



THE POSSIBILITY OF INTEGRATION BETWEEN ISLAMIC BONDS (AL- SUKUK) AND WAQF SYSTEM IN THE CASE OF AI-MUDARABA

¹Malek Marwan Yousef Injas

²Assoc. Prof Mohamad Sabri Haron

³Prof. Dr. Rashila Ramli

⁴Raghad Azzam Injas

Article Info

Received: 20.07.2015

Accepted: 22.08.2015

Published online: 01.09.2015

ISSN: 2231-8968

Abstract

The Islamic bonds (*AL-Sukuk*) have achieved great successes at the local and the international level, it contributed to the growth and development of many societies, they have achieved financial returns, which give back profits to their investors. This aspect has helped to face many contemporary problems and challenges. The researcher in this paper tries to reveal the role of these instruments in supporting *Waqf* system, which is based on the prominent and important role in achieving the social solidarity and the advancement of the communities and save the Muslim wealth. The study, based on some of the previous studies in this field that have shown a correlation between the two systems The study concluded that there is a possibility theoretically and practical, for the integration between the Islamic bonds and *Waqf* system for the development of the Islamic *Waqf* sector, but this needs more research studies and specialized marketing tools.

The keywords: Islamic bonds, Islamic Waqf, Sukuk Al-Mudarabha.

¹The National University of Malaysia (UKM), Institute of Malaysia and International Studies (IKMAS) Malek.injas@gmail.com, +601121273035.

² Assoc. Prof of Pusat Citra University, UKM, Senior Fellow of Institute of Malaysia and International Studies (IKMAS), and Institute of Islam Hadhari, sabrie64@gmail.com.

³ Director of Institute of Malaysia and International Studies (IKMAS), rashila@ukm.my.

⁴ The National University of Malaysia (UKM), Institute of Malaysia and International Studies (IKMAS), raghad.azzam@hotmail.com

1. INTRODUCTION

Anyone who has followed the great renaissance of the Islamic financial industry finds that the most important thing that makes it a strong challenger for the usurious global system is the activity of the Islamic bonds at the main of its tools. The size of the investments in the Islamic bonds exceeds the expected magnitude, not only at the local level of the Islamic countries, but it became the concerns of many countries all over the world to take advantage of this successful experience.

The Islamic bonds, as convinced by many researchers, have the ability to accommodate large-scale projects that need large capital that cannot be afforded by one supporter or investor (Othoman, 2012). They have also, the ability to harmonize with many ventures in various forms of the agricultural, industrial, commercial and real estate, etc., This because of its varied tools and their ability to integrate with many sale contracts, such as *Mudarabah*, *Murabaha*, *Ijara* and *the Istesna*'.

This research will try to detect the ability of the Islamic bonds to support the Islamic *Waqf* system, which suffered from a period of a strong stagnation, as a result of the foreign colonization of the Arab and Islamic world, and the division of the Islamic state into small states which cause the loss of many important and holy *Waqf*. We do not only talk here about masjids and the Door al-'elm (education centers) but many of agricultural and industry projects. The Islamic *Waqf* due to its importance that exceeded the worshipful role into many important roles including the realization of the Islamic solidarity and the distribution of Muslims capital fairly, so as not to be limited to a small group of people. Therefore, it is important to develop and improve their tools in order to be able to harmonize with the great development in various fields of science as a whole.

The researcher in this paper will show many of the important aspects of the *Sukuk* product and *Waqf*. Also, reveal the possibility of the *Sukuk* instrument to be supportive of the *Waqf* system, to encourage researchers and those who are interested in this aspect to work on the development of the scientific research in this area and to establish the realistic mechanisms to be applied practically.

2. ISLAMIC BONDS (AL-SUKUK)

Introduction:

The Islamic bonds are considered recently one of the most important Islamic industrial tools in the world for its successes and huge investments, which are in fact the legitimate alternative to the conventional bonds, and it is similar to the stock. It's compatible with the stock system in many of the important points. Thus, they have the ability to attract investors from Muslims and non-Muslims. The follower of *Sukuk* product may find it has expanded

and spread to reach the global and foreign market. The researcher in this section will try to define, characterize and mention its benefits.

