

# TAKAFUL MODELS: THEIR EVOLUTION AND FUTURE DIRECTION

*Mohammad Mahbubi Ali\**

**Abstract:** *Takaful* (Islamic insurance), being an important emerging sector in the Islamic financial industry, has exhibited remarkable growth across the globe over the last few decades. This indicates an enormous demand for *takaful* products, from short-term general *takaful* to long-term family *takaful*. As a result, *takaful* has attracted sizable attention from both Muslim and non-Muslim countries. Nevertheless, the industry continues to experience a plethora of contentious issues in its operational models. The present study explores the evolution of *takaful* models and their future direction.

**Keywords:** *takaful*, *tabarru'*, underwriting surplus, *musharakah ta'awuniyah*

## 1. Introduction

*Takaful* (Islamic insurance) is an important emerging sector in the Islamic finance industry that has exhibited persistent, exciting growth in key markets, including the Gulf Cooperation Council (GCC) and Southeast Asia.<sup>1</sup> It offers an alternative to conventional insurance, which the Shari'ah prohibits because it contains substantial uncertainty (*gharar*), features of gambling and *riba* (usury). By contrast, *takaful* is established upon the notions of mutual assistance (*ta'awun*), mutual security and guarantee (*tadamun*), and mutual protection and assurance (*takaful*). It is also deeply rooted in the concept of *tabarru'* (donation), which tolerates the presence of ignorance and uncertainty.<sup>2</sup> These basic principles underlying *takaful* have been used to construct various models and structures resembling conventional insurance.

Nevertheless, these *takaful* models, and since first being launched in 1979 in Sudan, have encountered substantial issues and contentions. This has triggered the evolution of a tremendous number of *takaful* models, all formed through a process of trial and error, with one model being introduced to supersede the previous in an effort to find the ideal *takaful* model. Considering this, the present study seeks to examine the evolution of *takaful*, the issues currently entangling its operation, and its future direction. Specifically, the study aims to achieve the following objectives:

1. To discuss the concept of *takaful* from a Shari'ah perspective.
2. To delineate the evolution of *takaful*.
3. To identify the Shari'ah issues arising from current *takaful* models.
4. To chart the future direction of *takaful*.

Following this introduction, the study is organised as followings: section 2 examines *takaful* as a concept, with particular attention to what distinguishes it from conventional insurance; section 3 describes the various *takaful* models in greater detail, including their issues and evolution; section 4 charts the future direction of *takaful*; and the final section concludes the study.

## 2. *Takaful vis-a-vis Insurance*

Despite conventional insurance's noble objective of providing an instrument for risk management, Shari'ah prohibits it because it is structured around a contract of exchange (*mu'awadah*) containing elements of *riba*, uncertainty and gambling. The issue of *riba*, for example, emerges in two forms. Firstly, conventional insurance is the exchange of money for money in unequal amounts and on a deferred basis. This is particularly true since the insurance benefit that the policyholders will receive is normally higher than the premium sum and contingent upon a defined future event. Secondly, the premium is invested in interest bearing instruments, such as treasury bills and fixed deposits in conventional banks. The feature of uncertainty, on the other hand, occurs in conventional insurance because both the right to the insurance benefit and its actual value are dependent upon the occurrence of catastrophe, which is uncertain.<sup>3</sup> As for gambling, this occurs in conventional insurance as a consequence of the uncertainty, where the gain or loss is contingent on the presence or absence of claims.

*Takaful* is designed to offer a Shari'ah-compliant alternative to prohibited forms of conventional insurance through the application of *tabarru'*. The latter is a unilateral charitable contract, as opposed to a contract of exchange. In Islamic jurisprudence, the existence of uncertainty and ignorance nullifies a contract of exchange (*mu'awadah*) but is tolerated in *tabarru'* contracts.<sup>4</sup> This is because the parties who enter into a *tabarru'* contract do not aim to make a profit out of the contributed sum, and hence the potential for dispute, which normally arises in a profit-making activity, vanishes.<sup>5</sup> Operationally, the contributed sum is collected for the purpose of mutual assistance, when participants are faced with unforeseen future events. The introduction of *tabarru'* also resolves the issue of *riba* because its structure supersedes the exchange feature of conventional insurance and the contributed sum is only invested in Shari'ah-compliant business activities.<sup>6</sup>

