



HARVARD LAW SCHOOL  
Islamic Legal Studies Program

and

LONDON SCHOOL OF ECONOMICS

Workshop on  
*Sukuk*

Economic and  
Jurisprudential  
Perspectives

Thursday, February 7, 2008

London School of Economics  
Tower #3, 5th Floor (BOX)  
London, United Kingdom





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February 7, 2008

Dear Participant:

Harvard Law School's Islamic Legal Studies Program (ILSP), in partnership with the London School of Economics (LSE), is pleased to welcome you to this workshop on sukuk at the LSE campus. As the Director of the Islamic Finance Project of ILSP, I would like to express our great appreciation to the LSE for graciously hosting this important and timely event.

After last year's successful workshop in February 2007, participants recommended that another workshop be held at the LSE focusing on a different but fundamental topic responsive to specific needs in the Islamic Finance industry. These workshops provide a forum for inter-disciplinary interaction of an unprecedented nature with scholars, academics, economists and industry professionals confronting the dynamic and rapidly developing field of Islamic Finance. The impetus of these gatherings are not intended to arrive at any religious conclusions; we hope, rather, that they will serve as an avenue for all participants to freely share their thoughts and opinions.

This year's workshop is especially exciting because after distributing a paper among participants before the workshop, we have collected and circulated your comments, concerns and notes. Hence, we begin this discussion as a conversation and with greater depth of understanding among ourselves. We hope that, in this way, our time here may be more productive and more insightful. Our aim is to begin a dialogue on a higher and more advanced level. Thank you for all your suggestions and valuable input, which have shaped this present workshop. Your presence and active participation at this event is indeed pivotal to its success and we hope that you will continue to attend future events.

Again, I am grateful to the visionary leadership of the LSE that has supported this partnership and I am optimistic that this relationship will give rise to other productive endeavors in the future. I would also like to take this opportunity to acknowledge the kind support and encouragement received from the sponsors to the IFP: Abu Dhabi Islamic Bank, Arcapita Bank, HSBC Amanah, and Kuwait Finance House.

We hope that this workshop will fulfill its purpose by creating a meaningful forum for discussion amongst all participants and we welcome any suggestions that you may have for future events.

Sincerely,

S Nazim Ali, Ph.D.  
Director, Islamic Finance Project





## OVERVIEW

As a follow-up to the workshop on *tawarruq* held on February 1, 2007 at the LSE, the Islamic Finance Project (IFP), a venture under the auspices of the Islamic Legal Studies Program at Harvard Law School, and the London School of Economics decided to join forces again to gather a group of influential Islamic legal scholars, economists and bankers for a workshop on *sukuk*, instruments that have attained considerable prominence in Islamic finance.

Considering the growing prominence of *sukuk*, this workshop is particularly timely. The *sukuk* industry is currently valued at over \$155 billion. \$33 billion of that comes from capital markets in the UAE. The Asian market comprises another \$32.2 billion, with the bulwark of that based in Malaysia. This market tool has become a wildly popular instrument within the Islamic Finance industry. The goal of today's workshop is to conduct an in-depth examination of *sukuk*, while furthering the conversation between *fuqaha* and economists begun at earlier IFP workshops.

*Sukuk* are generally structured as debt instruments approved by most *shari'a* scholars. However, as their general popularity has increased, so has criticism of these financial instruments. Various definitions of *sukuk* have been offered in Islamic finance literature and various forms have been used in practice. Generally, they are instruments used in Islamic finance to tap capital markets. Critics have questioned whether the manner in which these instruments are used lives up to the ideals envisaged by the *shari'a*. The criticism has come from two fronts: Economists who object to such instruments being debt based and certain scholars who voiced criticism of some interpretations of specific jurisprudential concepts employed in structuring the recent wave of *sukuk*.

We hope that through this workshop we can develop a better understanding of *sukuk* in theory and in practice, and of their advisability. At the same time, we hope this will enhance the dialogue between various and cross-disciplinary experts in the field of Islamic Finance.

