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*Studies and Researches*

## The Future of Islamic Finance after the Corona Crisis

**Volker Nienhaus**

Professor (em.) of Economics, University of Bochum, Germany

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### **Abstract**

There is much literature on the consequences of the corona crisis for the financial system, but usually without a distinction between conventional and Islamic finance. This research focusses on behavioural changes and market developments in the financial and real economy that will impact Islamic finance differently than conventional finance due to its conceptual peculiarities and prevailing practices. Particular attention is given to the real estate and construction sector, the universe of Shari'ah compliant stocks, and the consumer finance of Islamic retail banks. Through these channels, "the world" will have an impact on the future of Islamic finance. But the corona crisis has also reinforced calls for more responsible finance, and promoters of Islamic finance emphasise the ideal of risk-sharing as well as the distinct instruments of Islamic social finance for poverty alleviation and social cohesion. Particular attention is given to innovations in equity-like financing, green and socially responsible *shukūk*, digital approaches for Islamic microfinance, and the broader usage for Islamic social finance instruments (*zakāt*, *qard hasan*, [cash] *waqf*, *sadaqat*). Through these channels, a revised future Islamic finance may have an impact on the world.

**Keywords:** stocks, consumer finance, *shukūk*, risk-sharing, Islamic social finance

## مستقبل التمويل الإسلامي بعد أزمة كورونا

فولكر نينهاوس

أستاذ الاقتصاد، جامعة بوشام، ألمانيا

(سَلَّم البحث للنشر في 25/6/2020م، واعتمد للنشر في 19/7/2020م)

### الملخص

ثمت كتابات كثيرة حول تبعات أزمة كورونا على النظام المالي، غير أنها لا تميّز بين التمويل الإسلامي والتمويل التقليدي. يركز هذا البحث على تغيرات السلوك وتطورات السوق في واقع المال والاقتصاد، حيث إن هذه التغيرات والتطورات ستؤثر على التمويل الإسلامي بشكل مختلف عن تأثيرها على التمويل التقليدي، وذلك لتمييز التمويل الإسلامي في الفرضيات والممارسات السائدة. لقد تناولنا بشكل خاص قطاع العقارات والإنشاءات، وسوق الأسهم المتوافقة مع الشريعة الإسلامية، والتمويل الاستهلاكي من خلال الخدمات المصرفية الإسلامية للأفراد، وعبر تلك القنوات سيشهد العالم تأثيراً على مستقبل التمويل الإسلامي. لقد عززت أزمة كورونا الدعوات إلى التوسع في التمويل المسؤول، ويشدّد دعاة التمويل الإسلامي على تبني نموذج تقاسم المخاطر، بالإضافة إلى أدوات التمويل الاجتماعي الإسلامي للتخفيف من الفقر ودعم التماسك الاجتماعي. ستكون هناك عناية خاصة بالابتكارات في التمويل بأسلوب مماثل للتمويل الرأسمالي، والصكوك الخضراء والمسؤولة اجتماعياً، والأساليب الرقمية للتمويل الإسلامي الأصغر، واتساع دائرة استخدام أدوات التمويل الاجتماعي الإسلامي (الزكاة،

القرض الحسن، الوقف النقدي، والصدقات). ومن خلال هذه القنوات قد يكون للتمويل الإسلامي في المستقبل تأثير على العالم. الكلمات المفتاحية: الأسهم، التمويل الاستهلاكي، الصكوك، تقاسم المخاطر، التمويل الاجتماعي الإسلامي.

## 1. Introduction

The corona crisis produced ample evidence not only of deficiencies in disaster preparedness and response (stressed healthcare systems, breaking global supply chains, etc.) but also of fundamental imbalances in the distribution of income, wealth and opportunities in and between countries all over the world.<sup>(1)</sup> The financial dimension of rescue and stimulus packages and the question, who will finally bear the burden, unleashed a debate on structural reforms to address identified imbalances. While humanitarian values are reference points in the Western world, Muslims take recourse to *maqāṣid al-Sharī'ah* for guiding principles towards a more resilient and just post-corona society. Despite different philosophical or ideological backgrounds, calls for reforms converge towards the observance of ecological, social and governance (ESG) criteria and the pursuit of the sustainable development goals (SDGs) of the United Nations. To create a new balance between “people, planet, and prosperity”, more ethical finance is demanded in the West and more risk-sharing and social finance in the Muslim world.

This desk research is based on a review of and critical reflection on analyses and comments in journals, magazines, newspapers, blogs, webinars, and YouTube videos on corona and finance. Its contribution is the unveiling of several specific implications of the corona crisis for Islamic finance and its future. Section 2 outlines trends in finance and the real economy that were catalysed by the pandemic. Combined with basic data on the structure of the financing business of Islamic banks and windows, it is possible to identify the consequences of corona-accelerated behavioural changes and market trends for the future of Islamic finance. Section 3 looks at possibilities for equity-like financing, ESG and SDG-themed *ṣukūk*, and more engagement for the lowest segments of societies through advanced digital technology in Islamic microfinance and enhanced Islamic social finance instruments. Section 4 summarises the identified factors that can be formative for the future of Islamic finance after the corona crisis.

The research aims at general conclusions, but due to a lack of sufficiently disaggregated and reliable data, only fractional evidence can be presented. Case studies for selected jurisdictions could help to overcome this limitation.

## 2. The Impact of the World on Islamic Finance

“Impact of the world” refers to changes in the behaviour of people and market

(1) For an analysis of the impact of the corona crisis on financial markets see IMF 2020a, on distribution World Bank 2020a, 2020b, on human development UNDP 2020; for a reflection on the appropriate measurement of distributional effects among countries see Milanovic 2020.

conditions in the real economy caused by the corona crisis with consequences for the future of Islamic finance.

### **2.1. The Corona Crisis as Catalyst**

It is a widely held view that the corona crisis has catalysed existing trends in the finance industry. The rise of FinTech had set off a debate on the future of finance which culminated well before the corona crisis. Technologies such as cloud computing and big data analytics or smart contracts on blockchains and natural language processing for the digital delivery of all kinds of financial services (such as cashless payments, crowdfunding and marketplace lending, robo-advice) have been identified as major drivers for the future of finance.<sup>(2)</sup> They will disrupt customer relations, processes and competencies of incumbent financial institutions. New digital financial institutions will emerge, and incumbents must make massive investments to adopt technologies, team-up with challengers, or acquire disrupters. Weaker incumbents may merge with stronger competitors, and the concentration in the financial industry will increase.

In banking, the corona crisis has accelerated an existing shift of consumer preferences towards digital channels (and call centres) particularly for simple service interactions such as payments and small personal loans.<sup>(3)</sup> Banks will reduce the number of branches, and the remaining branches will handle more complex products and issues (such as mortgages) which require corresponding qualifications of staff. Internal risk models must be adjusted to the new realities of individual customers and the overall economy, including job and income perspectives, debt loads, and sector-specific recovery outlooks. The consultancy firm Accenture considers a scenario most likely in which “banks will be subjected to a second half of 2020 in which NPLs [non-performing loans, V.N.] become a major issue, revenue growth disappears, profit drops by 50 to 100 percent, and costs need to be right sized in a smart and forward looking manner”.<sup>(4)</sup> Nevertheless, the expectation is that – if credit losses are controlled, and a 2008-like liquidity crisis is averted – the capital buffers built up by banks since 2008 are strong enough to absorb the losses.

All these observations apply to conventional as well as Islamic finance in jurisdictions with dual banking systems. This suggests that the future of Islamic finance will be similar to the future of conventional finance. However, even if Islamic finance is technically mostly an emulation of conventional

(2) See KMPG 2019, Zachariadis n.d.

(3) See Asif et al. 2020, Loflin 2020, Pavoni 2020.