The word “*takaful*” is derived from the root word *kafala*, which etymologically means ‘guarantee’ or ‘indemnity’. Technically, *takaful* is a mutual form of insurance whereby a group of participants agree to contribute a sum in order to assist each other from a defined financial loss arising from a potential future catastrophe or misfortune. The Accounting and Auditing Organisation for Islamic Financial Institutions (AAOIFI) defines *takaful* as “a system through which the participants donate part or all of their contributions which are used to pay claims for damages suffered by some of the participants. The company's role is restricted to managing the insurance operations and investing the insurance contributions.”<sup>7</sup> The Islamic Financial Services Board (IFSB) defines it as “the Islamic counterpart of conventional insurance, and exists in both life (and family) and general forms, whereby it is based on the concept of mutual solidarity, and a typical *takaful* undertaking will consist of a two tier structure - hybrid of a mutual and a commercial form of company.”<sup>8</sup> In the same context, the Islamic Financial Services Act (IFSA) 2013 defines *takaful* as “an arrangement based on mutual assistance under which *takaful* participants agree to contribute to a common fund providing for mutual financial benefits payable to the *takaful* participants or their beneficiaries on the occurrence of a pre-agreed events.”<sup>9</sup>

In Islam, *takaful* is grounded in the notions of mutual assistance (*ta’awun*), mutual security and indemnity (*tadhamun*), and mutual protection and assurance (*takaful*), all of which are then incorporated into the concept of *tabarru’*. The principle of mutual assistance is deduced from a verse of the Holy Quran which reads: “Help one another in *al-Birr* and in *al-Taqwa* (virtue, righteousness and piety): but do not help one another in sin and transgression.”<sup>10</sup> It is also supported by a hadith that states: “Allah will always help His servant for as long as he helps others.”<sup>11</sup> The notion of mutual security and indemnity is deeply rooted in the hadith of the Prophet (pbuh) that reads: “The place of relationships and feelings of people with faith, between each other, is just like the body; when one of its parts is afflicted with pain, then the rest of the body will be affected.”<sup>12</sup> Additionally, the spirit of mutual protection and assurance is substantiated by a hadith narrated by Imam Ahmad bin Hanbal, which reads: “By my life, which is in Allah’s power, nobody will enter Paradise if he does not protect his neighbor who is in distress.”<sup>13</sup>

### 3. *Takaful* Models: Evolution

The main distinctive feature of *takaful* is the application of *tabarru’*, which in this context entails a voluntary contribution by one person to another during

the former's lifetime without expecting any compensation in return but which results in the transfer of the ownership of the contribution from the donor to the recipient.<sup>14</sup> In light of this, the Shariah Advisory Council of Bank Negara Malaysia (SAC BNM) defines *tabarru'* as a contract of gratuity or charity, i.e. to relinquish a portion from the contribution as a donation to fulfill the obligation of mutual help, and to use it to pay any claim submitted by an eligible claimant. The *tabarru'* concept is applied to *takaful* in order to indicate the relationship between participants.<sup>15</sup> The following subsections will explain in greater detail the contracts and models—alongside their issues and evolution—governing the relationship among participants and between participants and *takaful* operators.

### 3.1 Contracts among Participants

*Tabarru'*, as just indicated, is the underlying concept defining the relationship between participants in a *takaful* scheme. It entails that each participant donates a sum of money to mutually assist and indemnify each other in the event of misfortune and catastrophe. The fund is pooled under a Participant Risk Fund (PRF) and treated as a “collective ownership” for the purpose of helping any participant who suffers financial loss arising from future calamities. In practice, however, the purpose of the agreement is not skewed merely towards providing mutual protection, but may also include both investment and savings. This is particularly true in the case of family *takaful*. Therefore, instead of a single fund, *takaful* operators will normally divide the fund into two: the Participant Risk Fund (PRF) and the Participant Investment Fund (PIF). PRF is a pool of *tabarru'* funds, while PIF is a fund dedicated to investment purposes.

Jurists unanimously agree that *tabarru'* is a noble concept in Islam. Its practice in *takaful*, however, remains a matter of contention. This is because the contributions paid by the participants may not be a donation in the pure sense, but rather a conditional donation: each participant donates a particular amount in order to entitle him or her to a future financial benefit. The contribution (donation) is imposed “in exchange” for that future benefit. Moreover, the rate of donation is adjusted in accordance with the participants' risk: the higher the risk exposure, the higher the contribution. This is problematic from the Shari'ah point of view because the amount given as *tabarru'* is supposed to be voluntary, not compulsory. Moreover, it is argued that if a participant reserves the right to claim compensation for a contributed sum, doing so will change the structure of *takaful* into a bilateral contract (*mu'awadah*): exchange of money in the form of a donation with money in the form of a claim/*takaful* benefit. If that is the case, the issues of *riba*, *gharar* and *maysir* re-emerge.

