

**ALTERNATIVE IN TEACHING METHODOLOGY IN ISLAMIC FINANCE: “ A  
CASE STUDY ON THE FAILURE OF HM PETERBOROUGH SOCIAL IMPACT  
BOND SOCIAL IMPACT SADAQA”**

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**ABSTRACT**

*A study of the government’s social impact bond pilot project at HM Prison Peterborough has found that the first phase of the scheme did not reduce the number of reconvictions sufficiently to trigger payments to investors. Comparatively, this paper provides alternative to the failure by having a Sadaqa is a tool to generate income for inmates in prison to pay back damages they caused to the society. Security commission issued Social Responsible Sukuk Guideline which generates innovation to sadaqa for prioritization. The combination of sadaqa and the SRI sukuk are the best instruments to assist prison to alleviate their industrialization of prison system. This paper attempts to develop a model on how income generating for prison are achievable via sadaqa instrument coupled with SRI sukuk. Prison industry was created to caste waste and this waste must be addressed and converted into productivity that will benefit prison department, victims, government and even the criminal’s beneficiaries. The objective of this paper to improve the level of sadaqa as an alternative to the government bond innovated by sukuk. The paper employs library research and guidelines from Security commission as well case study from other countries. It is hoped that the paper opens for new direction for future research.*

**Keywords:** HM Prison Peterborough Social Impact Bond, sadaqa, profitization, Social Responsible Investment (Sri) Sukuk, prison, industrialisation, security commission.

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## **1.0 Introduction**

An expanding number of investors are entering the impact investing arena. According to an Impact Economy report, there was over \$9bn invested in impact investment globally in 2013. The UK market is growing and there are estimates that it will reach £1bn by 2015. Impact investors believe that sustainability drives long-term returns and this requires consideration of social issues; many simply wish to see their investments making a positive difference to the world.

The impact investment market offers a choice of risk, reward and impact from each investment across the spectrum. Some investments seek to achieve market-rate risk-adjusted financial returns whilst others offer below-market risk-adjusted financial returns in return for the impact created – so-called ‘blended value’ investments. Each opportunity needs to be considered on its own merits and in particular the specific impact the enterprise seeks to achieve.

Rehabilitation of offenders is a cornerstone of the government's criminal justice policy. Fewer offenders will commit less crime requiring fewer prisons costing less money. With 60% of short sentenced prisoners re-offending within a year of release there is a real opportunity to revolutionise the rehabilitation of prisoners. The challenge is that reducing re-offending is a long-term commitment requiring time and investment.<sup>1</sup>

Social Impact Bonds is an investment provided to address social problems and look to fund preventative interventions. As such, they present an opportunity to provide support to reduce the strain on acute services.<sup>2</sup> If the social outcome improves, the government commissioner repays the investors for their initial investment plus a return for the financial risks they took. If the social outcomes are not achieved, the investors stand to lose their investment. Social Impact Bonds are a form of financing that aligns investor returns with social outcomes: investors only receive a return if the social outcome is achieved. A number of commissioners across the UK (and overseas) have now successfully commissioned and procured Social Impact Bonds and similar partnerships.

