Humanitarian Sukuk – Practical Instrument in Eliminating Refugee Crisis

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Abstract

Reaching towards 2018, the modern world sees the worst of refugees’ crisis after the War World II. With massive movement of refugees caused by war and genocide, these refugees are facing starvation and deprivation of human rights beyond imagination. This research explores the understanding on sustainable development goals in facing the refugee crisis and the potentials of Sukuk as alternative financing in overcoming it. Based on the collected secondary data and qualitative approach, the researchers analysed the potentials of Sukuk in financing refugees to overcome their state of incapability. The researchers found that the Sukuk has high potentials to be used as alternative financing in overcoming refugee crisis. It is also a practical instrument in eliminating the refugee crisis. In this study, the researchers proposed certain structures of Sukuk that can be adopted in financing humanitarian aids to overcome the refugee crisis.

Keywords: Humanitarian Sukuk, refugee crisis, and sustainable development goals.

1.0 INTRODUCTION

In 1951, the world was introduced to the Refugee Convention of 1951 with ratifications of 145 United Nations’ member states. Under this convention, a person that is known as a refugee has a right not to return to a country where he faces serious threatening causes that may hostile to his life or freedom. It is consistent with Article 14 of the Universal Declaration of Human Rights 1948 that recognises the right of persons to seek asylum from persecution in other countries (UNDHR, 1948). Today, this right is now accepted as a part of international customary law (UNCHR, 2018). Based on Article 1 of the Refugee Convention 1951, a refugee is identified as a person “… who has been forced to flee his or her country because of persecution, war, or violence… has a well-founded fear of such persecution for reasons of race, religion, nationality, political opinion or membership in a particular social group” (Refugee Convention, 1951; CARE, 2018). Due to such serious persecution, war, or violence, the refugee fears of his life and freedom to return to his home. Based on the said convention and its Protocol
of 1967, a refugee must be given a protection in order to secure his life and freedom by the asylum country as appropriately as possible.

Since the establishment of United Nations, they have worked to protect and secure the lives and freedom of refugees around the globe. Under the auspicious of United Nations, the United Nations High Commissioner of Refugees (UNHCR) was established and they estimated that there was approximately 1 million refugees in 1951. However, this number is drastically increased since then. Now, it is estimated that there are “… 17.5 million refugees, an additional 2.5 million refugees cared for by the United Nations Relief and Works Agency for Palestine refugees in the Near East (UNRWA) and more than 25 million internally displaced persons” (OHCHR, 2018).

While the world is committed to achieve the sustainable development goals or SDGs, it is important to consider the protection and its sustainability for refugees around the world or at least those who are seeking asylum within the countries. The ultimate success of SGDs must accordingly considers the existence of refugees and their protections. Moreover, the main objective of SDGs is to resolve the issues of environmental, political, and economic globally (UNDP, 2018).

Figure 1: Statistic on refugees and the top hosting countries

According to UNHCR (2018), with the world that “increasingly affected by climate change, poverty and conflict, the SDGs cannot be achieved without taking into account the rights and needs of refugees, internally displaced and stateless people”. Thus, it is necessary to consider the refugees in achieving a complete success of SDGs. The most profound principles relating to refugees that can be found from the SDGs 2030 Agenda are:

- Paragraph 4: no one will be left behind… and that Goals and targets will be met for all nations and peoples and all segments of society;
- Paragraph 23: “Those whose needs are reflected in the Agenda include all … refugees and internally displaced persons and migrants. We resolve to take further effective measures and actions, in conformity with international law, to remove obstacles and constraints, strengthen support and meet the special needs of people living in areas affected by complex humanitarian emergencies and in areas affected by terrorism” (SDGs, 2012).
Thus, it is necessary for the member states to have a serious consideration in the success of achieving SDGS by including the protection of refugees in their country’s sustainable governance and development policy. Most importantly, it is necessary to generate enough financial assistances for the refugees; so, at the end, they can sustainably able to provide for themselves and their families in the long run.

