

Social Impact Bonds in light of *Maqasid al-Shari'ah and Maslahah*

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This paper looks into the concept of Social Impact Bond (SIB) and its underlying principles with regards to the Islamic values embodied within the components of maqasid al-Shari'ah and maslahah. Using various literatures related to the study of maqasid al-Shari'ah and maslahah, as well as researches related to SIB, the paper attempts to delineate the elements embedded within the theoretical practice of SIB and look at them from an Islamic perspective.

The paper explicates that the SIB is a model that epitomises the ethical and moral framework of Islamic law, as the elements of SIB are congruent with the concepts within maqasid al-Shari'ah and maslahah. The paper provides some insight of the concept of SIB as an alternative social financing model. As SIB embody the values that Islam teaches, this model should be looked into by organisations such as Islamic banks and Islamic financial institutions whose philosophical foundation is built upon the principles of maqasid al-Shari'ah and maslahah.

Keywords: Social Impact Bond (SIB), Social finance, *Maqasid al-Shari'ah, Maslahah*

Introduction

In recent years, the Social Impact Bond (SIB) model has been receiving increasing interest globally, especially from governments who are looking to find alternative financing models to help cover their dwindling resources. A number of countries including the UK and the US has adopted the SIB for a variety of social programmes that cover issues such as poverty, homelessness, care for orphans and elderly, youth unemployment, criminal reoffending, and healthcare. Various researches and literatures have argued that the SIB model provides more efficiency, emphasises on transparency, encourages cooperation and resource sharing, as well as an avenue to link private corporations with their social responsibility. The theoretical practice of SIB and the values that it brings serve noble and honourable objectives, congruent with Islamic principles.

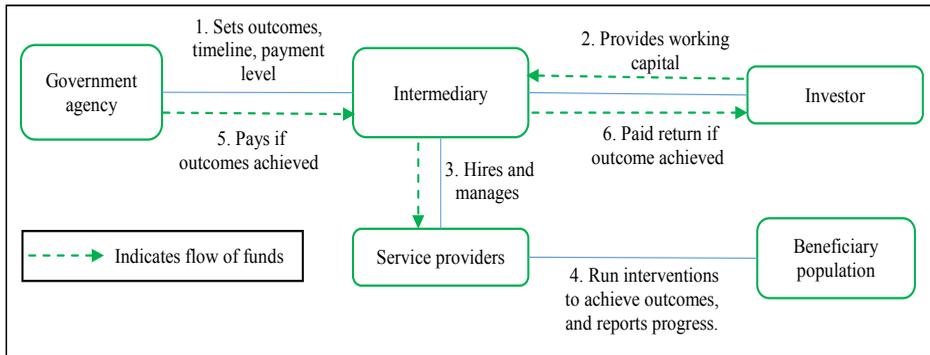
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Thus this paper offers an insight of the SIB model from the Islamic perspective, in particular with regards to the concepts of *maqasid al-Shari'ah* and *maslahah*. By doing so, we may shed some light on the similarities of SIB principles with the values that Islam brings and potentially attract interest from organisations such as Islamic financial institutions and Islamic banks towards the development of SIB. This paper is conceptual in nature but may have some practical relevance, serving as a guide for interested parties. Essentially, the paper will fill an important gap within the literature of SIB, *maqasid Shari'ah*, and *maslahah*. The structure of the paper is as follows: The following section explains what is a Social Impact Bond (SIB) and its objectives. This will be followed by a section about the fundamentals of *maqasid al-Shari'ah* and the concept of *maslahah*. The paper then delineates the concept of SIB from the perspective of *maqasid al-Shari'ah* and *maslahah*, taking into consideration of the foundations that underlie the SIB model. Finally, a conclusion and some suggestions will be provided in the final section.

The ‘Social Impact Bond’ (SIB) model

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

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

Figure 1: The Social Impact Bond model

Modified from Kohli et al. (2012)

As illustrated in figure 1, there are a number of parties involved in the SIB organisational structure. The model itself involves a multifaceted set of agreements and guarantees to ensure that the programme can be carried out effectively. Firstly the government identifies that there is a social problem that may be solved through an effective social programme. The government then contracts with a financial intermediary from the private sector where certain objectives are determined. The intermediary then raises initial capital by issuing bonds to private investors. These investors invest by buying the bonds in exchange for future payments plus additional returns which are dependent on the success of the programme. Their motivation to invest may not be purely financial but also “philanthropic” – as investors seek to contribute towards the betterment of society. Some investors may utilise their existing CSR or grant funds. The funds obtained from the bonds are then used by the intermediary (bond issuer) to hire social service providers that are deemed likely to succeed in achieving the predetermined objectives. The objectives are structured specifically for the target population that are in need. In order to assess the success of the programme, external-independent-evaluators are selected. They will do the necessary appraisal and report the success, or failure, of the programme to the all the parties. The evaluations are undertaken with a high degree of scientific accuracy, usually involving control groups and intervention (Warner, 2013). Once the report is received, the necessary funds channelled from the government can be paid to the investors. However, if the programme is not successful, the investors may not get any return at all. A number of benefits can be gained from successful implementation of SIB, as seen in Table 1 below:

Table 1: Benefits of SIBs to stakeholders

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

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

Generally known as “Social Impact Bonds” in the UK and Canada, in the US they are called “Pay for Success Bonds” and “Human Capital Performance Bonds”, while in Australia the name given is “Social Benefit Bonds”. The SIB model may vary from country to county, but the fundamental concept and philosophy remains. The SIB model has been implemented in issues related to: recidivism to reduce repeat offending by prisoners; in programmes for children from broken families or orphans; improve outcomes for homeless people; healthcare to improve health of people with asthma and many more. There are also researches ongoing that suggest that SIB should be implemented to support early childhood development, improve education and literacy, increase awareness to reduce diseases such as HIV/AIDs and Tuberculosis,

and improving mental health and addictions. The application of social impact bonds are vast and is flexible to accommodate different target areas. These areas mentioned are just the 'tip of the iceberg' of the many pertinent societal issues that needs to be addressed in order to ensure a brighter future for the community.

The underlying objectives of the Shari'ah (*maqasid al-Shari'ah*) and the public interest (*Maslahah*)

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

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

Ibnu Ashur, in Dusuki and Bouheraoua (2011) explains that the overall objective of the *Shari'ah* is to promote the well-being and virtue of human being so that the

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

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

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

While Al-Shatibi, in Ashur (2006) defined *maslahah* as “that which produces benefit for people at the collective or individual level and is acceptable to the human beings because of its importance for their lives”. As such, *maslahah* encompasses the public and private interest (*maslahah 'aamah* and *maslahahkhaassah*). We can clearly see that *maslahah* is deeply rooted in *Shari'ah*'s objective of ensuring that the society's interest is guarded and preserved in order to gain goodness in this life, and the hereafter. According to Dusuki and Abdullah (2007), a *maslahah*-based approach of deriving policy can help address contemporary social issues and meet ever-changing societal needs, as it addresses the problems of the society not only on a broad perspective, but also the individual's perspective.

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

Social Impact Bonds in light of *maqasidal-Shari‘ah* and *maslahah*.

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

Table 2: SIB elements and Maqasid al-Shari'ah and maslahah components

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

From Table 2 above, the paper reiterates the notion that the overall philosophy and objectives of the SIB model embodies - in spirit, theory, and practice, the objectives (maqasid) of Shari'ah and strives for the better rule for public good (maslahah).

Conclusion and recommendations

This paper provides an insight into a new alternative financial model, the Social Impact Bond (SIB). From our discussion, we have highlighted the philosophy and objectives of SIB from its theoretical perspective, as well as the potential areas that it can be implemented. These objectives include: (i) To provide an avenue to increase the size, and stabilise the stream of funds that can be channelled for social programmes. (ii) To encourage cooperation between organisations to be involved in the social sector. (ii) To provide better market discipline that promotes effective social programmes, and remove the ineffective ones. (iii) To promote improved social outcomes by directly linking government resources to them. (iv) Provides an accountability and transparency mechanism of the use of taxpayers' moneys. (v) Reduce the need for crisis-driven intervention by tackling the root of the social problems.

While the areas of implementation of SIB cover a wide range of societal issues such as: Recidivism, crime prevention, childcare, orphan care, education, youth empowerment, employment training, healthcare, homelessness, welfare issues, and community outreach. These objectives and areas of implementation make up the SIB foundations and comprehensively matched the elements related to the *maqasid al-Shari'ah* and *maslahah*. As such, by extension, SIB can be said to be a model that epitomises the ethical and moral framework of Islamic law. As a new alternative financing model, it is still in its developmental stage but is steadily attracting interest from institutions around the world. Unfortunately, this cannot be said with Islamic institutions or Islamic banks, whom, to the author's knowledge, are yet to be involved with SIB. This may be out of the fact that these Islamic institutions are yet exposed and informed about SIB, or do not quite understand it fully. As such, this paper is a humble attempt to elucidate the idea of SIB, and serve as a guide to attract Islamic institutions in fulfilling the *maqasid al-Shari'ah* and *maslahah*, without abandoning its business side and investment elements. Further research can be done in terms of the structure of SIB contracts and its *Shari'ah* compliance.

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