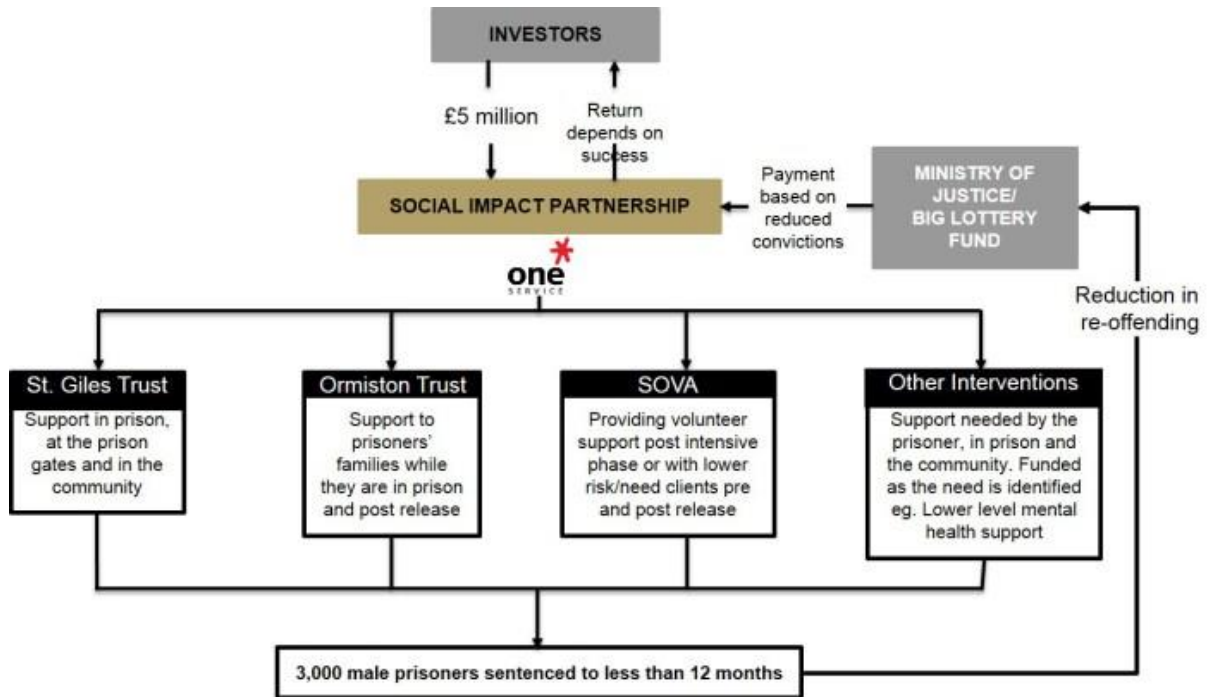
In 2010 the world's first Social Impact Bond (SIB) was launched at Peterborough Prison, sponsored by the Ministry of Justice and the Big Lottery Fund. A SIB is a form of payment by results where funding is raised from private, non-government investors and used to pay for interventions to improve social outcomes. If these interventions are effective, this could result in savings to Government and wider benefits to society. As part of a SIB the Government agrees to pay a proportion of these savings back to the investors as a return on their investment. If the outcomes do not improve, investors lose their investment. A SIB is a financial mechanism in which investors pay for a set of interventions to improve a social outcome that is of social and/or financial interest to a government commissioner.<sup>3</sup> The Peterborough prison social impact bond attracted investment of £5m from 17 charitable foundations to finance six criminal justice charities to work intensively with three cohorts of 1,000 short-sentence prisoners released from HM Prison Peterborough, the first between September 2010 and May 2012.

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<sup>1</sup> See more at: <http://www.socialfinance.org.uk/impact/criminal-justice/#sthash.pqPqYnyU.dpuf>

<sup>2</sup> See more at: <http://www.socialfinance.org.uk/services/social-impact-bonds/#sthash.C3ABntct.dpuf>

<sup>3</sup> For details refer to <http://www.socialfinance.org.uk/wp-content/uploads/2015/06/Case-Studies.pdf>  
International Conference on Postgraduate Research (ICPR 2015). (ISBN 978-967-0850-24-5).  
1-2 December 2015, Bayview Hotel, Langkawi, MALAYSIA.