By applying qualitative analysis, this research identifies the Islamic financial instrument that known as *Sukuk* or Islamic bond as a practical and potential instrument in eliminating refugee crisis, while achieving the SDGs from social and economic aspects. In the subsequent section, the growth and potential of *Sukuk* at a global scale are discussed. Then, the next section identifies humanitarian *Sukuk* as a practical instrument in generating financial needs for the refugees. The structure and operation of humanitarian *Sukuk* that based on *Waqf* concept are explained in the fourth section. The last section provides the conclusion of this research.

### 2.0 THE GROWTH AND POTENTIALS OF SUKUK

*Sukuk* (plural) or *Sak* (singular) literally means “any written document” (ISRA & SCM, 2017). *Sukuk* are the Islamic securities instrument that depends on the underlying principles of the Islamic transaction law. It is often be referred to as the Islamic bonds. According to A. Saeed (2014), the term “Islamic bond” does not portray the exact substance of *Sukuk*. *Sukuk* is defined by the Islamic Financial Services Board (IFSB) as the “certificates with each *sakk* representing a proportional undivided ownership right in tangible assets, or a pool of predominantly tangible assets, or a business venture (such as *mudarabah*). These assets may be in a specific project or investment activity in accordance with Shariah rules and principles” (IFSB-7, 2009).

The first development of modern *Sukuk* in the 20th century can be traced back to 1970’s. In Jordan, the Ministry of Awqaf (public endowments), Islamic Affairs and Holy Places issued *muqaradah sukuk* (that have similar features with *mudarabah* principles) in 1977 (ISRA & SCM, 2017). Through such issuance of *sukuk*, the investors provided the funding to the existing government. In return, the benefits from profit sharing in economically viable to the development projects. Based on the *mudarabah* principles, the investors agreed to provide the capital, while the government’s agency performed the works. At the end, the parties shared in the venture based on profit sharing as per agreed ratio. The government was also participated as a guarantor for the invested capital by the investors.
Beside of having the issuance of *Muqaradah Sukuk* in Jordan, the Participation Term Certificates (PTC) was issued in Pakistan as early as 1980. Malaysian government also issued the certificates that were known as the Government Investment Issues (GII), while in Turkey, they issued Revenue Sharing Certificates (RSC) in 1984 (ISRA & SCM, 2017). After the early experiments of issuances of *Sukuk*, a successful issuance of *Sukuk* in a large scale was done by Shell MDS Malaysia Sdn. Bhd. with a value of RM125 million (USD30 million). They depended on the *Bay’ Bithaman al-Ajil* structure. The said issuance of *Sukuk* managed to attract the attentions of both local and international investors on the potentials of *sukuk* in generating funds and creating growth in the investment and securities market. Subsequently, several more issuances of *Sukuk* were made in Malaysia (see Table 1).

**Table 1: Issuances Of Sukuk From 1994 To 2006**

<table>
<thead>
<tr>
<th>Year</th>
<th>Types of Sukuk</th>
<th>Issuer</th>
<th>Value</th>
</tr>
</thead>
<tbody>
<tr>
<td>1994</td>
<td>Mudarabah</td>
<td>Cagamas Berhad</td>
<td>RM30 million</td>
</tr>
<tr>
<td>2001</td>
<td>Ijarah</td>
<td>Kumpulan Guthrie Berhad</td>
<td>USD150 million</td>
</tr>
<tr>
<td>2002</td>
<td>Ijarah</td>
<td>Government of Malaysia</td>
<td>USD600 million</td>
</tr>
<tr>
<td>2003</td>
<td>Istisna’</td>
<td>SKS Power Sdn. Bhd.</td>
<td>RM5.6 billion</td>
</tr>
<tr>
<td>2005</td>
<td>Musharakah</td>
<td>Musharakah One Capital Berhad</td>
<td>RM2.5 billion</td>
</tr>
<tr>
<td>2006</td>
<td>Exchangeable Trust</td>
<td>Khazanah Nasional Berhad</td>
<td>USD750 million</td>
</tr>
</tbody>
</table>

Source: BNM (2007)