2.1 THE CONCEPT OF ISLAMIC BONDS (AL-SUKUK)

The concept of *Sukuk* semantically in a simple meaning: is the book that is used in keeping the transactions (Al-Zaid, 1993). *Sukuk* in idiomatically meaning, according of the Accounting and Auditing Organization for Islamic Financial Institutions (AAOIFI) means: an equal value document represents common shares in the ownership of people or benefits, services or assets of a particular project or a particular investment activity after the collection of the value of *Sukuk* and starts using them for the particular purpose (AAOIFI, 2010).

It is also known as financial securities, which prove to their own the real ownership of the money to be used in a commercial project in order to get profits. It is close to an investment unit in mutual funds (Al-Zaid, 1993).

2.2 BENEFITS OF ISLAMIC BONDS (AL-SUKUK)

The Islamic bonds have many benefits, Othoman (2012), has mentioned some of the fundamental benefits of *Al-Sukuk*, including:

- It is one of the best formulas to finance large-scale projects that do not afford by one investor or supporter.
- It provides a good channel for investors who wants to invest their surplus liquidity, and at the same time, they want to regain their money easily when they need it.
- It provides a good approach for the Islamic banks and the financial institutions to manage their money. If it had a surplus of liquidity bought *Sukuk*, and if needed liquidity they will sell them into the second market.
- It is a way of an equitable distribution of wealth because it will enable all the investors to get benefit from the real profit generated from the project fairly, thus, the wealth will spread more widely without being circulation between the small numbers of rich people.

2.3 THE SUKUK CHARACTERISTICS

The Islamic bonds have specific characteristics that distinguish them from any other financial instruments. Al-Jorriyah (2009), has clarified in his master's degree thesis that the most important characteristics of the Islamic bonds are:

- *Sukuk* are free of usury, based on the words of Allah almighty:

(يَا أَيُّهَا الَّذِينَ آمَنُوا اتَّقُوا اللَّهَ وَذَرُوا مَا بَقِيَ مِنَ الرِّبَا إِن كُنْتُمْ مُؤْمِنِينَ) (Quran 2:278)

The translation: “O ye who believe! Fear Allah, and give up what remains of your demand for usury, if ye are indeed believers”.

- Islamic bonds do not lead to debt and do not promote it, based on the words of the prophet *Mohamad* (peace be upon him).

(اللَّهُمَّ إِنِّي أَعُوذُ بِكَ مِنْ غَلَبَةِ الدَّيْنِ، وَغَلَبَةِ العَدُوِّ، وَشَمَاتَةِ الأَعْدَاءِ)

(Sunan Abi Dawood, Hadith N.1555)

The translation: "O Allah! I seek refuge with you from being overcome by debt or enemy and from gloating of enemies".

- *Sukuk* proves to their holders the right to the common ownership of the project in the area of services.
- *Sukuk* are used in a permissible invest activity.
- *Sukuk* are based on the principle of the permissible participation.
- *Sukuk* are based on the principle of participation in the profit and loss.

2.4 THE DIFFERENCE BETWEEN ISLAMIC BONDS (SUKUK) AND CONVENTIONAL BONDS

The conventional bonds are the long-term loans, and the corporate borrowers undertake to pay the amount of bonds on specific dates (Shalabi, 2014). The Saudi corporation system defines the bonds (*Sanadat*) as an instrument represents the loans that are held by the company of equal value, tradable and indivisible (Al-Motleq, 2014).

The most important thing that the Islamic bonds compatible with the conventional bonds, both of them intended to finance a certain economic project, but they differ in a fundamental matter, which is that the conventional bonds are a loan from the bondholder In favor of its issuance within a pre-determined interest rate returns to the bondholder. *Sukuk* is a contract, which is based on the profit and loss, whether by a *Mudarabah*, *Murabaha*, and *Al-ijara* (leasing) contract, or other tools that do not require the certain returns and the Islamic bondholder assume a part of the risk.

Moreover, the right of *Sukuk* holder is regarding the assets of the project or the company, while the right of the holder of the conventional bonds, considered the debt owed by the company in favor of the bondholder, and that does not represent any type of assets. The conventional bonds are a certificate the essence committed to paying to the bondholder the par value of the bonds at the maturity date with interest payment agreed upon or arrange a conditional benefit, whether the distribution of prizes by lot or a lump sum (Al-Motleq, 2014).

