Enhancing Halal Sustainability through Family Takaful Products Based on the Maqasid Shari'ah Framework

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Abstract: *Takaful* is growing fast day by days. Other than it can develop the industry of *Takaful* itself, the main reason by introducing the *takaful* insurance is to offer or provide an alternative to all *Muslims'* needs in protection product. Thus, similar to the conventional insurance, it is to provide the element of protection and indemnity to both individual and corporate bodies against loss or hazards to their selves or wealth but in line with the *Maqasid Shari'ah Principles*. Hence, the objective of the study has been evaluated the family *takaful* product which based on the *Maqasid Shari'ah* framework due to the five preservations or protections (Protection of Religion, Protection of Life, Protection of Intellect, Protection of Progeny and Protection of wealth). Most of the products offered in *takaful* institutions are in line with the *Maqasid Shari'ah* perspective as sustainable of financial planning which bring to the social well-being and impartiality for the public interest (*maslahah*) by taking into consideration of five preservation, namely the preservation of religion (*al-ddin*), the preservation of life (*al-nafs*), the preservation of intellect (*al-'aql*), the preservation of progeny (*al-nasl*) and the preservation of wealth (*al-mal*). Therefore, it is an important not only in developing *takaful* as a part of industry growing but then beyond than that to fulfill the needs of Muslim as well for all the others as well as enhancing halal sustainability through *takaful* products development.

Keywords: *Takaful*, Halal sustainability, *Maqasid shari'ah*

1. Introduction

Takaful is one of the halal product which become the strategy paradigm that embraces broad concerns of universal in halal-oriented economics. It is a system of Islamic insurance based on the principle of mutual cooperation (*ta'awun*) and donation (*tabarru'*), where the risk is shared collectively and voluntarily by the group of participants. It is an arrangement by a group of people with common interests to guarantee or protect each other from certain defined misfortunes such as premature death, disability and property damages.

According to Central Bank of Malaysia (2000-2006) the establishment of *takaful* industry is a necessities (*daruriyyah*), as the result of a *fatwa* (decree) issued by the Malaysian National Fatwa Committee which ruled that conventional life insurance is void contract due to the presence of the elements of gambling (*maisir*), uncertainty (*gharar*) and usury (*riba*).

According to Arifin, Yazid, & Hussin, (2014) the *takaful* industry has experienced a significant expansion as it is one of the vital mechanisms in enhancing halal sustainability of the Islamic Finance system. Due to this, the *takaful* industry is endlessly creating the basis that is strong enough to take its place together with the conventional insurance industry as a legal alternative in key markets. Even though the *takaful* industry is still considered by low market penetration in the world as compared to the conventional insurance market, the *takaful* industry seems to be doing well and strives to expand the competitive performance so that *takaful* can magnificently have a positive outlook parallel to the conventional insurance performance in the world today. By having such rapid growth of both *takaful* business specifically for family *takaful*

business, it is automatically lead to the business opportunities for *takaful* industry itself. By zooming into family *takaful* market, the family *takaful* penetration rate was merely 10 percent of the population in 2010 (OSK Research Report, 2012). This was supported by Hashim (2012) where the market penetration rate for family *takaful* business in *Malaysia* is relatively low and remains largely untapped, therefore presenting a huge business opportunity. Therefore, this study has been evaluated the family *takaful* product which based on the *Maqasid Shari'ah* framework due to the five preservations or protections (Protection of Religion, Protection of Life, Protection of Intellect, Protection of Progeny and Protection of wealth).

2. Family *Takaful* Products With The *Maqasid Shari'ah* Framework

The main theory in this study is using the theory from Al-Ghazali. The theory said that, Islamic Law was made to protect five preservations of religion, life, intellect, progeny, and wealth, which are the main rights of human in this life. Imam al-Ghazali (d. 505 AH/1111 AC) defined *maqasid* by stressing that the *Shari'ah* concerns with protection of five objectives: "The main objective of the *Shari'ah* is to promote the public interest and the well-being of the people, which lies in protection of their religion (*din*), their life (*nafs*), their intellect (*'aq*), their progeny (*nasl*) and their wealth (*mal*). According to Al-Ghazali (1998), whatever ensures and covers the safeguarding of these five origins, and it is a public interest, and whatever leaves these five's, it is a harm and against public interest". Therefore, the *Maqasid al-Shari'ah* are the law's meanings and objectives as manifested in most or all of its rulings, or they may be said to be the objectives of the *shari'ah* and the hidden wisdom which the lawgiver has placed within each of its rulings, Zuhaili (1996).

3. Protection of Religion

Protect faith and religion, Allah (The Most Glorified, The Most High) forbade believing in someone else except Him, either by belief or by action. He (The Most Glorified, The Most High) forbade everything leads to that such as exaggeration of obeying the prophets and the righteous, to believe they are agents between Allah (The Most Glorified, The Most High) and his creation, and to believe that good or bad is in anyone else's hand except Allah (The Most Glorified, The Most High). Protection of religion is an obligatory when establishing a *takaful* company to be in line with *sharia'h* compliant. Therefore, to ensure all the *takaful* companies are *shari'ah*-compliant, then the government has formed the *Takaful* Act in 1984, strengthening with Islamic Financial Services Act (IFSA) in 2013. To ensure the protection of religion, all *takaful* companies are under *Shari'ah* Advisory Council of Bank Negara Malaysia (SAC), which was established in May 1997 as the highest *Shari'ah* authority in Islamic finance in Malaysia. Every *takaful* company should have a *Shari'ah* Advisory Board (SAB). SAB is responsible for validating all *takaful* products development with to ensure their compatibility with the *shari'ah* principles.

According to Azmi and Kasim (2015), they said that *takaful* as part of the Islamic finance can be termed ethical insurance which it is operating under the Islamic ethical framework and hence creates the atmosphere of a caring and sharing society while promoting solidarity. *Takaful* has been introduced as an alternative to insurance to ensure that people can participate in *takaful* which is free from interest, uncertainty, and gambling. These elements are prohibited from the Islamic perspective due to unfair nature of their practices.

Abdullah (2012) examined *takaful*'s growth towards an effective risk management and ethical promoting tool which tailored to the *Maqasid* of *Shari'ah*. The research captured that protection of human dignity was being prioritized to honor and treasure individuals without discrimination. It was also highlighted that Islamic virtuous goals and values that are highly thought of in *takaful* are believed to pave the future direction to achieve the universal objectives of *shari'ah*.

This also supported by Fisher (2013) that said the implementation of *takaful* is deemed to have a strong relationship in achieving the *Maqasid Shari'ah*. In preserving *ad-din*, *takaful* is able to realize it as its transaction begins with a contribution in the form of *tabarru'* (donation). This is regarded as sincere contribution of a person to a pool of contribution. The relationship between the participants and the risk pool (as managed by the *Takaful* Operator) is termed as *tabarru*. All the contributions collected from the policyholders or participants are not meant for the transfer of risk as in conventional insurance but it is meant to help those who are struck with misfortune, which is considered as *ibadah*.

4. Protection of Human Life

According to Al-Kurdi (2014), the objective of *takaful* implementation is also to realize the spirit of cooperation among the *takaful* participants. The participation is also meant to provide protection to members in the group who face any form of calamity or disaster. Such spirit and practice are in line with the objectives of *Shari'ah*, specifically protection of life or *an-nafs* which encourages *Muslims* to do good deeds to self and others, and taking all preventive measures such as health precautions. For example, a participant could have various health products to maintain good health which is essential to every human need.

According to Iqbal and Mirakhor (2007) and Abdul Razak and Ismail (2011), Islamic banking and finance is unique; it is distinct from conventional banking as it includes striving for a just, fair and balanced society. Dusuki and Abdullah (2007) argued that the rationale behind the emergence of an Islamic banking system goes beyond conforming to *Shari'ah* injunctions in offering Islamic financial products. The system aims at fulfilling socioeconomic objectives including establishing fair economic development and activities. The objective of *Shari'ah* is to support the wellbeing of the people, which includes the protection of faith, life, intellect, progeny and wealth (Abdul Rahman, 2003). While maximizing business profit is permissible, social welfare must be considered for conducting fair and just business deals (Abdul Rahman, 2010).