With the same inspiration to progress further with the issuances of *Sukuk* and their availabilities to the investment and securities market, the issuances of *Sukuk* at the global scale continued to be done by many countries (see Table 2). This leads to a positive competition among the countries in providing platform of investments in their countries, while continue to...
create growth in the economy. The investment and securities market involving *Sukuk* received their first challenge in 2008 due to the global financial crisis. A decrease in the issuances of *Sukuk* was detected, while dependency on partnership-based *Sukuk* were reduced. However, due to the characteristics of asset based and asset back of the underlying structures of *Sukuk*, no apparent loss of investment can be detected (Ahmad and Radzi, 2011). Moreover, it was found that the *Sukuk* investment and Islamic banking were more resilient during the global crisis (Ahmed, Asutay, and Wilson, 2013).

<table>
<thead>
<tr>
<th>Year</th>
<th>Types of Sukuk</th>
<th>Issuer</th>
<th>Value</th>
</tr>
</thead>
<tbody>
<tr>
<td>Jun 2002</td>
<td>Ijarah</td>
<td>Government of Malaysia</td>
<td>USD 600 million</td>
</tr>
<tr>
<td>Aug. 2003</td>
<td>Istithmar</td>
<td>Islamic Development Bank</td>
<td>USD 400 million</td>
</tr>
<tr>
<td>Sept. 2003</td>
<td>Ijarah</td>
<td>State of Qatar</td>
<td>USD 700 million</td>
</tr>
<tr>
<td>Feb. 2004</td>
<td>Ijarah</td>
<td>Kingdom of Bahrain</td>
<td>USD 250 million</td>
</tr>
<tr>
<td>July 2004</td>
<td>Ijarah</td>
<td>State of Saxony-Anhalt, Germany</td>
<td>EUR 100 million</td>
</tr>
<tr>
<td>Dec. 2004</td>
<td>Ijarah</td>
<td>Pakistan</td>
<td>USD 600 million</td>
</tr>
<tr>
<td>Dec. 2004</td>
<td>Ijarah</td>
<td>Department of Civil Aviation, Dubai</td>
<td>USD 1000 million</td>
</tr>
</tbody>
</table>

Source: ISRA & SCM (2017)

After 2008, there is an indication of positive trend in the *Sukuk* issuances and investments. There are a lot of large values of *Sukuk* issuances taken placed, with USD131 billion worth value of *Sukuk* globally (ISRA & SCM, 2017). Even though with a slight drop of approximately 9% in the market, the *Sukuk* issuances continue to grow from many parts of the corporate world. It is identified such slight drop in 2012 happened due to uncertainty on interest rate after the announcement made by the US Federal Reserve to taper its programme on bond-buying (Thomson Reuters, 2015). It is observed that the *Sukuk* issuances reached their all-time high value at the same year (Thomson Reuters, 2017).

Up to 2015, *Murabahah* is more frequently used as underlying structure and operation for *Sukuk* issuances. In analysing the investment and securities market, Mohd. Zain et al reported that:

“Reaching towards the end of 2017, the global finance market observes a decline in issuance of sukuk worldwide (Thomson Reuters, 2017). The decline of sukuk issuances is influenced from the careful practices of sukuk issuers due to certain emerging factors. Such emerging factors can be traced from the decrease of the oil prices, the fluctuate global interest rate, the exchange rate of currency with dollars still stands as preferred currency, and certain political events that majorly affect the global finance market such as Brexit. … Due to such emerging factors, the sukuk issuers tend to revert back to the practice of conventional bonds. This can be seen from the practices of Gulf countries where the conventional bonds are preferred in coping with the fluctuated oil prices. Instead of having a full sovereign sukuk issuer, there is a trend of issuers to shift from full sovereign sukuk issuers to quasi-sovereign entities. It is believed such trend happens in
order for the issuers to cope with the international currencies and money exchanges” (Mohd. Zain et. al, 2017).

According to a report by Thomas Reuters (2017), Malaysia is ranked at the first place in the issuances of Sukuk with USD23.14 billion worth value. This is followed closely by United Arab Emirates (with USD3.95 billion worth value) and Saudi Arabia (with USD3.20 billion worth value). Figure 3 provides the total international Sukuk issuances in USD millions from January 2001 to December 2017.