2.5 THE DIFFERENCE BETWEEN ISLAMIC BONDS (SUKUK) AND STOCKS

Stocks defines as a *Sukuk* that issued by the public limited company (PLC) given to the shareholder to represent his share in the company's capital. It is the main financing instrument for the capital formation of the (PLC), and it is offered for public subscription within a specified period, announced by the same time of issuing date (Shalabi, 2014). Stocks and bonds are similar in many aspects; both are represented a common right in a variety of assets, acquired for investment purposes, and then the distribution of profits to its holders. On the other, the assets in both are managed by a particular entity that will be responsible for the shares and *Sukuk* holders, both of the holders have the right to sell what they own when they are deciding (Al-Motleq, 2014).

The stocks also distinct from Islamic bonds in some cases, the shareholder of stocks has the rights to choose company's management through the electoral voice also has the right to approve the final accounts and the distribution of profits to shareholders and dividends. Islamic bonds are not related to the election, appoint or isolate the CEO or the Islamic bonds management.

2.6 TYPES OF ISLAMIC BONDS

Introductions:

The Islamic bonds have the ability to integrate with the most various components of the Islamic financial instruments such as *Murabaha*, *Mudharabah*, *Salam*, *Ijara* and other tools. Each tool has its own mechanism and manner according to the project nature, and this gives the Islamic bonds more importance in the stage of implementation. They are able to adapt to the large and medium-sized enterprises smoothly and within the principles of *Shariah*.

These are some of the main types of *Sukuk*:

2.6.1 THE SUKUK OF AI-MUDHARABAH

In accordance with the base (Al-Ghonm Be AL-Ghorm), that is the participation in the profit and loss, there is no dispute among scholars in its legitimacy. For example, funding of an investment project medium or long-term process by a particular party (*Rab al-Mal*), and the working and management by the second party. This type of *Sukuk* without a specific financial return, but it is expected from reading the company's activity through exporting their budgets presented over the past years as well as market indicators (Al-Motleq, 2014).

2.6.2 SUKUK OF AL-SALAM

They are based on selling something or a contract whereby the payment is made in cash at the point of contract, but the delivery of asset purchased will be deferred to a pre-determined date. For example, the Bahrain Financial Enterprise has issued *Sukuk* Al-Salam, and they sell aluminum delivery in futures and payment is made in cash (Al-Motleq, 2014).

2.6.3 SUKUK OF AL-MURABAHA

Al-Motleq (2014), argues that the purpose of the issuing of *Sukuk* of *Murabaha* is as a financing contract for the sale of goods under *Murabaha* contracts, such as the equipment and devices. The financial institution begins to sign the contract with the buyer as a *Murabaha contract* because it represents the director of *Sukuk* issuance, on behalf of the *Sukuk* holders. The financial institution uses the proceeds and the amount of *Sukuk* to own the commodity and taking possession of it before sold it another time as *Murabaha*, and these *Sukuk* are issued for the purchasing of ships, aircraft and the establishment of the power station, which the financial institution does not intend to fund from its own regular resources.

3. ISLAMIC WAQF AND ITS IMPORTANCE

Introduction:

The Islamic *Waqf* has the main role in the serve of the Islamic nations in various fields, and it's not limited to the particular construction like Masjids or Door al-'elm (education center); but it was significant in the field of security, health, culture, and infrastructure. There is no doubt that it contributed to the building of communities and advancement. *The Waqf* is not contemporary or newly but it was present throughout the ages, and after the Islamic state originated gave it the legislation that is based the Qur'an and Sunnah which has preserved its lifetime and development and save it from annihilation (Kahf, 2003).

Islamic *Waqf* has proved its success through the stages of the Islamic state since the beginning, however, and during the period of the fall of the Ottoman Caliphate and the colonialism of Arab and Muslim countries, imposed *Waqf* to the stalemate and recession as a result of the division of the countries of the Islamic world. But as a result of the development of the Islamic financial industry, it starts to regain its role in the construction and the advancement of the Muslim society.

3.1 THE CONCEPT OF THE ENDOWMENT (WAQF)

In semantically: *Waqf* is an Arabic word *and it means* the imprisonment of the asset (Mahdi, 2003), so no one allowed to dispose of sale, gift or inheritance, and the imprisonment is the prevention.