(4) Accenture 2020, 23.

finance, specificities and structural peculiarities may lead to a different economic impact on Islamic finance.<sup>(5)</sup>

## 2.2. Structure of Islamic Commercial Banking

Islamic banking is by far the largest segment of the Islamic finance industry with assets of USD 1.8 trillion by the end of 2019, which is more than three times the size of outstanding *ṣukūk*.<sup>(6)</sup>

Iran, with its fully Islamised financial system, accounted for 28% of the global Islamic banking assets. The Islamic banking assets in jurisdictions with dual banking systems are concentrated in five countries with cumulated 56% of the global Islamic banking assets: Saudi Arabia (24%), Malaysia (11%), UAE (9%), Kuwait (6%) and Qatar (6%). Information on the structure of financing can be found in country files of the *Prudential and Structural Islamic Financial Indicators* (PSIFIs) published by the Islamic Financial Services Board (IFSB)<sup>(7)</sup>

An analysis of the data in the table shows that financing for manufacturing by Islamic standalone banks and windows is rather low, financing for construction/real estate and households is medium to high<sup>(8)</sup> and the sectoral profiles of countries differ considerably. More specifically:

For the countries with the largest Islamic banking sectors, household financing is the most important business line with very high shares of more than one third in Malaysia (61%), Saudi Arabia (43% on average and 57% in standalone Islamic banks), the UAE (36%) and Qatar (estimated 35%). Smaller countries with very high shares in household financing are Oman (42%) and Brunei (33%).

The highest exposures to construction and real estate show Qatar (51%), the United Kingdom (42%), Jordan (35%), Indonesia (36% on average and 52% in the Islamic windows of conventional banks), Brunei (35%), Palestine (35%), and Bahrain (33%).

(5) There may also be an impact on Islamic law. For example, digitisation allows the automation of processes (e.g. by smart contracts) and extreme acceleration of processes. "Automation of processes will be ... just a matter of a split second. For Islamic financial transactions, this will surely pose a new territory of challenge. Countless traditional fiqh rulings can be challenged as a result." Izhar 2020.

(6) All Islamic banking figures in this paper have been computed from the Prudential and Structural Islamic Financial Indicators (PSIFIs), available from the website of the Islamic Financial Services Board as of 30 June 2020 ([https://www.ifsb.org/psifi\\_03.php](https://www.ifsb.org/psifi_03.php)). Total assets are reported for most countries for the end of 2019 (2019Q4) with notable delays for Iran (2018Q2), Kuwait (2019Q3), and Qatar (2019Q1). Assets reported in national currency were converted into USD by the official exchange rate average for 2019 as provided by the World Bank: <https://data.worldbank.org/indicator/PA.NUS.FCRF>. For the volume of *ṣukūk* outstanding see Al Nator and Brown 2020; see also IFSB 2020 and IIFM 2020.

(7) [https://www.ifsb.org/psifi\\_01.php](https://www.ifsb.org/psifi_01.php). 23 jurisdictions participate in the PSIFI project, but comparable sectoral data are only available for 14 jurisdictions.

(8) Against this background, shares of 4% (Bangladesh) or 0% (Egypt, Kazakhstan) for household financing and 39% for manufacturing are at least surprising if not implausible.

Financing by Selected Activity				
Country (share in total Islamic financing)	Latest data	Manufacturing	Construction & Real Estate	Households
Bahrain	2019Q4	5%	33%	16%
Bangladesh*	2019H1	39%	9%	4%
Brunei	2019Q3	5%	35%	33%
Egypt	2018Q4	17%	5%	0%
Indonesia	2019Q4	7%	36%	18%
- Banks (63%)	2019Q4	8%	27%	22%
- Windows (37%)	2019Q4	6%	52%	11%
Jordan	2019Q4	8%	35%	19%
Kazakhstan	2019Q3	4%	19%	0%
Malaysia*	2019Q4	5%	11%	61%
Oman	2019Q4	10%	22%	42%
- Banks (36%)	2019Q4	13%	14%	45%
- Windows (64%)	2019Q4	9%	26%	41%
Palestine	2019Q4	3%	35%	28%
Qatar	2019Q1	0%	51%	35%?
Saudi Arabia	2019Q3	10%	11%	43%
- Banks (37%)	2019Q3	9%	13%	57%
- Windows (63%)	2019Q3	11%	10%	36%
United Arab Emirates	2019Q4	3%	20%	36%
United Kingdom	2018Q4	2%	42%	24%

\* Share of windows in total financing 5% or less.  
? No share for household financing given, breakdown by activity only for 63% of total financing.  
Source: Calculated from IFSB's Prudential and Structural Islamic Financial Indicators for the latest available quarter or half-year ([https://www.ifsb.org/psifi\\_03.php](https://www.ifsb.org/psifi_03.php), accessed 2020-07-01).

Some implications of these profiles for the future of Islamic finance are outlined in the following.



### ***1.3. Social Distancing, Work-From-Home, and Commercial Real Estate***

The real estate sector was affected by the corona crisis when businesses shut down and jobs were lost. This impacted the flow of rents for commercial and residential properties.<sup>(9)</sup> Governments stepped in to deal with the acute crises, but substantial long-term transformations are expected.

During the corona crisis, businesses around the globe utilised electronic communication tools to replace face-to-face meetings and enabled work from home. The experiences were in general positive. A considerable number of companies intends to continue with electronic meetings (to reduce travel costs) and make (part-time) work from home a regular option. These behavioural changes have massive consequences for the travel industry (airlines, car rental companies and business hotels) as well as the construction industry and the commercial real estate sector, facing a sustained reduced demand for office space and business accommodation. With continuing work from home and permanent layoffs of employees, the overall demand for office space will shrink. Furthermore, large companies do not only consider downsizing their offices in prime city locations but also to decentralise office work and relocate to suburbs. Advantages include significantly lower rent levels and shorter commuting times for employees.

This trend is likely to spread to large cities in the Muslim world, where the market value of previously prime real estate objects can drop significantly. Islamic banks with substantial and long-term exposure to this type of commercial real estate will take a hit on the asset side of their balance sheets. Survival may require downsizing, mergers or even bailouts. It is unclear whether Islamic banks with stressed balance sheets can benefit from new opportunities when it comes to the construction of office buildings at new locations. The conventional banking industry seems to be more diversified and less affected in jurisdictions where the exposure of the Islamic banks to real estate and construction is exceptionally high.<sup>(10)</sup>

The substantial depreciation of formerly prime real estate assets has revealed risks that were underestimated (and underpriced) previously. Islamic investors (banks, REITs, wealth managers, etc.) will reconsider their attitudes towards commercial “bricks and mortar”, and it remains to be seen what other asset classes will become substitutes. The future of Islamic banking will probably

(9) For details on implication of the corona crisis for commercial real estate in the US see Berry 2020.

(10) It should be noted that financing of construction and real estate comprises more than office space and hotels, e.g. production facilities and private homes. Hence, it is likely that the outlined disruptive tendencies will not impact all Islamic banks in the same way.

see some bailouts, especially in jurisdictions where Islamic banks have become systemically important, and a sectoral rebalancing of financing portfolios.

#### 2.4. Shrinking Universe of Shari'ah Compliant Stocks

“Islamic equities” are stocks of listed companies that passed a two-stage Shari'ah screening: The activity screening ensures that the core business of a company is not *haram*, and the financial screening that its financials do not violate the prohibition of *riba* beyond a tolerable level. For example, the Shari'ah board of S&P Dow Jones Indices requires that all of the following three financial ratios must be less than 33%:<sup>(11)</sup>

- total [conventional] debt divided by trailing 24-month average market capitalisation,
- the sum of a company's cash and interest-bearing securities divided by trailing 24-month average market capitalisation,
- accounts receivables divided by trailing 24-month average market capitalisation.

The stock markets crashed in March 2020, recovered, and plummeted again in June. If the depression of stock prices persists, the trailing 24-month average market capitalisation of most listed companies will go down, implying that – other things being equal – their debt ratios will go up. Also, most businesses have used debt instruments to compensate for material revenue losses caused by lockdowns and breakdowns of supply chains. Stronger companies directly tapped the capital market and issued debt securities, while weaker and smaller businesses received support through credit programmes of governments around the globe. Global corporate debt is expected to increase substantially in 2020 (by 12% to USD 9.3 trillion),<sup>(12)</sup> and it will remain on an elevated level for a long time (i.e. for more than the 24 months of the trailing average).