5. Protection of Intellect

According to Dusuki and Abozaid, (2007) Islam is a *syumul* (comprehensive) way of life whereby a person's life is integrated to another and would benefit in the current life and the hereafter. Achieving *Maqasid al-Shari'ah* will create a society whereby every member will cooperate with each other and compete constructively in achieving success in life which is to obtain the ultimate happiness (*falah*). In the concept of *takaful* itself, people finally can achieve the peace of intellect when they think they have something if something happened. *Takaful* practices are free from prohibited elements such as *riba*, *maysir* and *gharar*, and its operations are lawful. Thus, participating in *takaful* is believed to create a peaceful heart and intellect to both participants and *Takaful* operators as they are not involved in unlawful or *non-shari'ah* compliant activities.

According to Sabbir (2002), the main purpose of insurance is to act as a risk transfer mechanism to protect against losses and provide peace of intellect. Moreover, the income generated from *takaful* activities, which is free from prohibited elements, would lead to earnings and gains that are blessed by the Almighty Allah. Indeed, a Muslim practicing true Islamic teaching with the avoidance of prohibited elements, and illegal or unlawful activities such as the conventional insurance will onset the feeling of peace at heart and intellect which would preserve the human's intellect or *al-'aq*.

6. Protection of Progeny

According to Fisher (2013) in terms of preserving the forth fundamental element of human being which is ancestor (*an-nasl*), it can be clearly viewed through the *takaful* product, namely

family *takaful*. This is relevant because in such policy, the policyholders' family relations will benefit from the compensation that is paid after his/her demise. Thus, the family members will be left with some financial assistance according to the conditions agreed. The compensation paid by the *takaful* operators is indeed vital to assist families especially those who have lost their main source of income provider.

According to Yaari (1965), he described demand for life insurance is attributed to a person's desire (or a "joy of giving") to bequeath funds to dependents and provide income for retirement, demand for life insurance has been posited as a function of wealth, expected income over a person's lifetime, interest rates, the cost of life insurance policies (e.g. administrative costs) and the assumed subjective discount on current over future consumption.

7. Protection of Wealth

The protection of wealth (*al-mal*) is one of the essential needs of human's life as Islam encourages Muslims to earn lawful earnings and prohibits income from illegal sources such as gambling, bribery, stealing, and anything that involves *riba* or usury. As such, protection of property or wealth is associated with economic activities that include Islamic finance (Al-Khelaifi: 2004; Laldin: 2010; Dusuki and Bohrawa: 2011; Ahmed: 2011).

Protection of wealth according to Ibn-Ashur (2006) means protecting the wealth from being broke and from shifting to the hands of others without legal means and compensation. Furthermore, al-Shatibi asserts that it is the prohibition against injustice, depriving orphans of their property, wastefulness, envy, giving short measure and weight, and corruption in the land (al-Raysuni, 1997).

Supported by Ooi (2009) that said Malaysian Employee Provident Fund (EPF) savings is not enough, whereby it would be depleted between 3 to 5 years after retirement. Hence, there is an urgent need for extra source of funding for retirement such as *takaful* which would assist in wealth planning and prepare the financial fortress for the retirees. The two-pronged nature of *takaful* (i.e. protection and savings) means the policyholder does not need to think much about the effect of untoward event to their retirement nest and the performance of the fund which is professionally managed.

Syahida Abdullah & Hafas Furqani (2012), also said that *takaful* provides *Shari'ah* alternative to Muslims for wealth protection. Therefore, *takaful* is one of the pillars of the bigger Islamic financial system, in which the *Maqasid al-Shari'ah* should be applied towards achieving its goals, objectives, values and direction via realizing the *maslahah* (benefits) and preventing or repelling the *mafsadah* (harms) in all dimension of human life.

8. Concluding Remarks

In conclusion, most of the products offered in *takaful* institutions should be in line with the *Maqasid Shari'ah* perspective as sustainable of financial planning which bring to the social well-being and impartiality for the public interest (*maslahah*). Therefore, the choice of *takaful* products is falls under the category of public interest (*maslahah*) by taking into consideration of five preservation, namely the preservation of religion (*al-ddin*), the preservation of life (*al-nafs*), the preservation of intellect (*al-'aql*), the preservation of progeny (*al-nasl*) and the preservation of wealth (*al-mal*). Therefore, This conclusion can be demonstrated through the following figure below,

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