In idiomatically meaning: there are so many definitions of the term *Waqf*, as there is disagreement in the contract of *Waqf* where it is binding or not. The researcher in this study has adopted *Abu Zahra* definition to the term of *Waqf*, because of its comprehensiveness in meaning. He said: *Waqf* is the imprisonment of the asset, property and (*Tasbeel Thamarateha*), or imprisonment the asset to be (*Sadqa Jareya*), and a grant from its productivity (Abuzahra, 1959).

3.2 THE IMPORTANCE OF WAQF AND ITS OBJECTIVES

The Islamic *Waqf* has a significant role in the Muslim society also has a multifunctional social, political, economic and educational. In addition to the devotional function, that is the essence of *Waqf system*, based on the words of Allah:

((لَنْ تَنَالُوا الْبِرَّ حَتَّى تُنْفِقُوا مِمَّا تُحِبُّونَ وَمَا تُنْفِقُوا مِنْ شَيْءٍ فَإِنَّ اللَّهَ بِهِ عَلِيمٌ)) (Quran 3:92)

The translation: “By no means shall ye attain righteousness unless ye give (freely) of that which ye love; and whatever ye give, of a truth Allah known it well”.

Moreover, says:

((وَتَعَاوَنُوا عَلَى الْبِرِّ وَالتَّقْوَى)) (Quran 5:2)

The translation: “Help ye one another in righteousness and piety”.

Profit *Mohamad* peace be upon him says:

((إذا مات ابن آدم انقطع عمله إلا من ثلاث: صدقة جارية، أو علم ينتفع به، أو ولد صالح يدعو له)). (Sahih Muslim, Hadith N.4310)

The translation: “When a person dies, his acts come to an end, but three, recurring charity, or knowledge (by which people) benefit, or a pious son, who prays for him (for the deceased).”

The importance of the Islamic *Waqf* can be summarized as the Islamic Research magazine highlighted as follows (Al-Zaid, 1993):

- Achieve the principle of solidarity between the Muslim nations, and find the equilibrium in the community.
- In *Waqf*, a guarantee of the survival of money and benefiting from it for a long time.
- In *Waqf*, there is the continuation of the mutual benefit from the money, and the reward and remuneration for the owner of an endowment is continuing in his dead or alive, and will be a part of the ongoing charity in which the prophet *Mohamad* -(peace be upon him) - It is from ongoing work.
- *The Waqf* has a target and holy goal compared to other objectives, which is the compliance with the command of Allah the almighty, spending, charity and giving for the sake of righteousness.
- *Waqf* aims at achieving social objectives such as *Door al-'elm* (education center), endowment the permissible science that are the requirements of the Muslim community and served Muslims.
- In *Waqf*, the Muslim can secure his future, and the future of his descendants by finding a steady supplier that guaranteed that protects them from the need and poverty.
- In *Waqf*, it is a way to get the reward from Allah almighty, and a way to get rid the sins and erased them.

- In *Waqf* system, there is a protection of money and keep it from hackers, such as the expenditure of a son or a strange behavior, so that the money remains and continue to benefit from the proceeds.
- In *Waqf*, the relation among the people will continue, interrupted hatred, and they will be kind to each other. In addition, avoid the maliciousness and to tend the productive beneficial work.
- In *Waqf*, the lengthening of the period of benefit for the use of money and extend its utility to successive generations.

The researcher observed from the previous clarification that the worship feature has dominated the importance of *Waqf*, therefore, the righteousness and reward is the supreme goal of the essence of the *Waqf*. The researcher finds that its importance also lies in its ability to achieve solidarity between Muslims to help each other, also its role in keeping Muslims money, and protect it from loss.

The technological revolution and the construction renaissance in the world as a whole require large-scale projects to fulfill their financial needs. Therefore, the Islamic *Waqf* needs to develop its tools, which is based on a legitimate basis. Thus, the financial and legal scholars have to focus on this matter.