The majority of constituents of global Islamic stock indices are Shari'ah compliant not by their intent but as a result of the screening by an index provider. Hence, most issuers of Shari'ah compliant stocks have no problem with debt financing and increasing debt ratios and do probably not worry much about a potential loss of their classification as Shari'ah compliant.

The reduction of the market capitalisation or increase of debt will not annihilate Shari'ah compliance immediately. The use of a trailing 24-month average

(11) See S&P Dow Jones Indices 2020.

(12) See Jones 2020; for details on corporate debt see Janus Henderson 2020.

leads to a considerable time lag before a stock should be removed from the list of constituents of a Shari'ah index. The lag will be the shorter (1) the closer the initial (pre-crisis) debt ratio was to the 33% limit, and (2) the larger the reduction in market capitalisation and the increase in debt were.

Neither will all Shari'ah compliant corporates violate the 33% limits nor will violations happen all at the same time. Nevertheless, there is a fair chance that the universe of Shari'ah compliant stocks will start to shrink in 2021. Asset managers and analysts should identify candidates that may lose their Shari'ah compliant status and develop strategies for an orderly divestment to avoid losses in fire sales. Yet, they may also identify profit opportunities. In a shrinking Shari'ah compliant universe, stocks of remaining companies will attract more demand from Islamic investors and probably even from conventional investors who appreciate companies with low debt ratios. The price of these stocks will tend to increase, and this could compensate for losses from divestment if the portfolio restructuring starts early.

### ***2.5. Erosion of the Islamic Consumer Finance***

Electronic communication was a crucial facilitator for changes in the behaviour of people that are "retail customers" of banks. During the lockdown periods of the corona crisis, a significant number of consumers (as well as retailers) resorted to e-commerce, many of them for the first time. More consumers than ever ordered a wide range of products and services through the internet, and they used different methods for digital payments. The most popular methods were "classic" credit and debit cards. Still, many merchants also started to offer new payment options provided by global players such as PayPal (from the US) and ALIPAY (from China), or by regionally strong FinTechs such as AFTERPAY (from Australia) or KLARNA (from Sweden).

An increasing number of these payment solutions providers offer e-commerce customers a "buy now, pay later" (BNPL) option at checkout from an online shop or payment terminal in a brick-and-mortar store. BNPL allows customers to pay the bill in instalments at no extra costs. The number of instalments and the payment period can differ between service providers as well as markets. For example, Klarna offers four instalments over six weeks in the US,<sup>(13)</sup> three instalments within 60 days in the UK,<sup>(14)</sup> and up to 24 instalments over two years in Germany.<sup>(15)</sup> Customers get a short or even medium-term interest-free credit in a very convenient manner. The BNPL service provider pays the full

(13) <https://www.klarna.com/us/business/products/installments/>.

(14) <https://www.klarna.com/uk/business/products/installments/>.

(15) <https://www.klarna.com/de/verkaeuffer/produkte/ratenkauf/>.

amount of bills upfront to the retailer and controls the customers' payments. Retailers expect an increase in the average order value from customers who use the instalment option.<sup>(16)</sup> They pay a fee to the service provider that can be composed of a fixed amount per transaction plus a percentage of the transaction volume.<sup>(17)</sup>

By the use of BNPL services, any e-commerce or brick-and-mortar retailer can offer customers a short to medium-term interest-free financing of purchases. There is no obvious reason why sales contracts between a retailer and a customer with an option for an interest-free loan should violate Shari'ah principles. One could raise concerns that the interest-free loan for the customer is facilitated by an interest-based transaction between the retailer and the financial service provider. But in most Muslim countries with dual banking systems, 80+% of all financing is interest-based – including financing for retailer's inventory, IT system, transport equipment, and so forth.<sup>(18)</sup> Relative to the total interest-based debt of an average retailer from whom Muslims are regularly buying, the interest component in the fee for BNPL services is minuscule. Anyway, if it were seen as a significant Shari'ah issue, it could be replaced by a service charge (*ujrah*) for the use of the BNPL facilities (including the technical platform and API integration) or by a *tawarruq*-based structure between the payment service provider and the retailer. This should raise less Shari'ah concerns as both options correspond to widespread practices in Islamic banking.

The development of payment systems in Muslim countries may still be lagging behind Western and several Asian countries (e.g. Japan, China). Nevertheless, Islamic retail banks involved in consumer finance should take note of non-bank financial service providers that can make an inroad into their payment and consumer credit business. BNPL options can be very appealing for Muslim consumers as they provide simple and straightforward access to an interest-free credit with no apparent Shari'ah concerns. This convenience contrasts well with more complex *tawarruq*-based interest-free consumer finance and overdraft facilities of Islamic banks with debatable Shari'ah qualities.

When contemplating a response to the BNPL challenge<sup>(19)</sup>, Islamic banks

(16) Klarna advertises a 45% increase in average order value from shoppers paying with instalments in the US, 55% in the UK, and 58% in Germany.

(17) For example, Klarna charges up to 0.30 USD + 5.99% per transaction in the US, up to 0.20 GBP + 5.40% per transaction in the UK, no fixed amount + 2.99% per transaction in Germany.

(18) In only six countries (Brunei, Saudi Arabia, Kuwait, Malaysia, Qatar and Bangladesh), the market share of Islamic banks is 20% or more. Th all other countries, conventional banks account for 80% and more of the market; see IFSB 2020.

(19) It seems that BNPL providers have not yet fully realised their particular attractiveness for Muslim consumers and the large market potential.

must tackle the problem that it is impossible to compete price-wise with cost-free credit facilities. A solution could be a switch from financing consumers to financing retailers or the BNPL payment service providers. As profit margins for the banks will here probably be smaller than in the previous (but disrupted) direct consumer financing, an alternative may be the acquisition of an established BNPL service provider.<sup>(20)</sup>

With BNPL and other online credit facilities, non-bank payment service providers have the potential to capture large chunks of the market for short to medium-term consumer finance which is the main business of household-focussed Islamic retail banks. The impact on the future of Islamic finance would be a shift of consumer finance from Islamic banks to non-bank service providers with established networks and advanced digital technologies. In addition to the specialised BNPL providers, big techs and telcos started developing an appetite to use their existing digital infrastructure and big data pools to enter the same market, thus squeezing Islamic retail banking further.

## 2.6. Debates on Purpose and Fairness of Islamic Finance

The corona crisis made it clear that liquidity shortages can threaten the existence of profitable businesses. Regulators in jurisdictions where Islamic finance is practised reacted with a wide range of interventions such as grants, subsidies, and zero-cost funding (by qard or zero-return RePOs) for banks, as well as payment moratoriums for distressed households and non-financial businesses.

The accounting board of the Accounting and Auditing Organization for Islamic Financial Institutions (AAOIFI) felt the need to publish a clarification on the accounting treatment of these measures under the AAOIFI accounting standards,<sup>(21)</sup> including the treatment of *murābahah* with deferred payment affected by a moratorium. A common type of payment moratorium extends the contractual period of a conventional loan and charges interest for the extension period. This has caused a debate among Sharī'ah scholars whether an Islamic bank can charge an additional profit mark-up for an extended payment period in a *murābahah*. The accounting board does not make Sharī'ah rulings. Still, it referred to paragraph 5/7 of the AAOIFI Sharī'ah standard on *murābahah* (SS 8, issued in 2002): "It is not permissible to extend the date of payment of the debt in exchange for an additional payment in case of rescheduling,

(20) Strong economies of scale and lock-in effects make it very difficult for latecomers to create a successful BNPL provider on their own.

(21) AAOIFI 2020.

irrespectively of whether the debtor is solvent or insolvent.”<sup>(22)</sup>

There seems to be a consensus that extra payment for extra time constitutes *ribā*. Still, some scholars argue that the corona crises has created an emergency of unprecedented dimension in which the *ribā*-prohibition shall not be applied to extra charges in a payment moratorium.<sup>(23)</sup> The main arguments for the approval of extra charges for extra time are that Islamic banks (1) are working with other peoples’ money who expect a return on deposits, and (2) banks should get compensation for profits lost because of the extension of the contractual period. There are some implications of this justification of an “extension charge” that may provoke debates on whether this is in line with the Islamic values of benevolence, fairness, and solidarity.