However, a study of the government's social impact bond pilot project at HM Prison Peterborough has found that the first phase of the scheme **did not reduce the number of reconvictions** sufficiently to trigger payments to investors.<sup>4</sup>

## 2.0 Rationale for Prison Industry Sadaqa Impact Sukuk

The Government spends more than RM30 per day for every prisoner and as to date, we have 60,000 prisoners<sup>5</sup> around Malaysia. Even though the cost incurred is extremely high (RM511,100,000 annually), the crime rate continues to rise. The problem with the system nowadays is too much focus is rendered upon the offences committed by the concerned individuals and the rehabilitation of their behavior, rather than restoring the position of the crime victims back to their status quo, which would also be a move that is prudent and in line with universal humanistic objectives. The lack of self consciousness and accountability towards the crime, which is structured by the prison system itself means that at the moment, the system is not the best option with regard to preserving social justice. A theory that is founded upon responsibility and accountability has the potential to be an effective mechanism of to reduce the national crime rate. As a result, the Government's expenditure and the cost of crime can be reduced.

<sup>4</sup> The Peterborough SIB contract stipulated that if the SIB reduced re-offending by a threshold of 10% for any of the three cohorts of 1000 ex-prisoners - or 7.5% across the entire 3000 - then a minimum payment equivalent to a return of 2.5% per annum would be released by the MoJ and Big Lottery Fund to the Social Impact Partnership SPV and from this vehicle to investors (RAND Europe, 2011). If the SIB delivers a drop in re-offending below the threshold, investors will receive a corresponding increasing return capped at £7m in real terms, equivalent to approximately 13% annual IRR. Payments to investors from the MoJ and the Big Lottery Fund are capped at a combined £8m (Strickland, 2010). If the SIB delivers outcomes below 7.5% investors lose their money.

<sup>5</sup> Meeting with Prison DG and the team on 8<sup>th</sup> of June 2015, Kajang Prison, Malaysia Prison Department. International Conference on Postgraduate Research (ICPR 2015). (ISBN 978-967-0850-24-5). 1-2 December 2015, Bayview Hotel, Langkawi, MALAYSIA.

Crime causes huge negative impact to the economy. The Government would have to bear the cost of incarcerating the prisoners and the victims have to suffer the costs associated with being a crime victim. The costs suffered by the victims are the costs associated with victimization itself and the costs associated with the legal hassle that has to be borne by the victims. The victim's participation in the administration of justice results in financial burden, and other costs and inconveniences, not only to himself, but also to other individuals who are a part of his social network. Thus, it is not only the victims who suffer from serious mental and emotional suffering, as well as negative financial consequences, but it also involves the inner circle of the victim's social network.

The problems experienced by victims can be divided into four categories, as follows:

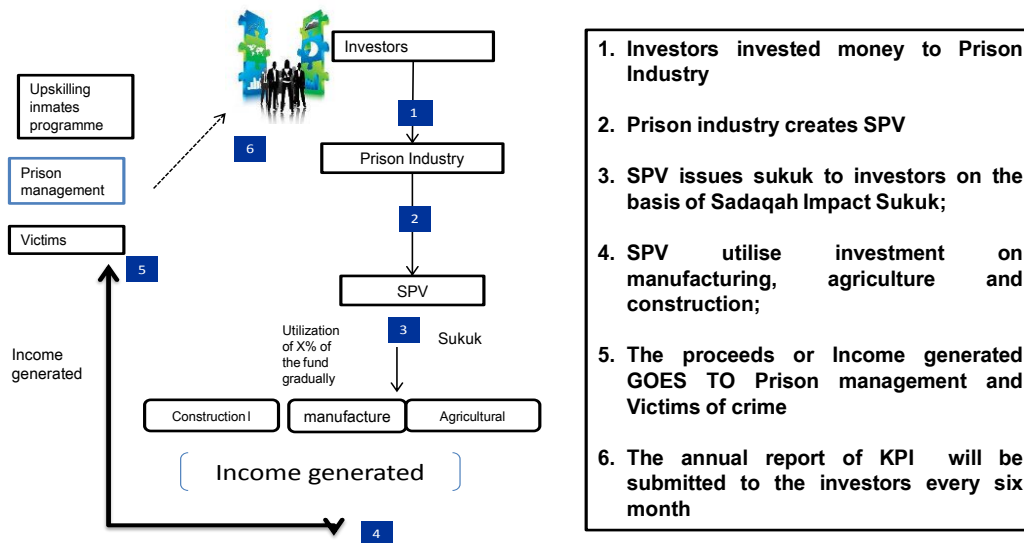
1. Time-related problems, including:
  - a. Unnecessary trips;
  - b. Long waiting time;
  - c. Time lost from work or school;
  - d. The number of adjournment experienced; and
  - e. Time spent to attend court hearings.
2. Financial problems, including:
  - a. Loss of income;
  - b. Transportation expenses;
  - c. Cost of attending court hearings;
  - d. Cost of parking;
  - e. Phone calls; and
  - f. Medical bills (trauma, insanity, injury and so on and so forth).
3. Personal problems; and
4. Problems with the current justice system.

The problems with the current justice system can be illustrated using the picture below. Once a crime committed, the current criminal justice system only focuses on the crime itself, without giving proper and due consideration to the victim himself/herself. The line of communication between the victim and the said system is not imbued with the element of feedback that will help to ensure the welfare of the victims in a more comprehensive manner. The current system's channel of communication is criminal-centric and it serves as the medium to punish and rehabilitate the criminal. At the same time, the criminal justice system somehow forgets about its role to create self consciousness on responsibility and accountability towards the damage that has been done. In addition, as too much emphasis is given with respect to the rights of prisoners, the authority tends to 'invest' more on them, without any thought of reaping any benefit from the amount expended.

### **3.0 Prison Industry Sadaqah Impact Sukuk : An alternative**

While the social Impact bonds introduced above merely looks on the social impacts of investment return viewpoint, Prison industry sukuk is an alternative to the above SIB focuses on comprehensive impacts. Single contract outcome is SIB focus whereby in Prison Industry Sadaqa Sukuk brings diverse effects.

## Prison Industry Sadaqah Impact sukuk



Based on the above, PISUS are different from the HM Peterborough SIB due to the following reasons;

1. Investors invested money to Prison Industry programme which is aimed at rehabilitation of inmates restore damages done to the society. Whereas, HM Peterborough SIB merely an investment on contract of non reconviction which is not based on any programmes based.
2. Prison industry creates SPV as well HMPSIB.
3. SPV issues sukuk to investors on the basis of Sadaqah Impact Sukuk; HMPSIB issued social impact bond based on the non reconviction and expectation on return of investment. It is similar to guarantee the good behavior of the inmates. While in PISUS as proposed, the investors were not guaranteed good behavior but, impliedly guaranteed on the “giving back” to the society that they have caused damages.
4. SPV utilise investment on manufacturing, agriculture and construction for income generating and return it to the society while creating self responsibility to restore damages done to the public; while HMPSIB intervention programme was not clearly spelt out.
5. The proceeds or Income generated GOES TO Prison management and Victims of crime as well to up skilling programme for the inmates preparation when they released.
6. The annual report of KPI will be submitted to the investors every six month will sent to show the impacts of the sadaqah impact sukuk as guided by the Sukuk Guideline of Security Commission.

#### **4.0 Rationale of the proposed model**

##### **4.1 Daily prisoner-related expenses is RM35<sup>6</sup> per prisoner**

The yearly prisoner-related expenses is RM12,775. With 60,000 prisoners, this means that the yearly cost of incarcerating these inmates is RM511 million, thus diverting an average of RM42.9 million per month from the national economy. The government must begin to think in terms of the cost-benefit of incarcerating these prisoners, with the view of generating returns from it. The prisoners are of course not regarded as commodities, but with so much spent on them, a strategy that reforms their behavior and at the same time, contributes to the national economy would be a very much welcomed strategy indeed. As citizen myself, I am also concerned about the social responsibility of prisoners towards the victims. By paying the money to the government, it will only cause them to mitigate punishment, or what we call *as-suhtu*<sup>7</sup>. (السحت)

##### **4.2 Safe prison management and better prison discipline through the reduction of idleness**

Idleness in prison is dangerous. It can give rise to boredom and frustrations that can explode in disputes among inmates and in attacks by inmates upon prison staff. Prison industrial activity is, first and foremost, a management tool. It enhances discipline within prison by keeping inmates occupied and by raising their morale. During the 20th century, the periods of greatest unrest in prisons throughout the United States coincided with periods of depression in the prison.