4. THE ROLE OF ISLAMIC BONDS IN THE SUPPORT OF WAQF SYSTEM

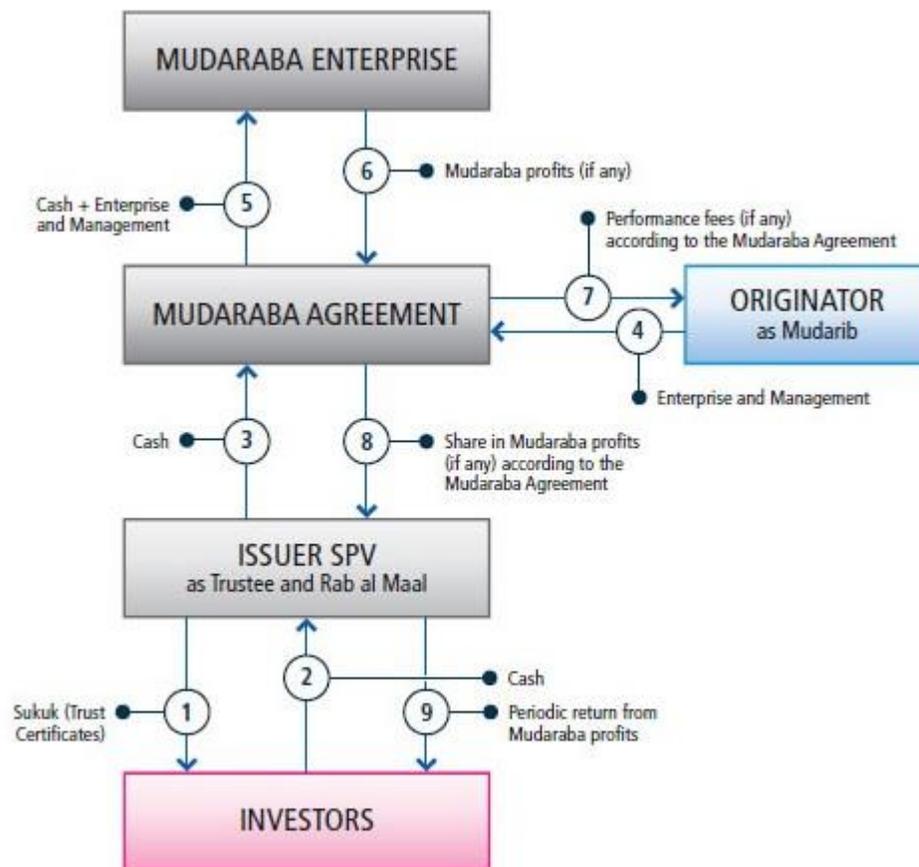
There are various types of Islamic bonds can be effective tools for the Islamic Waqf system. This needs creative ideas based on the Shariah principles that have the ability to increase the solidarity between Muslims and preserve the communities and keeping Muslims money from being lost. In addition, contribute to many constructive projects that can develop the Muslim society. Al-Sukuk has an ability to promote the investors to adapt in many diverse and large-scale projects, in addition, their openness to the foreign market. It was necessary to take these significant advantages in the development of the Waqf system and focus on the integration between them.

In the Islamic bonds system, many instruments can be exploited in supporting *Waqf system*, the researcher in this paper will focus on one type of *Sukuk*, which is *Sukuk AL-Mudarabah*. That is based on the profit and loss for the issuing source of the *Sukuk* and their holder. The *Sukuk* holder endows the *Sukuk* in a particular project for the sake of Allah almighty. The revenue and earnings of this *Sukuk* are added to the capital of a project of *Waqf*, therefore, what comes from the proceeds of this *Sukuk* kept for the sake of Allah as long as the project continues.

Sukuk of AL-Mudarabah is investment tools that are based on the fragmentation of the *Mudaraba* capital through the issuance certificates of equal value evidencing the certificate holder's undivided ownership in the *Mudharabah* venture. The returns to the Investors would represent accrued profit from the *Mudaraba* capital at a pre-agreed ratio between the

Rab al-Maal and the *Mudarib*, which would then pass to the investors according to their percentage of investments in *Sukuk Al-Mudarabah* (al-Damagh, 2009).

This Figure shows the Structure of Sukuk al-Mudaraba (Islamic banker website):



4.1 TYPES OF SUKUK AI-MUDHARABAH

Sukuk Al-Mudaraba can be classified into four types (al-Damagh, 2009):

-The Industrial *Sukuk of Mudarabah*: such as the purchase of fabrics with a *Mudarabah* capital and designed them into T-shirts or robes, as well as the purchase of the plastic particles and poured them in pipes, pitchers, and gallons.

-The Commercial *Sukuk* of *Mudarabah*: like trading in most of the operations purchase for the purpose of sale, within the concept of Islamic jurisprudence, and the issued Islamic bonds represent a part of the total assets including goods purchased.