## OBJECTIVES

1. To understand the purpose and application of *sukuk*
  - To gain a better understanding of how *sukuk* are viewed and how they are applied in the market
  - How they have or have not met Islamic finance ideals
2. To identify the issues and areas of concern, theoretical and practical, that arise regarding *sukuk*
  - Macroeconomic factors of concern
  - Jurisprudential factors of concern
3. Critically evaluate *sukuk*'s performance vis-à-vis:
  - i. current practice
  - ii. intended practice
  - iii. future practice
4. To consider any suggested theoretical solutions to the issues and concerns raised, including any alternatives to *sukuk* as currently practiced
5. To further the conversation among the various parties present by enhancing mutual understanding and links between their methodologies and approaches. Explicit attention will be given to this aspect through the more concrete discussions of *sukuk*
6. To make specific proposals of channels and venues through which to continue this conversation, including workshops on the development of other future products



## WORKSHOP AGENDA

8:30 a.m.

Reception and Coffee

9:00 a.m.

Opening Remarks by LSE Director, Sir Howard Davies

9:10 a.m.

Workshop Chair Remarks on behalf of the Harvard Law School  
Professor Baber Johansen, Director of ILSP & Affiliated Professor

### Summary of Current Practice and the Issues

9:15 a.m.

Introduction by Workshop Moderator, Professor Frank E. Vogel

**Current practice of *sukuk* by Mansoor Shakil, HSBC Amanah**

Presentation to provide participants with an initial setting for the workshop discussion and to present the key discussion points, covering:

- To summarize relevant conceptual frameworks with respect to *sukuk*
- To summarize the ways in which *sukuk* are used in practice, relating these with relevant conceptual frameworks
- To survey theoretical and practical areas of concern as to *sukuk* as identified by theoreticians, practitioners, and observers
- To list some conceivable solutions to these concerns, including potential alternatives to current practices

#### Key discussion points

- *Sukuk* are and will have to be structured like debt.
- *Sukuk* behave like debt today but should be structured to behave as equity.
- *Sukuk* should conform to the principles of Islamic law. The question of their behavior should be determined by the market.

### Part 1: Key Discussion Points of *Sukuk*

9:35 a.m.

Participants' Views

Opportunity for participants in the room to explain, in their own words, why they agree or disagree with the above discussion points.

- Note: Participants should not discuss concerns or problems here, but just provide a quick three-minute summary of their views.

11:00 a.m.

Tea/Coffee Break

11:20 a.m.      **Summary** – Frank E. Vogel to provide a summary of all the points of view

## **Part 2: Macroeconomic Concerns as to *Sukuk***

11:30 a.m.      **Discussion on the macroeconomic concerns of *sukuk***

Participants to discuss each of the following questions. Please note, for fairness, participants should keep their responses to a maximum of three minutes each:

- Why is there the preference of equity versus debt for *sukuk* and is there a preference in Islam for equity versus debt instruments; why?
- What are the economic results/effects of *sukuk*?
- What are the substitutes for *sukuk*, if any?

12:40 p.m.      **Comments by Professor Ross Cranston, LSE Law Department**

12:45 p.m.      **Lunch**

1:30 p.m.      **Summary** - Frank E. Vogel to provide a summary of all the points of view

## **Part 3: Structural Concerns as to *Sukuk***

1:40 p.m.      **A brief explanation of the following *sukuk* structural concerns**

- *Sukuk* ownership / asset title transfer
- Purchase undertakings to repurchase *sukuk*
- Principal repayment guarantees
- Fixed periodic payments: LIBOR alternatives
- Market value versus fixed price value
- Ratings alternatives

1:50 p.m.      **Open floor Discussion – Structural Concerns**  
Opportunity for participants to discuss each of the above points and suggest solutions

2:50 p.m.      **Comments by Professor William Blair, LSE Law Department**

3:00 p.m.      **Tea/Coffee Break**



3:15 p.m.      **Summary** - Frank E. Vogel to provide a summary of all the points of view

#### **Part 4: The Future of *Sukuk***

3:25 p.m.      **Open floor discussion – the future of *sukuk***

Participants to discuss—and, where possible, reach consensus on—issues within the following areas:

- What are the key concerns about *sukuk*?
- Can these concerns be met, and if so, how?
- How can *sukuk* as currently practiced be improved?
- What should be the future of *sukuk*?