##### **4.3. Cost efficiency**

It is more expensive to operate a prison where the inmates are idle, tense, and disruptive than it is to operate a prison where the inmates are busy and well disciplined. Investments in prison industries can lower expenditures on day-to-day prison operations and decrease the likelihood of having to expend resources to quell disturbances. Moreover, prison industrial programmes enable inmates to produce items of value for the Government, such as furniture, electronics, signs, military gear, and so forth. Sale of these products, in turn, generates revenue that can be used to offset expenses that would otherwise have to be met through appropriated funds. FPI staff salaries are funded out of such earnings, and, for many years, FPI revenues were also used to subsidize educational and other programmes for inmates.

##### **4.4. Inmate job training and rehabilitation**

The primary task of a prison is to confine offenders, but the secondary task is to provide inmates with ways to improve themselves during the confinement period. Prisons cannot magically rehabilitate offenders, but they can provide opportunities for inmates to reform their behavior and rehabilitate themselves. As former Federal Bureau of Prisons Director J.

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<sup>6</sup> Interview with Tn Haji Supri, Prison Deputy Manager, Kajang Prison, increasing from 40,000 in 2008 to 60,000 in 2015. Figure from Prison Department, 8<sup>th</sup> of June 2015.

<sup>7</sup> Payment made to the government to mitigate punishment of the criminal and as a matter of fact the money paid or fine paid should go to the victims of crime. The practice among the Jews and was eliminated by the prophet.

Michael Quinlan wrote, "We can't 'cure' criminal behavior, but we know that some programs work for some inmates some of the time." Prison work programmes are among those that can help. The work experience and vocational training they provide can increase ex-offenders' prospects for employment and reduce the likelihood of recidivism.

#### **4.5 Inmate financial responsibility**

Inmates have families to help support, court-imposed fines to pay, and victims to recompense. The wages that they earn through employment in prison labor programmes, however meager, can help them meet those obligations. Under the Bureau's Inmate Financial Responsibility Program (IFRP), all inmates who have court recognized financial obligations must use at least 50 percent of their FPI earnings to pay their debts. Since the programmes began in 1987, more than \$80 million has been collected<sup>8</sup>.

#### **5.0 Conclusion**

Prison Industry (PI) Sadaqah Impact Sukuk (SUS) offers the opportunity to make significant changes to the way we interpret sadaqah as well as social financing. This Model introduces a contractual structure predicated on agreed outcomes that align incentives of Government as well across all key stakeholders. This Model PISUS can be an alternative to the failure of HMPBSIB and may attract interest of different investors in this new model. This Model will be true for future entrepreneurs, policy makers, investors and fund managers as SIBs appeal to interest groups in social finance, social policy, and social innovation. The Model focussing on self responsibility to social outcomes (rather than rehabilitation per se) based programmes to deliver improved results for service users and to increase the likelihood of delivering real and sustainable solutions to important social challenges. Victims will be compensated and government will save millions out of this programme due to the sustainability of the prison management. The best part of this Model is the accountability. All inmates are accountable for the damages caused and at the same time, investors are keen to see the impacts and changes through an act of the inmates itself and not merely rehabilitative force of the authority.

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<sup>8</sup> In its 60 years of operation, Federal Prison Industries, Inc., has provided meaningful employment for inmates, developed sound educational and vocational training programs for inmates, and helped minimize the economic impact of prison labor on the private sector. As a component of the Federal Bureau of Prisons, its operations are limited to the correctional institutions of the Federal Government. But it has played a strong leadership role throughout the field of corrections and has served as an example to the prison systems of the various States. The history of FPI is a critical chapter in the history of corrections in general, and of prison work programs in particular. Retrieved from [www.pia.gov](http://www.pia.gov)