-The Industrial *Sukuk* of *Mudaraba*: such as the purchase of lands and its development, the establishment of the residential buildings, industrial complexes and commercial markets.

-The agricultural *Sukuk* of *Mudaraba*: such as the rent of lands for a known price and payment or a part of the implanting according to the jurisprudence rules for the (*muzara'a*) agricultural, (*Musaqah*) watering and (*Mugharasa*) implanting.

The previous types of *Sukuk Al-Mudarabah* can be exploited according to its competence in support of the Islamic *Waqf* system and the encouragement of people to open the Ways (*Afaaq*) of goodness and righteousness in front of them. However, this needs a Successful and effective marketing tool that can show the detailed mechanism of these types of Islamic bonds, as well as the size of the reward from endow of the Islamic bonds in doing huge and long-term projects.

The researcher observed that the Islamic bonds have the ability to open new horizons for *Waqf* system. The *Sukuk* of *Al-Mudaraba* has the ability to open many ways to the owners of kindness and goodness for those who are looking for a continuous charity alms for the sake of Allah. It also encourages many people to grant their money to projects that serve communities and achieve the principle of solidarity between people in a beautiful image within the principle of the *Shariah*.

The researcher, through this study, revealed that the *Sukuk* by their tools have the ability to develop the Islamic *Waqf* system, but the implementation mechanism needs to be a concentrated effort by professionals and researchers to make that possible as practically and available for most goodness people.

5. CONCLUSION

The Islamic *Waqf* system has proved in previous ages, especially under the Islamic state, its ability to solve many problems in most societies. Its elegant aim, which is based on achieving solidarity between people, contributed to the stability of societies and their protection. The Islamic *Waqf* under the continuous evolution of the world had to develop its tools for adaptation with it.

The Islamic bonds (*Sukuk*) as a financial Islamic instrument competition, *has achieved success*, despite its modernity. It has to be exploited in the development of the Islamic *Waqf* system by encouraging people to endow certain types of Islamic bonds in some of the effective projects that achieve the real economic development and get the profits, also endow for the sake of Allah almighty.

Because this case still newly, the organizations and institutions, Islamic *Waqf* needs a management to market it in an effective and meaningful way, which show people the mechanism of this system of this system and the expected reward, to encourage them to grant endow their money as Islamic bonds for the sake of almighty God.

Endnote:

- AAOIFI. (2010). Accounting, Auditing and Governance Standards for Islamic Financial Institutions. Manama, Bahrain: Accounting and Auditing Organization for Islamic Financial Institutions
- Abuzahra, M. (1959). *lectures in Endowment*. Egypt: Ahmed Ali Mkhaimer
- al-Damagh, Z. (2009). *The Role of Islamic Bonds in Support of the Islamic Waqf Sector*. Paper presented at the The Conference of Endowments laws and Its Management: The Reality and Aspirations, Malaysia
- Al-Joriyah, O. A.-H. (2009). *Investment Islamic Bonds and their Role in Economic Development*. (Master), Daawa University Institute For Islamic Studies HSD Beirut
- Al-Motleq, A. b. M. (2014). Al-Sukuk. Retrieved 25-5-2015, from <http://www.almoslim.net/>
- Al-Zaid, A. b. A. (1993). The importance of the Endowment and the wisdom of its legitimacy. *The Islamic Research magazine*.
- Kahf, M. (2003). *The role of waqf in improving the ummah welfare*. Paper presented at the International Seminar on "Waqf as a Private Legal Body," organized by Islamic University of North Sumatra, Medan, Indonesia.
- Mahdi, M. A. (2003). *Waqf System in the Contemporary Application (selected models in the experiences of countries and Muslim communities)* (pp. 9). Jeddah: Indexing King Fahd National Library.
- Othoman, M. T. (2012). *Sukuk and their Contemporary Applications* Paper presented at the The twentieth session of the Islamic Fiqh Complex, Algeria.
- Shalabi, Y. b. A. (2014). *Investments in Stocks and Islamic Bonds*. Retrieved from <http://www.shubily.com/books/asohomandsandat.pdf>

References

- Çizakça, M. (1998). Awqaf in history and its implications for modern Islamic economies. *Islamic Economic Studies*, 6(1), 43-70.