- The prime aim of a moratorium is the support of bank customers who cannot pay on schedule (and not of banks which were flooded with liquidity by central banks). The customers who cannot pay are probably the most affected by the crisis but will be burdened with an extension charge while customers who can pay can avoid it by paying on schedule.
- The banks are compensated for lost opportunities but not the customers who have been unable to use the financed assets due to lockdowns or a lack of demand caused by the crisis.
- The contractual period is usually extended by adding the time of the moratorium (e.g. two months) to the maturity date of the original contract (e.g. 12 months), and the extension charge is due at the new end date. This implies that customers are relatively better off when the moratorium happens at the beginning of the original contract period (e.g. after the first month). They have more time (11 months) to raise the money for the extension charge than those for whom the moratorium comes late (e.g. in the 11th month of a 12 months contract) with very little time (1 month) for earning extra money for the extension charge. For them, the extension charge increases the probability of default significantly.

The alternative would be a moratorium without an extension charge. This does not mean that depositors and shareholders will suffer a loss of capital. They would only forego some profits and “suffer” from a lower return on capital

(22) Appendix D explains: “The basis for the prohibition of additional payment over the principal debt in consideration for extension of time is because such action is a pre-Islamic form of Riba.” AAOIFI 2015, 229.

(23) See El Gari in Bakar 2020.

than expected.<sup>(24)</sup>

The justification of the suspension of the prohibition of *ribā* during the corona crisis protects one-sidedly the interests of capital owners (depositors and shareholders) and ignores those of the capital users. The pragmatic “new jurisprudence of Islamic finance amidst Covid-19”<sup>(25)</sup> will provoke debates on fairness in Islamic finance. Furthermore, it will trigger a discussion on the interpretation, coverage, and relevance of existing and reiterated AAOIFI standards at a time when there is a near consensus on the need of more standardisation in Islamic finance.<sup>(26)</sup> Thorough debates on topics such as collective vs individual *fatāwā*, formalism vs flexibility in *fiqh*, or shareholders vs stakeholders will have an impact on the future of Islamic finance.

### 3. Islamic Finance Impacting the World?

Muslim advocates as well as some international organisations idealise Islamic finance as a system that has exactly those qualities that are needed to overcome the corona crisis and to establish a more sustainable and equitable world. They refer to risk-sharing modes of finance (*muḍārabah*, *mushārah*) in Islamic commercial finance and the rich heritage and massive potentials of Islamic social finance for poverty alleviation, financial inclusion and promotion of entrepreneurship.

#### 3.1. Global Calls for Equity-Like Instruments: Opportunity for Islamic Finance?

The fear of a huge debt overhang and coming debt crisis gave rise to calls for more equity-like financing for businesses – especially small and medium-sized enterprises (SMEs) – affected by the corona crisis. Equity-like funding should be provided by conventional banks, through capital markets, and from public budgets<sup>(27)</sup> through a wide range of instruments:

(24) If the regulator would not enforce an extension charge and leaves it to the customers to apply for an extension, those customers who could pay on schedule have no commercial incentive to do so, but they still have a moral obligation. This may not be strong enough so that the banks face a freerider problem. However, the dimension of profit losses from freeriding is not clear, and banks may find measures against freeriding.

(25) This is the title of the webinar by Bakar 2020. Another example for a debatable pragmatic solution from the same webinar is the idea to freeze stock prices on a pre-crisis level to avoid that plummeting market capitalisations drive stocks out of the universe of Shari’ah compliant equities.

(26) For this, the IsDB, the UAE Ministry of Finance and the Dubai Islamic Economy Development Centre in cooperation with AAOIFI launched an initiative to develop a unified global legal and legislative framework for the Islamic finance sector; see n.a. 2020. However, given that (1) bodies for standardisation in Islamic finance already exist (AAOIFI, IFSB, IIFM) and (2) all jurisdictions with a sizable Islamic finance industry have already enacted national laws (which sometimes differ intentionally from the legal frameworks of other jurisdictions), a success beyond legal templates for regulatory “latecomers” seems to be doubtful.

(27) Equity-like instruments have also been proposed to avoid a debt overload of sovereigns. On the concept of “sovereign equity” see Park and Samples 2015.

- Profit participating loans are special forms of loans where the lender participates in the net profit of the borrower. The participation can be in the profit of the whole business or limited to the project for which the loan was provided.<sup>(28)</sup>
- Convertible bonds are debt securities that can be converted by the holder into stocks or equity shares. When issued, they carry a (slightly) lower interest rate than regular (non-convertible) bonds.
- A cash-against-tax surcharge scheme was suggested to bring funding quickly to businesses of all sizes by a combination of “outright cash transfers to firms with a temporary, elevated corporate profit tax at the firm level as a form of conditional payback. The implied equity-like payment structure has positive risk-sharing features for firms, without impinging on ownership structures.”<sup>(29)</sup>

A debt overload can result from interest-bearing loans or bonds but also from Shari‘ah compliant debt-creating instruments. Therefore, Islamic finance should also offer more equity-like financing structures. In a situation where a near-consensus on the risks of high leverage and the benefits of equity has emerged, Islamic banks – as the largest segment of the Islamic finance industry – must not squander the opportunity for a substantial contribution to the prevention of debt overload. Shari‘ah compliant equity-like modes of financing shall bring the industry closer to what is often considered its decisive or “authentic” feature: risk-sharing.

### *The Deficient PLS Practice*

The most prominent candidates for Islamic equity-like financing are profit and loss sharing (PLS) partnerships. However, Islamic banks do not have much (if any) experience with *muḍārabah* and *mushārahah* financing in practice.

- A meagre 4% of Islamic bank financing was based on these contracts (plus 1.5% on diminishing *mushārahah*).<sup>(30)</sup> This may be due to (1) the large exposure of Islamic banks in consumer finance which is a business where profits that could be shared do not exist, (2) a maturity mismatch

(28) See mzs lawyers n.d.

(29) Boot et al 2020; this proposal requires an effective tax regime that may not exist in all developing countries.

(30) IFSB n.d.; the data were for 2018Q2. The IFSB reports the financing by type of Shari‘ah compliant contract in its PSIFs. A closer look at the six largest Islamic finance jurisdictions yields a very disappointing result: In the most recent available reporting period, *muḍārabah* contracts have a share of 3% of financing in Iran, 1% in Kuwait, and 0% in Malaysia, Saudi Arabia, and the UAE. Qatar does not report on the type of contracts at all. *Mushārahah* has a share of 51% in Iran, 9% in Malaysia, and 0% in the other reporting jurisdictions. Diminishing *Mushārahah* has a share of 0% in all reporting jurisdictions. Hence, PLS modes of finance are virtually non-existent in the largest dual banking jurisdictions (with the exception of Malaysia). The fully Islamised banking system of Iran with 51% *mushārahah* (and shares up to 65% in the past) is obviously a special case.



between medium to long-term *muḍārabah* and *mushārah* financing and short-term deposits and investment accounts, (3) fiduciary duties of banks towards risk-averse depositors and investment account holders, (4) high regulatory capital charges resulting from high risk weights for equity-like financing.

- *Muḍārabah* and *mushārah*-based structures were more popular in *ṣukūk* because they do not require a specific underlying asset. However, their share in global new *ṣukūk* issuances decreased to 10% and less in recent years.<sup>(31)</sup>

The sharing of entrepreneurial risks and PLS partnerships may be a hallmark of Islamic finance in theory, but in practice, they are virtually non-existent. This also applies progressively to the deposit business of banks. In the early days of Islamic banking, it was clear that a profit sharing and loss bearing *muḍārabah* is the (only) appropriate contract for bank customers who expect a return for money placed in an account which was called “unrestricted investment account”.<sup>(32)</sup> AAOIFI has suggested treating these PLS deposits as a separate category between liabilities (deposits) and shareholders’ equity as “equity of unrestricted investment account holders” with loss-absorbing qualities. Correspondingly, the IFSB suggests excluding a certain percentage or all assets financed by investment accounts from the risk-weighted assets for the calculation of regulatory capital requirements.<sup>(33)</sup> The supervisory authorities shall determine the percentage at their discretion on a case-to-case basis.