Moreover, there are also introduction of innovations of Sukuk that suits the investments to social needs of the society, while assisting the growth of the economy in the countries. As identified by Mohd. Zain et. al, the innovations of Sukuk can be traced from (i) Social Impact Sukuk (SIS), (ii) Socially Responsible Investment Sukuk (SRI), (iii) Green Sukuk (GS), (iv) Waqf Sukuk (WGS), and (v) Wakalah Sukuk. Beside of having different underlying Islamic based contracts, structures, and operation, the innovations of Sukuk are also considered different from their objectives and types of investments.

**Figure 3: Total International Sukuk Issuances From January 2001 To December 2017 (USD Millions)**

Source: IIFM (2018)

### 3.0 HUMANITARIAN SUKUK

The popular mentioned of humanitarian Sukuk can be found from the efforts of United Kingdom based Islamic Relief Worldwide in 2016 to utilise Sukuk in generating funds to overcome humanitarian crisis, including the Syrian refugee crisis in Europe (Islamic Finance, 2016). The earliest issuances of humanitarian Sukuk can be traced in 2015 (worth of USD500 million) and 2016 (worth of USD200 million) by the International Finance Facility for Immunization for the Global Alliance. While in the form of conventional bond which worth
USD27.65 million, the Red Cross utilised the proceeds to provide three physical rehabilitation centres in Africa (Defex, 2017).

Before a further discussion is put forward here, it is essential to understand what is meant by the term “humanitarian”. Literally, humanitarian is defined as “a person who is involved in or connected with improving people’s lives and reducing suffering” (Cambridge Dictionary, 2018) or “concerned with or seeking to promote human welfare” (Oxford Dictionary, 2018). For the purpose of this research, the humanitarian sukuks are understood as the certificates or sakk (that representing a proportional undivided ownership right in tangible assets, or a pool of predominantly tangible assets, or a business venture) are used as innovative financing mechanism to promote human welfare and providing humanitarian aids.

Humanitarian Sukuk is basically developed to provide financial funds with underlying Islamic based contracts, structures, and operation that aims to put an end to the refugee crisis or to promote human welfare (if not globally, at least within a certain country). Different from the profit making purpose, humanitarian Sukuk is aimed to provide a channel for the application of Islamic social finance (Mohd. Zain and Engku Ali, 2017) and to fulfill the corporate social responsibility roles of corporate segment. Moreover, individuals may also participate with a charitable purpose. While looking at Sukuk as a financing mechanism that has potentials to meet the SDGs, Mahmoud Mohieldin from the World Bank observed in his speech at the Islamic Banking and Investment forum in Singapore that:

“The current aid architecture is really inadequate in responding effectively to humanitarian needs and it also lacks investments in prevention and risk reduction especially the challenge of protracted humanitarian crises such as the Syria conflict and climate change that is affecting millions of people at the same time. This requires us to think outside of the box” (Islamic Finance, 2016).

The humanitarian sukuks are possible to be implemented within a country and may also be operated to provide cross border humanitarian aids. Moreover, the majority countries that active in issuing Sukuk are also the countries that implement or at least practice the Islamic philanthropies mechanisms such as Waqf, Zakat and Sadaqah that have potentials to be match with the humanitarian Sukuk’s structures. Moreover, the funds generated from Islamic philanthropies are very high in value, with estimation of more than USD100 billion to USD1 trillion (including the lands that are subjected to Waqf) (IRTI, 2017; Anwar, 2017).

4.0 STRUCTURE AND OPERATION OF HUMANITARIAN SUKUK

In relation to structure and operation of humanitarian Sukuk, it is important to the issuer to closely follow and comply with the principles of Shariah. This is necessary since as an Islamic investment instrument, it has distinguished characteristics from the conventional bonds. The inherent characteristics are related to the prohibition of riba (interest), maysir (gambling), and gharar (speculation). It is also important to ensure the existence of profit loss sharing between the involved parties that relatively consistent with fairness and justice. Such characteristics are important to be maintained at all time while fulfilling the economic and social needs within the society through the success of humanitarian based ventures.

