however, Pelham, who might not have access to the Arabic language, arranged his material in a rather haphazard manner, making it appear like a puzzle to which the clue is missing. A better bargain is Vali Nasr’s *The Shi’a Revival: How Conflicts within Islam Will Shape the Future*.  

**Notes**

2. On p. 205, Pelham quotes from al-Sadr’s *Lamḥah fiqhiyyah*: “Islamic theory rejects monarchy as well as the various forms of dictatorial government; it also rejects aristocratic regimes and proposes a form of government, which contains all the positive aspects of the democratic system,” a translated passage, which, according to Pelham, is found in Sama Haddad, *The Development of Shi’ite Islamic Political Theory*, for which no complete bibliographical reference has been provided by him and which couldn’t be traced by this reviewer otherwise.
3. In relation to this, I am refraining here from pointing out all of the countless errors in terms of transliteration, referring here only to “al-Qaddisiyah” instead of “al-Qādisiyyah” (p. 6), “Saladin al-Ayyubbi” instead of “Ṣalāḥ al-Dīn al-Ayyūbī” (p. 8), and “Nidhamiya” instead of “Niẓāmiyyah”, while on the same page referring to Niẓām al-Mulk (the founder of the *Niẓāmiyyah* colleges) (p. xi).

**Abdulkader Thomas (ed.), Sukuk**


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This book, which contains a foreword by Tan Sri Sheikh Ghazali Haji Abdul Rahman, the Chairman of the *Sharīʿah* Advisory Council of the Securities Commission of Malaysia, has been introduced by the Securities Commission of Malaysia under the Islamic Capital Market series. It is the first of six volumes. It consists of 16 chapters and several case studies, figures, tables and a list of abbreviations. The objective of the book – published before the effects of the recent global financial and economic crisis were felt in the Islamic capital markets – is to introduce *ṣukūk* to the general reader.

In the preface (“Foundation and Framework”) Iqbal A. Khan writes that the “distinguishing feature of sukuk and Islamic finance […] is that its tenets are based on the principles of fairness”. He emphasises “certainty” and “transparency” in contracts, the sharing of “business risks and returns” (losses are not mentioned), and “direct participation in real asset performance”. He adds that, *ṣukūk* are “deemed equivalent in structure to asset-backed trust certificates rather than bonds”, which
are “contractual debt obligations” (p. ix). The great majority (90 per cent) of the şukūk, however, are not ‘asset-backed’ but rather ‘asset-based’. The difference is important in so far as asset-backed şukūk confer legal ownership of the underlying assets on the şukūk holders while asset-based şukūk do not. (Asset-based şukūk only confer ‘beneficial’ ownership.) In addition, it is somewhat puzzling that one finds no mention here of the fact that şukūk need to be first and foremost interest or ribā-free. Indeed, the expression ‘interest’ or ribā cannot found be anywhere in the preface. The index likewise lacks an entry for ribā or interest.

In Chapter 2, “Sukuk and the Capital Markets”, Shabnam Mokhtar, Saad Rahman, Hissam Kamal, and Abdulkader Thomas acknowledge that, “sukuk are generally structured to have bond-like characteristics” (p. 19). In relation to the sale of the dividend-generating assets by originators to the şukūk holders, the authors state that in a “true sale” the asset is “separated from the accounting and bankruptcy estate of the originator […] In a true sale transaction, the ultimate investor will enjoy the risk and reward, or have the right of disposal of the underlying assets” (p. 20). The authors could have added that in a true sale investors not only have the “right of disposal of the underlying assets”, but come into full, legal ownership of those assets. This sometimes remains unclear, thus causing a lack of transparency about precisely what kind of ownership şukūk holders actually have. The type of ownership şukūk holders have becomes especially relevant at a time of distress. Investors in asset-backed şukūk are legal owners of the underlying assets. This is not the case with investors in asset-based şukūk. With asset-based şukūk, the ownership of the underlying assets remains, in one form or another, with the originators. Holders of asset-based şukūk enjoy merely ‘beneficial’ ownership. They are owners of the usufruct produced by the assets, but not the assets themselves. At a time of distress (default), the investment of the holders of asset-backed şukūk is protected. That of the holders of asset-based şukūk is not. This is a crucial difference.

In Chapter 6 (“Basel II and Sukuk”), Natalie Schoon observes that şukūk which confer “beneficial ownership” allow the underlying assets “to be considered as collateral (asset-backed sukuk) or not (asset-based)” (p. 114). This statement is only partly true. The fact is that ‘beneficial ownership’ does not allow şukūk to be considered as ‘asset-backed’ but only as ‘asset-based’. For the şukūk to be considered as asset-backed, a true sale of the underlying assets to the şukūk holders would have to have taken place. Clearly, this did happen in the vast majority (90 per cent) of the şukūk issued, where şukūk holders can claim ownership only of the dividends generated by the underlying assets but not of the assets themselves. Should the issuer default on paying the dividends, holders of asset-based şukūk have no legal recourse to the assets because they do not own them. Their only recourse is to the originator. Unlike holders of asset-backed şukūk, holders of asset-based şukūk are
not in a position to recover their capital by selling the underlying assets as the
ownership of the assets has remained with the originators.

The difference between asset-based and asset backed ḫūkūk is important, as
significant implications follow for investors’ protection at a time of distress. The
investment of the holders of asset-backed ḫūkūk is protected against loss, as they
are the legal owners of the assets. Should a default occur, they can recover their
capital investment by selling the assets in the open market. They can do this because
they are the legal owners of those assets. Holders of asset-based ḫūkūk, by contrast,
cannot sell the underlying assets to recover their investment, as they are merely the
‘beneficial’ but not the legal owners of the assets. Thus, holders of asset-based ḫūkūk are
exposed to the risk that they might lose their investment. From a legal
point of view, the status of the holders of asset-based ḫūkūk is no different from
that of unsecured creditors.

In Chapter 16 (“How Expansive Are the Frontiers”) Rodney Wilson discusses
some “unresolved issues” (p. 335). However, while we find optimism about “where
the industry is going”, a number of pressing issues receive little or no attention. One
of these is investor (ḫūkūk buyer) protection. Another is the question of whether ḫūkūk should continue replicating conventional bonds or be structured as genuine
PLS instruments.

In general, the book raises more questions than it answers. Let us hope the next
volume will rectify these shortcomings.

**Bertrand de Speville, Overcoming Corruption: The Essentials**
ISBN: 978-967-5942-03-7

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The title of the book is very reflective of its length and style: brief and succinct
almost like a handbook, it is meant for anticorruption decision-makers from the
developed and developing world who are too busy to read laborious pieces on the
subject.

The author, an English law barrister who went to Hong Kong in 1981, became
Solicitor General prior to his appointment as Commissioner of the Independent
Commission Against Corruption (ICAC) of Hong Kong from 1992 to 1996, just
before the city was returned to China. He turned ICAC into a leading anti-graft
body admired by international observers. In London, where he is currently based, he
became adviser to the Council of Europe’s Multidisciplinary Group on Corruption
from 1997 to 2003. He is consulted by a number of international development