In practice, investment accounts have never borne a capital risk and fluctuations of profit-payouts against announced “expected rates” were levelled out by reserves and shareholder funds (“profit smoothing”). Also, investment accounts tend to be short-term instruments that lack the permanence of equity. In the worst case, bailouts or deposit insurance schemes will prevent bank runs, bringing the risk of capital losses virtually to zero. Insofar, any reduction of the denominator of the capital adequacy ratio conceded by supervisory authorities boils down to a kind of subsidy for Islamic banks.<sup>(34)</sup> Nevertheless, AAOIFI intends to uphold the label “equity of unrestricted investment account

(31) IFSB 2019, 71, and IFSB 2020. For a more detailed breakdown of *ṣukūk* issuances by tenor, issuer, market, and geography see IIFM 2020.

(32) See AAOIFI Financial Accounting Standard No. 1 (issued in 1993) in: AAOIFI 2015. “Unrestricted” means that the bank is not restricted in the investment of the account holders’ funds by the account holders.

(33) See IFSB 2013.

(34) Reporting unrestricted investment accounts “as quasi-equity instruments could give the misleading impression that some Islamic banks are better capitalized than their peers in the same way that the alpha factor--the percentage of assets excluded from the calculation of regulatory risk-weighted assets--used in the capital adequacy calculation of some banks does”. Damak, Mensah and Roy 2020.

holders” in a revision of its accounting standard, which is – because of the current practice – misleading.

However, the practice is changing: The number of Islamic banks that replace *muḍārabah*-based unrestricted investment accounts by *tawarruq* or *wakālah*-based structures with capital protection for the depositors is growing. This causes an issue with the acclaimed legal maxim of “no reward without risk”. There is no substantial risk in an organised *tawarruq*, and holders of *tawarruq*-based accounts receive a reward without risk.<sup>(35)</sup> The situation is somewhat different for *wakālah*-based deposits since the returns on capital can fluctuate while the principal is not exposed to risk. It is debatable whether the uncertainty of returns is a sufficient “risk” to justify a return for a provider of liquidity who has a claim for full repayment.<sup>(36)</sup>

It seems that Islamic finance is facing growing discrepancies between theory or ideology and practice. This creates not only communication problems but, in the worst case, also challenges for consistency and credibility. Malaysia has shown a way out of such issues in its *Islamic Financial Services Act 2013*. The act clearly separates Islamic deposits with capital protection from investment accounts that are “true” profit and loss sharing investment products with no capital guarantee or insurance. To facilitate the channelling of funds from investment accounts to viable ventures and projects on a PLS basis, the Investment Account Platform (see below) was launched by the Malaysian central bank in 2016.

#### *From Equity-Based to Equity-Like Financing*

It is not very likely that other countries will soon follow the Malaysian example. Nevertheless, measures should be taken to reduce the outlined discrepancies that can frustrate idealistic advocates of an Islamic alternative to interest-based capitalism. It is also not very likely that Islamic banks will provide more “true” PLS financing (*muḍārabah* and *mushārah*) soon. But there may be equity-like financing structures that are compatible with both the needs of micro, small, and medium-sized enterprises (MSMEs) and the profit expectations of Islamic banks.

MSMEs need fresh capital for their restart and growth after the corona crisis, but in a world full of uncertainties, debt-creating modes of finance with fixed

(35) The risk that a contracting party does not make a payment when it is due (credit risk) cannot be eliminated from contracts with a deferred payment. It is so ubiquitous that it cannot be the risk to which the legal maxim refers.

(36) Profit participating loans would also meet this requirement and could be used as the basis of Shari’ah compliant instruments in non-Muslim civil law countries.

debt service obligations irrespective of the performance of the businesses put intense pressure on the firms. Profit participating loans or Sharī‘ah compliant alternatives can take some of the pressure from MSMEs. They could also serve as a starting point for Islamic banks to become more familiar with business plans and entrepreneurial decisions in non-financial firms of the real economy. Equity-like financing with a performance-related compensation for the capital provider would give MSMEs a noticeable relief. On the other hand, unmanageable debt services increase the probability of default which is not in the interest of capital providers. Therefore, both sides have reasons to think about financing structures that combine equity-like profit-related cash flows with a debt-like limitation of capital losses.

#### *Model 1: Incentive Fee Clauses*

Incentive fee clauses are known in *shukūk* structures where they were used to tweak *muḍārabah* and *mushārah* contracts such that they become *de facto* fixed income instruments. What was used in *shukūk* to get away from PLS can be adapted in Islamic banking for an approximation to partnership financing. A bank and an entrepreneur create a *muḍārabah* structure and agree on a relatively high profit share for the bank (e.g. 80%) and on a benchmark rate that is “inspired” by, for instance, the market rate of interest for unsecured loans or high yield bonds. The benchmark rate is the risk-adjusted rate of return that the Islamic bank expects to earn under “normal” circumstances (e.g. 15%). The provided capital (e.g. USD 1 million) multiplied by the benchmark rate gives a benchmark amount (USD 150,000) that the bank expects as its profit share. If the realised profit (e.g. USD 300,000) is such that the bank’s share (80% of USD 300,000 = USD 240,000) surpasses the amount that the bank expects as its return (15% of USD 1 million = USD 150,000), the incentive fee clause kicks in and all profits beyond the benchmark amount go to the entrepreneur as an incentive fee or bonus (USD 90,000) for successful management. Realised profits that yield a bank’s share amounting to the benchmark (USD 150,000) or less (e.g. USD 100,000) are shared according to the profit-sharing ratio (= 80% of USD 80,000 for the bank which gives a return on capital of 8% instead of the expected 15%). This asymmetric arrangement can be attractive for the Islamic bank if the benchmark is sufficiently higher than the return on capital that it could earn from a debt-creating contract. It can be attractive for the entrepreneur if the difference between the benchmark rate and the cost of debt financing is seen as a fair “insurance fee” for situations of unexpected underperformance. Compared to a straight *muḍārabah*, the downside risk

for the bank is not eliminated while the upside potential is capped. But in return, incentives for the entrepreneur to hide profits or shift them to periods after the expiry of the contract are reduced. Hence, the outlined contractual arrangement is more incentive compatible than the straight muḍārabah and could benefit both parties if an appropriate sharing ratio and benchmark can be found.

### *Model 2: Modified Investment Account Platform*

The muḍārabah structure with incentive fees can also be used in a setting that primarily addresses the issues of (1) limited own SME expertise of Islamic banks and (2) risk-spreading through collective investment schemes. These basic components can be found in the Investment Account Platform (IAP) in Malaysia.<sup>(37)</sup> It was established to facilitate PLS financing by investment account funds through a crowdfunding scheme. SMEs in innovative and new growth areas are encouraged to submit funding requests for projects on PLS basis either through banks or directly to the IAP. After a positive commercial and Sharī'ah assessment by one of the (currently seven) sponsoring Islamic banks, the fund seeking projects are presented on the platform for subscription by retail and institutional investors, including investment account holders whose funds are managed by the Islamic banks.

As the whole economy has been affected by the corona crisis, banks will receive financing requests from nearly all sectors of the real economy. PLS financing requires an evaluation of business plans and an estimation of future profits in fragile environments. The needed expertise is rather different from what is necessary to handle an application for conventional or Islamic debt financing. Individual Islamic banks may have internal expertise for a few industries.<sup>(38)</sup> Still, they could widen the scope of sectoral expertise by recourse to external advice from, for example, business consultancies, industry organisations, or knowledge-sharing agreements with other Islamic banks. The IAP approach could be modified such that the participating banks create a joint expert pool for the evaluation of project proposals from a wide range of industries. The pool may be linked to the platform operator. By this means, the scope of sectoral expertise can be broadened, and previously private expert knowledge would become a group-specific public good used jointly by all contributing

(37) <https://iapplatform.com/>

(38) It could be an indication for a knowledge bottleneck that the 13 listed projects of the IAP (as of June 10, 2020) come from only five different but sometimes closely related economic sectors with a strong dominance of financial services with eight (= 62%) of the projects for the bulk of funds. On the global level, at least the expertise in manufacturing seems to be rather limited, given the low percentage of financing for this activity in nearly every jurisdiction; see the table above.

banks.