It is notified here that there are a lot of possibilities in applying the suitable underlying Islamic based contracts in developing the humanitarian Sukuk. It is important to consider the
suitability of the Islamic based contracts while aiming towards the success of the issuance and acceptability of Sukuk among the investors. Simultaneously, this research also promotes the use of Waqf (endowment) by looking into the Islamic philanthropy instruments. As the oldest long standing Islamic philanthropy instrument, Waqf is already used for centuries to catalyse the economy and development that touch many aspect in the society. Moreover, when a Waqf is created, it is perpetual in nature where the benefits can be used accordingly but not the ownership. The orientation of Waqf is not only depends on the religious dimension per se but also irrevocable dedication to a so-called running and limitless charity (as long as the property is in existence). Waqf may not be limited to Muslims per se which makes it more flexible in nature. The benefits generated from Waqf are also in support of SDGs since Waqf is usually created from unperishable assets (such as lands).

By looking into the abovementioned characteristics, the proposed structure and operation of humanitarian Sukuk (as provided in this research) is best to be cooperated with Waqf (endowment). The early inspiration in developing the humanitarian Sukuk with derivation elements of Waqf is obtained by studying Sukuk Musharakah issued by Bencoolen project in Singapore.

Figure 4: Sukuk Musharakah of Bencoolen Project

The original Waqf consisted of a mosque and some shop houses which were in a rundown condition. Recognising the vast potential of the area which is sited within a prime business and shopping area (and in close proximity to a brand new university), it was envisaged that the Waqf could be redeveloped into a mixed project comprising a mosque equipped with modern facilities as well as a commercial complex and a suite of a hundred service apartments. Together with partners from the private sector with long established track record in corporate finance (Allen & Gledhill) and WAREES, MUIS issued the Sukuk Musharakah to finance the project. MUIS brought in Baitulmal to provide the amount needed to help develop the project. Currently, the Waqf has a brand new mosque, which is of course a benefit to the mosque-goers and a modern commercial property complex which brings in regular income for the mosques. The service apartments run on a lease which is renewable and the income goes to Baitulmal as the party which bore the most risk in developing the $35 million project.
The structure and operation of the proposed humanitarian Sukuk are explained as follows:

(i) Government makes an issuance of Sukuk to the contributors. Instead of getting profits from the ventures, they are offered reliefs to certain percentage of taxes and special privileges with the Government (such as tender offerings). It is provided in written form.

(ii) The funds that the contributors may contribute may be derived from proceeds of corporate social responsibility, Zakat payment or its surplus after the distribution to the local citizens, charitable crowd-funding, Sadaqah from individuals, and/or Waqf funds.

(iii) The contributors must also voluntarily entered into an agreement that stipulates that they are agreed to release any profits generated (especially from corporate social responsibility proceeds) as charitable funds – which later will be utilised for other businesses. Such gains or profits from such businesses will be utilised for the welfare of refugees. The businesses are also opened to both locals and refugees to get employ. A certain percentage must be set for the businesses to employ the refugees without fail.

(iv) While, the fusion of the funds are used to develop any marketable Waqf land, a Special Purpose Vehicle or Entity may be established to manage the development of Waqf land or lease services as offered by the MUIS’s sukuk. Such development can be extended to build of refugees’ shelters. In case of lease services, the profits may be utilised for the welfare of the refugees.

While focusing on the welfare of the refugees, it is also important to provide them opportunities to work and contribute back to the new country that become their new homes. Moreover, a win-win resolution can be achieved where the refugee crisis can be eliminated, while providing the refugees a chance to use their abilities to survive, work, and contribute back to the country that becomes their new homes.

5.0 Conclusion
Of course, when come to investment, the profit making is usually the main objective. With the humanitarian Sukuk, the issuers may offer to the contributors something which is other than money. Thus, it highlights here for the countries of the world to look deeper in improving their regulations on the corporate social responsibilities among the corporate players. Moreover, a creative investment for the proceeds of charitable donations or from Islamic philanthropic instruments is possible to be done in multiplying the proceeds for sake of eliminating the refugee crisis. This is also essential to protect their welfare and sustainability in continuing their survivals.
References:


