah, however, is the preservation of the Shari'ah's objectives*". Al-Ghazali emphasises that *maslahah*'s fundamental meaning is for the preservation of *Shari'ah*, which includes the preservation of the five key elements of faith, life, posterity, intellect, and wealth, as defined earlier.

While Al-Shatibi, in Ashur (2006) defined *maslahah* as "that which produces benefit for people at the collective or individual level and is acceptable to the human beings because of its importance for their lives". As such, *maslahah* encompasses the public and private interest (*maslahah 'aamah* and *maslahah khaassah*). We can clearly see that *maslahah* is deeply rooted in *Shari'ah*'s objective of ensuring that the society's interest is guarded and

preserved in order to gain goodness in this life, and the hereafter.

Scholars have used the terms of '*maqasid*' and '*maslahah*' almost interchangeably as both may imply the same meaning. According to Dusuki and Abdullah (2007), both concepts are established by upholding the public interest, which is considered to be an embodiment the *Shari'ah*'s emphasis on compassion. In the following section, the paper discusses *maqasid al-Shari'ah* and *maslahah* and its relation with SIB.

3.2 Social Impact Bonds and SRI Sukuk in Light of Maqasid Al-Shari'ah and Maslahah

In this section the paper seeks to bring forward the notion that the SIB and SRI sukuk models are concepts that embodies the philosophy of socially responsible financing and in extension, the values of *maqasid al-Shari'ah* and *maslahah*. Dusuki and Abdullah (2007) defines corporate social responsibility as "denoting corporate activities beyond making profits, such as protecting the environment, caring for employees, being ethical in trading, and getting involved in the local community". This socially-responsible investment concept is not alien in Islamic philosophy. In fact, these concepts are very much in line with the "Objectives of *Shari'ah*" (*Maqasid Shari'ah*) and "The Public Good" (*Maslahah*) which embodies the philosophical foundations and *raison d'etre* of Islamic economics and finance (Laldin & Furqani, 2013). According to Ashur (2006), the *Shari'ah*'s main objective is to establish a stable society with a strong and steady community and promotes an orderly function of its affairs by attaining comprehensive welfare and preventing evil. Therefore, anything that operates towards building a better society, creates an environment for social welfare and removes societal harm fulfils *Shari'ah*'s objective, which is also the case for SIB and SRI sukuk. In the following table, we recapitulate several elements and applications of SIB and SRI sukuk and match them with components of *maqasid* and *maslahah* as summarised from the previous section.

Table 2: SIB Elements and Maqasid Al-Shari'ah and Maslahah Components.

SIB and SRI elements and theoretical applications	Matching Maqasid al-Shari'ah/ Maslahah components	SIB and SRI sukuk provides the avenue of preservation of wealth through its circulation by realigning them for the benefit of people in need. Additionally, SIB may prevent the cost to the society in the form of damage of public property. We draw an example from a hypothetical situation where a criminal who stole, would not have done so if he had a job by entering into a SIB intervention programme that provided training and job opportunities from him.	Hifz mal: Preservation of Wealth
The act of socially conscious investment, charitable giving, and helping the society which is encouraged by the development of SIB and SRI sukuk enriches the spirituality of the giver. Furthermore, it embraces good moral standards and promotes transparency and accountability which are a personification of a sound faith.	Hifz deen: Preservation of Faith	SIB and SRI sukuk programmes that targets the poor, homeless, disabled, or psychologically impaired people may provide them with the essentials needed for them to live in a dignified manner.	Preservation of Honour
SIB and SRI sukuk areas of implementation may include the care for homeless people, children and orphans, the elderly and the chronically sick. While there have also been SRI sukuk that addresses environmental concerns (green bonds) and health (vaccine sukuk). These services are an epitome of preserving the life of people by providing them with the basic needs to continue living.	Hifz nafs: Preservation of Soul/Life	The nature of SIB and SRI sukuk programmes as a means for social interventions may provide public security and stability in terms of less crime. Intervention programmes provided may also protect from harm that may occur if the problem is not solved earlier. For example, providing education for disadvantaged young people may repulse them from doing a crime in the future.	Repulsion of harm
Area of SIB and SRI sukuk implementation include developing the Intellect through physical development of the brain by providing medication for pregnant women to help the physical development of the unborn child, and provision for milk for kindergarten children to help their development. Another area of application is tackling mental health and drug addiction which aims to preserve the sound mind of the human being. The Ihsan SRI sukuk aimed at improving the quality of education can also be said to help preserve the mind through the improvement of knowledge.	Hifz 'aql: Preservation of Mind/Intellect	SIB and SRI sukuk programmes in mental and physical health, provide various benefits and helps solve societal problems for the wellbeing of the society. The benefits can be seen above.	Acquisition of benefit, Promoting the well-being of the human being
SIB and SRI sukuk areas of implementation include providing counselling services for families, vaccination programmes for children, caring for orphans, and children from broken families. These programmes not only ensures the survival and progress of the family but also protect and nurture the future generation.	Hifz nasl, Preservation of Offspring/Posterity, Preserving ties of kinship	By targeting root of social problems and providing intervention, SIB and SRI sukuk strive to put things in the right place and to preserve social order to create an environment that is healthy for the community.	Justice (Public, social, economic)
		SIB and SRI sukuk embraces the ethical-moral standards and promotes transparency and accountability through its reporting and practices. The independent-external evaluator will report the progress of the programmes to the stakeholders in order to ensure this.	Ethics & Morality

Based on the points in the table above, the paper reiterates the notion that the overall philosophy and objectives of the SIB model embodies, in spirit, theory, and practice, the objectives (*maqasid*) of *Shari'ah* and strives for the better rule for public good (*maslahah*).

4 CONCLUSION

This paper provides an insight into innovative social financing models: the Social Impact Bond (SIB) and SRI sukuk. From the discussion, the paper has highlighted the philosophy and objectives of SIB and SRI sukuk from its mechanisms, theoretical perspective, its areas of implementation, as well as the other potential areas that it can be developed.

These objectives include: (i) To provide an avenue to increase the size and stabilise the stream of funds that can be channelled for social programmes. (ii) To encourage cooperation between organisations to be involved in the social sector. (iii) To provide better market discipline that promotes effective social programmes, and remove the ineffective ones. (iv) To promote improved social outcomes by directly linking government resources to them. (v) To provide an accountability and transparency mechanism of the use of taxpayers' money. (vi) Reduce the need for crisis-driven intervention by tackling the root of the social problems.

While the areas of implementation of SIB and SRI sukuk cover a wide range of societal issues such as recidivism, crime prevention, childcare, orphan care, education, youth empowerment, employment training, healthcare, homelessness, welfare issues, and community outreach. These objectives and areas of implementation comprehensively matched the elements of the *maqasid al-Shari'ah* and *maslahah*. As such, the paper argues that SIB and SRI sukuk can be said to be financial models that epitomises the ethical and moral framework of the *Shari'ah*. Not only do they provide social impact, they also provide an opportunity for investors to diversify their portfolio and fulfil their business-side responsibilities.

As innovative financing models, SIB and SRI sukuk are still in a developmental stage but is steadily attracting interest from institutions around the world. Unfortunately, apart from Malaysia, other Islamic countries, Islamic institutions and Islamic banks, have not yet developed and utilised SIB and SRI sukuk to its full potential. As such, this paper is a humble attempt to elucidate the idea of SIB and

SRI sukuk, and serve as a guide to attract Islamic institutions in fulfilling the *maqasid al-Shari'ah* and *maslahah*, without abandoning its business side and investment elements.

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