The crowdfunding structure facilitates not only knowledge sharing but also risk-sharing among investors. The funding requests of projects with positive evaluations will be placed on the platform for subscription by individual and institutional investors. No investor must finance a whole project and take its full risk. Instead, each investor can decide on the size of the subscribed funding contribution to a particular project. Through the platform, project-specific investments become divisible and scalable, and investors can create diversified portfolios in line with their risk appetite.<sup>(39)</sup>

The instrument of *muḍārabah* with incentive fees and the modified IAP are two examples to substantiate the hope that the ideal of PLS-banking and risk-sharing financing could be approximated by a combination of Shari'ah engineering and FinTech elements. The corona crisis has shown the importance of experiments with equity-like financial instruments, and implementation on a larger scale may become a reality in the post-corona era. In the future, Islamic banking should not miss the opportunity to deliver what the world is searching for and what its advocates consider as its hallmark: risk-sharing (at least to some degree).

### 3.2. The Rise of SRI, ESG and SDG-Themed Ṣukūk?

The *ṣukūk* market is dominated by sovereign and quasi-sovereign issuers, accounting for approximately three-quarters of the total global issuances.<sup>(40)</sup> In early 2020, governments around the globe have issued vast amounts of conventional bonds to finance rescue and stimulus packages, including the governments of Muslim countries that have been large *ṣukūk* issuers in the past. Low interest rates and less complicated and faster procedures made bonds the instrument of choice to raise capital cheaply and quickly.<sup>(41)</sup> When bonds have met the most urgent financial requirements, there is no immediate need to tap the Islamic capital market in a comparable dimension.

Forecasts of *ṣukūk* issuances in the second half of 2020 and 2021 differ,<sup>(42)</sup> but regardless of expected growth rates, some “qualitative” developments deserve

(39) Through the IAP, assets or projects could be “tokenised”; see below “FinTech for Microfinance” in section 3.1.

(40) The share of non-financial corporates in global *ṣukūk* issuances was on average 19% for 2009-2018; calculated from IIFM 2019.

(41) „[T]he pandemic has shown that when core Islamic finance issuers need faster access to capital markets they typically use conventional instruments. In the first five months of 2020, the total volume of *sukuk* issuance dropped 38% compared with the same period in 2019.” Damak, Roy, and Mensah 2020. However, a number of major issuances with volumes of USD 1bn and (much) more took place in June (by Indonesia, from the UAE, and by the IsDB); see Dealogic 2020. As a result, the issuance volume fell only 27% in the first six months of 2020; see Damak, McGraw, and Roy (2020).

(42) See McAughtry 2020.

attention. They could be harbingers of a trend that might become more important for the future of Islamic finance than the mere volume of issuances: the growth of socially responsible investment (SRI), ESG and SDG-themed *ṣukūk*.<sup>(43)</sup> It has been pointed out already before the corona crisis that ESG and SRI criteria and most SDGs match very well with Islamic principles.<sup>(44)</sup> Still, the number of themed *ṣukūk* was quite limited and focussed largely on “green *ṣukūk*”. The social and governance dimensions had been neglected,<sup>(45)</sup> but the corona crisis laid bare the vulnerability of people and the social responsibility of companies. Crisis responses of governments include measures to address these issues, but many vulnerabilities require a large-scale and long-term engagement which goes beyond crisis measures. The required volumes may well exceed the capacities of governments, particularly in developing countries. Private capital needs to be mobilised through ESG, SRI, and SDG-themed *ṣukūk* to finance a wide range of projects in areas such as clean energy, waste management, affordable housing, education, and healthcare.<sup>(46)</sup>

While the “first generation” of green or social bonds and *ṣukūk* have raised capital for particular projects, a more recent development are sustainability-linked bonds. These securities can be issued by corporates or quasi-sovereigns that intend to improve their ESG performance but do not have a definable project. Instead, they define a set of externally monitored key performance indicators (KPIs) and issue a bond or a *ṣukūk* with a financial return to investors that decreases when the company meets its KPIs.<sup>(47)</sup> This type of *ṣukūk* that links profit with people and planet should attract Islamic investors who care about sustainability and social coherence (as core elements of an Islamic economy).

Another type of themed securities could link Islamic commercial with Islamic social finance and institutions that provide finance for the poorest segments of society (see 3.3.). Small-ticket retail *ṣukūk* for the funding of microfinance or

(43) See DIFC 2020, CERT 2020, Obaidullah n.d.

(44) See, for example, CFA 2019

(45) “Until now, in the context of ESG, the social aspects of Islamic finance appear to have been somewhat secondary to the wider climate change and environmental concerns.” Damak and Roy 2020.

(46) ESG, SRI and SDG *ṣukūk* can be issued by sovereigns and multinational organisations as well as corporates. For example, HSBC Amanah (Malaysia) was the first Islamic bank to issue a SDG *ṣukūk*, “referencing the UN SDGs as use of proceeds”; UNDP 2018.

(47) The first SRI *ṣukūk* was issued in 2015 by the Khazanah, the strategic investment fund of the Malaysian government. It is based on a “pay-for success” structure. The *ṣukūk* proceeds were used to fund a school programme. A set of KPIs was defined to measure the social impact of the programme. “If at maturity the KPIs are fully met, Sukukholders will forgo or contribute up to 6.22% of the nominal value due under the Sukuk, which in effect will reduce the yield [from 4.3%, V.N.] to 3.5% p.a. The adjustment is considered as part of Sukukholders’ social obligation in recognizing the positive social impact generated by the Trust School Programme. If KPIs are not or partially not met, Sukukholders will receive up to the nominal value due under the Sukuk as agreed at issuance” n.a. 2015.

big-ticket global *ṣukūk* in support of *awqaf* are possible and in the pipeline.<sup>(48)</sup> Such initiatives can benefit from the flexibility of *ṣukūk* as a security that can be structured as an equity-like or debt instrument (or something in between). By using blockchain technology and smart clauses/contracts as well as contract templates, FinTech and LegalTech can simplify procedures and reduce costs for the structuring of various kinds of *ṣukūk*, shorten the time to market, and enhance transparency and traceability.<sup>(49)</sup>

There are indications that the corona crisis has become a catalyst for impact investment and value-based intermediation through the Islamic capital market in general and SRI, ESG and SDG-themed *ṣukūk* in particular. Two outstanding recent examples are the USD 1.5 billion sustainability *ṣukūk* issued by the IsDB<sup>(50)</sup> and the war bond-like Prihatin *ṣukūk* announced by the government of Malaysia.<sup>(51)</sup>

### 3.3. Islamic Finance for the Bottom of the Pyramid

The corona crisis laid bare extreme inequalities in wealth, income, and livelihood opportunities. The poorest segments of societies all over the world were particularly hard hit by the economic fallout. There is a broad consensus that Islamic finance should get more proactive in providing services for the people “at the bottom of the pyramid”. Not only Muslims and Islamic institutions but also faith-neutral international organisations such as the World Bank<sup>(52)</sup> or the UNDP<sup>(53)</sup> emphasise social obligations of corporates in general and financial institutions in particular as well as the availability of unique instruments in Islamic social finance. Strong claims of proponents of Islamic finance have raised high expectations of more engagement of Islamic financial institutions for poverty alleviation.

Many technical and conceptual innovations have emerged in recent years to overcome pain points of the Islamic finance industry which have hindered Islamic financial institutions from making more progress in financial inclusion.

(48) Indonesia is one of the pioneers in ESG *ṣukūk*. Apart from green *ṣukūk*, the government issued its first cash waqf linked *ṣukūk* (CWLS) for a healthcare project. The structure is rather complex (see Karim 2020) and may raise some Shari'ah questions outside Indonesia. Nevertheless, it shall be used for follow-up ESG issuances.

(49) See R3 2019.

(50) “The proceeds of this sukuk will reportedly go toward helping the IsDB’s member countries cope with the impact of the pandemic, particularly on health care and small and midsize enterprises.” Damak, McGraw, and Roy (2020).