#### **Part 5: Future Workshops**

4:15 p.m.      **Action Plan** – Participants to assist Frank E. Vogel in drafting a workshop summary and suggest solutions

- To put together a working draft to be distributed to all parties after the workshop, also highlighting areas for future discussion
- To vote on the next workshop topic

5:00 p.m.      **End of Workshop**

5:30 p.m.      **Reception and Early Dinner**

6:30 p.m.      **Public Lecture**

6:30 p.m.      **Venue: LSE – New Theatre**

Workshop participants are invited to the LSE Public Event on Islamic Finance where Usman Ahmed, CEO, Citi Islamic Investment Bank and Shaykh Nizam Yaquby will be speaking

8:00 p.m.      **End of Public Lecture**

## WORKSHOP PARTICIPANTS

**Khurshid Ahmad**, Chairman, Institute of Policy Studies, Islamabad, Pakistan  
**Usman Ahmed**, CEO, Citi Islamic Investment Bank, Dubai, United Arab Emirates  
**Iqbal Asaria**, Consultant, Lloyd Bank and Bank of England Committee, London, United Kingdom  
**Mehmet Asutay**, Markfield Institute of Higher Education, Leicestershire, United Kingdom  
**Daud Bakr**, Shari'a Supervisor, Kuala Lumpur, Malaysia  
**AbdulKadir Barkatulla**, Shari'a Supervisor; London, United Kingdom  
**William Blair**, Professor of Law, London School of Economics, London, United Kingdom  
**Ross Cranston**, Centennial Professor of Law, London School of Economics, London, United Kingdom  
**Humayon Dar**, Chief Executive Officer, BMB Islamic UK Limited, London, United Kingdom  
**Majid Dawood**, Chief Executive Officer, Yassar Limited, Dubai, United Arab Emirates  
**Mohammed Elgari**, Shari'a Supervisor & Professor, King Abdulaziz University, Jeddah, Saudi Arabia  
**Husam El-Khatib**, DentonWildeSapte LLP, London, United Kingdom  
**Michael Gassner**, Division Head, Islamic Banking Group, Bank AlJazira, Jeddah, Saudi Arabia  
**Hussain Hamed Hassan**, Shari'a Supervisor, Dubai Islamic Bank, Dubai, United Arab Emirates  
**Hussein A. Hassan**, Vice President, Deutsche Bank AG; Dubai, United Arab Emirates  
**Esam M. Ishaq**, Shari'a Supervisor; Manama, Kingdom of Bahrain  
**Baber Johansen**, Director, Islamic Legal Studies Program & Affiliated Professor, Harvard Law School  
**Iqbal A. Khan**, Founding CEO, HSBC Amanah, London, United Kingdom  
**Mohamad Akram Laldin**, Associate Dean, International Islamic University Malaysia  
**Amr Marar**, Dechert LLP, London, United Kingdom  
**Kamal Mian**, Head, Islamic Finance, Bank Saudi Hollandi, Riyadh, Saudi Arabia  
**Mansoor Shakil**, Director, Global Shari'a Compliance, HSBC Amanah, Dubai, UAE  
**Nabeel Shoaib**, Global Head, HSBC Amanah, Dubai, United Arab Emirates  
**M. Nejatullah Siddiqi**, Professor Emeritus, Aligarh Muslim University, Aligarh, U.P., India  
**Seif el-Din Tag el-Din**, Markfield Institute of Higher Education, Leicestershire, United Kingdom  
**Haytham Tamim**, Shari'a Supervisor, London, United Kingdom  
**M. Imran Usmani**, Shari'a Supervisor; Karachi, Pakistan  
**Frank E. Vogel**, Founding Director, Islamic Legal Studies Program; Harvard Law School  
**Nizam Yaquby**, Shari'a Supervisor; Manama, Kingdom of Bahrain  
**Anas Zarka**, Senior Economist & Shari'a Advisor, The International Investor, Kuwait  
**S. Nazim Ali**, Director, Islamic Finance Project, Harvard Law School



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