(51) “The idea is to issue a zero periodic-distribution-rate sukuk and use the proceeds to help restart the economy. ... We understand the proceeds of the sukuk will support microenterprises run by women, improve broadband internet coverage for schools in rural areas, and provide research grants for the treatment of infectious diseases.” Damak, McGraw, and Roy (2020).

(52) See World Bank 2020b.

(53) See Rehman 2020.

- The main driver of technical innovations to lower costs and enhance the efficiency of the delivery of micro-financial services is FinTech. Blockchain and platform technologies are at the core of efforts, particularly in Southeast Asia, to make finance for the poor commercially viable, sustainable, and – in perspective – even attractive for retail and institutional investors (including Islamic banks).
- Technological innovations also helped to revitalise and “modernise” traditional Islamic concepts for charity and the provision of public goods (*zakāt, waqf, qarḍ hasan, sadaqat*). Islamic social finance instruments can be employed not only for micro-finance but a wide range of services such as healthcare, education, and community development.

Many of these approaches are specific Islamic manifestations of a global trend towards more responsible finance - with a strong emphasis on ESG criteria and SDGs.<sup>(54)</sup> A few examples shall illustrate the technical and conceptual progress to bring Islamic finance to the bottom of the pyramid.

#### *FinTech for Microfinance*

Baitul Maal wat Tamweel (BMT) are member-based Islamic savings and loan cooperatives in Indonesia that provide charity-based not-for-profit as well as for-profit financing.<sup>(55)</sup> Apart from members’ deposits, the more than 5,600 BMTs are financed by Islamic charity funds (*zakāt, sadaqat, waqf*) on one side and profit-seeking funds on the other.<sup>(56)</sup> One of the BMTs – BMT Bina Ummah – teamed up with Blossom Finance to issue a SmartSukuk as an innovative instrument to attract investors for its for-profit activities. The *muḍārabah šukūk* issuance in October 2019 raised USD 50,000 for the funding of 144 small entrepreneurs. The amount raised was tiny (“micro *šukūk*”), but the main objective was a proof of concept and test of the underlying technologies.<sup>(57)</sup>

High legal and administrative costs and procedural complexities of *šukūk* issuances have hindered smaller businesses to use *šukūk* as a financing instrument. A standardised *šukūk* contract can achieve a reduction of costs and a shorter time to market.

- The underlying straightforward *muḍārabah* contract is not only in line with the principles of Islamic investment partnership but avoids

(54) The IsDB has developed a sustainable finance framework with reference to the UN SDGs; see IsDB 2019.

(55) For a detailed analysis of Islamic microfinance and its alternatives in Indonesia see Retsikas 2020.

(56) Rafiki 2020.

(57) In January 2020, Blossom Finance announced a 12.94% cumulative annualised gross investor return in the first three months since the issuance; <https://blossomfinance.com/press/world-first-blockchain-sukuk-reports-12-94-annualized-profit>.



the complexities of ownership transfers for asset-backed *ṣukūk*. This makes the standardisation of *ṣukūk* easier.

- A smart contract for the management of all records, assignments, calculations, and payments (in fiat or cryptocurrencies) runs on a public Ethereum blockchain.
- The *ṣukūk* does not exist as a paper document but as transferable digital tokens on the blockchain. The tokens conform to the international ERC20 standard, which enables a digital exchange and trading on many cryptocurrency exchanges as a precondition for the creation of a secondary market.

In the future, the structuring of *ṣukūk* for other BMTs or suitable projects can be based on standardised components, and the marketing can utilise Blossom's crowdfunding platform. Blossom takes for its services (project vetting, *ṣukūk* structuring, payment services, etc.) no fixed fee but a share of the profits earned by the investors.

Although the *SmartSukuk* is small in size and targeting the bottom of the pyramid, it is a landmark in structuring that combines elements which can shape the future of Islamic social as well as commercial finance: <sup>(58)</sup> transparency and accountability by the use of blockchain, more efficient processes by smart contracts, tokenisation of assets to enhance tradeability and liquidity, and the linking of profit-seeking investors with non-profit microfinance organisations. The latter can also become essential for Islamic social finance ventures that are driven in the first instance by philanthropic funds (such as *qarḍ hasan*, *waqf* or *sadaqat*, see below) but need additional capital for growth and economies of scale.

### *Islamic Social Finance*

Islam emphasises individual responsibility for the well-being of all human beings and encourages charitable acts. Similar orientations can be found in other religions and even secular worldviews based on non-religious values. Islam, however, is peculiar insofar as it has an elaborate system of obligatory charity (*zakāt*) and strong religious incentives for additional voluntary charitable and socially beneficial contributions for the 'common good' (*waqf*, *qarḍ hasan*, *sadaqat*). These Islamic social finance instruments have attracted much attention of academics, development institutions (such as IsDB and

(58) "As the world's first primary sukuk issuance on a public blockchain and also the world's first 'micro sukuk', this issuance highlights two growing trends within Islamic capital markets: digital innovation and an increasing focus on social impact finance." <https://blossomfinance.com/press/world-s-first-primary-sukuk-issuance-on-blockchain-closes>.

UNDP) and governments with a particular focus on policies for people at the bottom of the pyramid.<sup>(59)</sup>

*Zakāt* is an institutionalised levy charged on wealth and income. The payment of *zakāt* is a religious duty and in some jurisdictions also a legal obligation. Its rates are not left to the discretion of the individual Muslims but set by *Shari'ah* or state authorities. Hence, *zakāt* is a kind of regulated charity obligatory for religious reasons everywhere and as a compulsory and state-administered levy in a few jurisdictions. It has been estimated for some Muslim majority countries that the potential volume of *zakāt* (levied on agriculture, livestock, stock-in-trade, gold, silver, and money) could reach a size of 0.9% to 1.8% of GDP which would be sufficient to eradicate extreme poverty. However, actual collections are only a small fraction of the potential in most countries.<sup>(60)</sup> Many initiatives deal with the improvement of the *zakāt* collection, allocation, and effectiveness. For example, digital payment solutions (such as contactless NFC payments, QR codes, or cryptocurrency wallets) can make *zakāt* payments more convenient, and the use of public blockchains can make the allocation of *zakāt* funds traceable and *zakāt* distributing bodies more accountable and trustworthy.

A traditional form of charity, particularly for wealthy people, is *waqf*, the endowment of a durable asset such as a building or a plot of land that shall be used for religious purposes or for the generation of an income which is to be spent for charitable purposes as determined by the donor (*waqif*) in the *waqf* deed.<sup>(61)</sup> The economic substance of the *waqf* asset shall be maintained. However, many historical *awqaf* had been neglected and were lying idle until campaigns for revitalisation were started in the 21st century. Similar to *zakāt*, potential returns from existing *awqaf* “could meet the resource gap to eradicate extreme poverty, [but] the actual returns are dismal. Studies show widespread usurpation of *waqf* assets by both State and non-State actors, as well as leasing of *waqf* assets at rates that are grossly below market.”<sup>(62)</sup>

A cash *waqf* is a particular form of *waqf* that is set up by the donation of money (or Shari'ah compliant stocks and *shukūk* converted into cash). The *waqf*

(59) For frequently updated information on current topics in Islamic social finance see Obaidullah 2020.

(60) Statistics on *zakāt* are very sketchy. Data of IsDB and World Bank 2016, 164-165, indicate that the actual *zakāt* collection amounts at best to one quarter of the lowest estimated potential in % of GDP in countries where *zakāt* is a compulsory levy, integrated into the fiscal system and supported by tax incentives: Malaysia: 1.11% of GDP as potential vs 0.23% actual, Sudan: 1.44% vs 0.33%. Where *zakāt* is voluntary, actual collections are much lower – between approx. 1% and 4% of the potential: Indonesia: 1.59% vs 0.03%, Pakistan: 1.74% vs 0.06%. For some figures and details on *zakāt* systems of the Maghreb region see IRTI 2020.

(61) *Awqaf* were also used to circumvent the Islamic law of inheritance and as a protection against confiscatory taxation by the ruler (especially during the late period of the Ottoman empire).

(62) IsDB and World Bank 2016, 165; for *awqaf* in the Maghreb region see IRTI 2020.

capital shall be perpetuated and invested to generate returns which are used for the beneficiaries. An advantage of a cash *waqf* over a property *waqf* is that not only the rich but also people of small means can contribute to a *waqf* and share its lasting merits in this world and the hereafter. Charity organisations and Islamic banks have been active in the establishment and management of cash *awqaf*. Islamic banks in some countries (e.g. Bangladesh) offer various types of cash *waqf* deposits for occasional or regular donations.<sup>(63)</sup> The banks invest the collected donations, and the profits are used for specified groups of beneficiaries (which, in some cases, can be selected by the cash *waqf* deposit account holder). The growing academic and institutional interest in Islamic social finance has led to a plethora of proposals on how cash *waqf* could support not only individual beneficiaries but also communities or even national programmes aiming at sustainable development goals.<sup>(64)</sup> The government of Indonesia recently issued a first cash *waqf* linked *şukūk* (CWLS). The proceeds are used to finance healthcare for poor people in a *waqf* hospital.<sup>(65)</sup> Linking the corporate, financial and *waqf* sectors and government initiatives may result in rather complicated syndicated or hybrid structures combining assets of, and charitable contributions to, a cash *waqf* with funds from retail and institutional investors and public budgets.

*Qarḍ hasan* is an interest-free loan that should be repaid by the borrower when the repayment does not cause any hardship. The lender has a moral obligation to extend the term if the repayment would cause hardship. Akhuwat in Pakistan proves that *qarḍ hasan* can be a very effective instrument of financial inclusion and MSME support if managed by a qualified and dedicated team.<sup>(66)</sup> Public funds now supplement the initial financing of the organisation by private donations (*sadaqat*).

*Sadaqat* is a form of voluntary giving for all kinds of charitable and social purposes that has received much less attention than *zakāt* and cash *waqf*. Nevertheless, this form of charity can become the basis for the promotion of entrepreneurship in the MSME sector. *Sadaqat* can be religiously as meritorious as a cash *waqf* if a group of people contributes to the creation of a *sadaqat* pool for charitable purposes in permanence. There are several differences between a *sadaqat* scheme and a cash *waqf*: (i) The protection of capital has the highest priority for a *waqf* while a *sadaqat* scheme can tolerate

(63) Ali, Hassan and Ali 2019.

(64) For a compilation of *waqf* principles and case studies from an institutional perspective see IsDB and APIF 2019.

(65) See Karim 2020. "The CWLS may trigger a snowball effect in developing other *waqf* assets."

(66) See <https://akhuwat.org.pk/impact-and-assessment-reports/> and Khan and Ansari 2018.

losses resulting from the pursuit of its charitable purpose. (ii) A *waqf* must employ its resources in profit-generating projects while a *sadaqat* scheme can deploy funds on a non-profit base. (iii) A *waqf* can only use profits from the investment of the *waqf* capital for beneficial activities. A *sadaqat* scheme can dedicate the total capital to beneficent activities (as long as this does not wipe out the capital).<sup>(67)</sup>

For example, resources could be transferred as *sadaqat* to beneficiaries with the expectation of a productive utilisation in an entrepreneurial project so that they generate a surplus in the future. Recipients of such a “productive” *sadaqat* have no legal or religious obligations to the benefactor, but they may feel a desire to reciprocate out of a sense of gratitude. In a cohesive community, they may also face social pressure to help treat others as they were treated. This boils down to a voluntary return of received *sadaqat* to the *sadaqat* scheme as soon as it is possible without hardship. An indicative plan could be drawn up, for example, as an appendix to a business plan that is required to qualify for productive *sadaqat*.<sup>(68)</sup>

An end-to-end *sadaqat* venture has been launched in Cardiff, UK, under the name of *Assadaqat* Community Finance (ACF).<sup>(69)</sup> ACF will not only provide interest-free and debt-free funding, but a comprehensive financial inclusion package for MSMEs, including advice and a transaction account with a sort code, account number and prepaid debit card. This facilitates the creation of a financial history for previously unbanked people which will help them to become bankable and get financial services on commercial terms from an Islamic financial institution when their business needs funding for growth.<sup>(70)</sup>

Islamic social finance covers a broad spectrum of instruments and institutions from rather regulated *zakāt* and partially commercialised cash *waqf* to philanthropic and community-oriented schemes based on *qard hasan*, *waqf*, and *sadaqat*. In particular the latter need dedicated donors, beneficiaries with integrity and capabilities, community cohesion and social control, as well as committed leaders. All have the potential to contribute to poverty alleviation,

(67) This implies that outflows of funds for beneficial purposes such as MSME support should be matched over time by return flows, but there is no need to generate a profit from outflows.

(68) The experience of Akhuwat has shown that many former beneficiaries have become donors, meaning that they have not only repaid the *qard hasan*, but voluntarily shared some of their grown income with other deserving people. This experience justifies the expectation of similar behaviour of *sadaqat* recipients so that the *sadaqat* scheme could grow over time.

(69) <https://www.assadaqaatcommunityfinance.co.uk>.

(70) This institution could be ACF itself. It has developed an equity investment product which provides an opportunity for the small to medium investors to invest in low to medium risk asset-backed projects in the real economy. The profits will be ploughed back into the *sadaqat* pool to offer interest-free finance to the MSME sector.

financial inclusion, MSME promotion, and community development. A challenge is the linkage of Islamic social finance with Islamic commercial finance. In only a few jurisdictions, Islamic banks (sometimes through subsidiaries) have become material players in social finance (e.g. Bangladesh, Sudan), and there are several pilot projects to establish such links. Still, many of these projects are not more than “proofs of concept”. The door has been opened, but the invited guests are still reluctant to enter the room. Initiatives such as the value-based intermediation of Malaysia’s central bank or the green *shukūk* issuances of Indonesia suggest that guidance and incentives by the government are helpful – if not needed – to leverage the mainstreaming of Islamic social finance. Before it can give the future of Islamic finance a new direction, it needs to scale up in terms of volume and public awareness.

#### 4. Conclusions

The future of Islamic finance after the corona crisis will be influenced by crisis-induced changes in human behaviour, accelerated technological developments, market peculiarities, physical as well as intellectual climate changes, a strengthened awareness of Islamic values, and a reinvigorated community perspective.

The corona crisis had lasting effects on the future of office work and payment habits that impact Islamic retail banks’ financing business in the construction, real estate and household sector.

Plummeting stock prices and boosted debt ratios jeopardise the Sharī‘ah compliance of corporates which could lead to a shrinking universe of Sharī‘ah compliant stocks. This will impact the competitive position of Islamic financial institutions in general and become a particular challenge for the Islamic fund industry and family *takāful* operators who invest long-term in stocks.

During the crisis, the credibility of ethical claims became an issue because of (1) *fatāwā* which favour profit-interests of capital owners during a moratorium and (2) the adherence of a standard-setter to conceptual claims despite growing discrepancies with banking practices. Credibility and consistency are essential for a broad acceptance of Islamic finance in the future.

The corona crisis has created a very conducive intellectual climate for equity and equity-like financing. Islamic commercial banking can use contractual engineering and FinTech to come forward with more equity-like instruments that bring it closer to the ideal of risk-sharing with entrepreneurial partners in the real economy.

The corona crisis laid bare massive imbalances in the distribution of wealth and underlined the urgency of SRI and SDGs. In the future, the Islamic capital market will be enriched by more issuances of SRI, ESG and SDG-themed *ṣukūk*.

FinTech elements such as smart contracts, tokenised assets and crowdfunding platforms plus legal “construction kits” will facilitate more Islamic finance at the bottom of the social pyramid. In the post-crisis world, Islamic financial institutions will provide more services to MSMEs during their start-up, recovery, and growth.

The importance of Islamic social finance – with *zakāt*, *waqf*, *qardḥ hasan*, and *sadaqat* as authentic instruments – has been underlined by the corona crisis. Much intellectual capacity has been mobilised to develop more efficient systems for the collection and distribution or allocation of *zakāt*, to link cash *waqf* with the *ṣukūk* market, and to implement new forms of organised philanthropy for MSME and community development. Islamic social finance may play a more prominent role in the future of Islamic finance, provided it achieves sufficient scale.

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