Some scholars note that making something that should be voluntary into an obligation is permissible under the Maliki school of thought. In such cases, the participants' contribution is characterised as *al-iltizam bi al-tabarru'* (self-commitment to donate). Under this concept, one who commits himself to do good things is obliged to do so. Some scholars dismiss this understanding, however, as it comprises of two commitments, donation and indemnification, thereby ultimately leading to a bilateral contract. Nevertheless, this dismissal is further disputed because, although it comprises both donation and indemnification, the latter is not definite because it depends on the occurrence of a catastrophe.<sup>16</sup> Thus, it cannot be simply equated to an exchange or bilateral contract.

Some jurists construe the concept of *tabarru'* in *takaful* as *hibah bi al-thawab* (a gift with consideration). This is because the contribution made by participants is the 'price' for indemnification. Ibn 'Arafat defines *hibah bi al-thawab* as "a gift for which financial compensation is intended."<sup>17</sup> Al-Adawi, on the other hand, defines *hibah bi al-thawab* as "one person gives his asset to another so that he will give him consideration for it."<sup>18</sup> In Islamic jurisprudence, *hibah* is a form of *tabarru'* intended for charity and mutual assistance, rather than for seeking profit or an expected return. Thus, if the *hibah* is given in return for certain considerations, the majority of jurists<sup>19</sup> will consider it to have shifted from a unilateral contract to an exchange contract.<sup>20</sup> Some jurists, however, maintain the view that *hibah bi-thawab* remains a unilateral contract with all its rulings and legal implications. A narration in the Hanbali School, as quoted by Ibn Qudamah, states: "A [second] narration from Ahmad [ibn Hanbal] implies that the ruling of *hibah* in *hibah al-thawab* prevails [over the ruling of exchange contract]. Therefore, the rulings specific to sale contracts do not apply to it."<sup>21</sup> Al-Mardawi cites al-Qadi's view stating that: "[*Hibah al-thawab*] is not a sale contract because *hibah* may sometimes be given purely as charity and may sometimes be given for a consideration."<sup>22</sup> Al-Sharbini quoted two views from the Shafi'i school regarding one who gives *hibah* that requires an unknown consideration. One of the views states that this form of *hibah* is valid as *hibah*, not as *bay'* (sale).<sup>23</sup>

Some scholars, instead of considering *al-iltizam bi al-tabarru'* or *hibah bi-thawab*, introduce the concept of *waqf* as the underlying *fiqhi* characteristic of *tabarru'* in the context of *takaful* operation. In this context, *al-iltizam bi al-tabarru'* as promulgated by the Maliki school of thought is the most internationally accepted *fiqhi* characteristic of *tabarru'* in the context of *takaful* operation. AAOIFI, in its Shari'ah standard No. 26 Article 3, states:

Islamic insurance is based on the commitment of the participant to make donations for the sake of their own interest. The participants, therefore,

protect their group by payment of contribution[s] that constitute the resources of the insurance fund, and assign the management of that fund to a committee of policyholders or to a joint stock company that possesses the license [for] practicing insurance business. In the latter case, the company assumes this job on the basis of a remunerated wakala (agency) contract. In addition to managing the insurance operations, the committee policyholders or the company also assumes the responsibility of investing the assets of the fund through *mudharabah* or investment agency.<sup>24</sup>

In the subsequent article, the standard states that: “the relationship between the policy holder and the fund takes the form of donation commitment at the stage of making contribution, and indemnification commitment at the stage of providing compensation for injury as per regulations and underlying constituent documents.”<sup>25</sup>

### 3.2 Contracts between Participants and *Takaful* Operators

The *takaful* industry has experimented with various models and contracts underlying the relationship between participants and *takaful* operators. The following passages delineate the evolution of these various *takaful* models and the issues surrounding their practice.

#### 3.2.1 The Mudharabah Model

AAOIFI defines *mudharabah* as a partnership in profit whereby one party provides capital and the other party provides labour. Any profit is shared between the capital provider and manager in accordance with a profit sharing ratio agreed upfront. Any financial loss will be borne solely by the capital provider, unless the loss is due to the manager’s negligence (*taqsir*), misconduct (*ta’addi*), or a breach of terms (*mukhalafah al-shurut*).<sup>26</sup>

*Mudharabah* was the first model employed by the *takaful* industry in Malaysia. In this model, the *takaful* operator serves as a manager (*mudharib*) while participants are capital providers (*rabb al-mal*). The operator will accept contributions from participants, which are then managed and invested in a Shari’ah compliant manner. The contract specifies that any profit from managing the fund will be shared between the *takaful* operator and the participants based on a ratio agreed upfront. In the event of loss or deficit in the PRF, however, the *takaful* operator shall provide an interest free loan (*qard*) that should be repaid when the PRF generates profit.<sup>27</sup> The underwriting surplus,<sup>28</sup> if any, will be distributed to the participants. Figure 1 depicts the process flow of the *mudharabah* model in the context of a family *takaful* product.

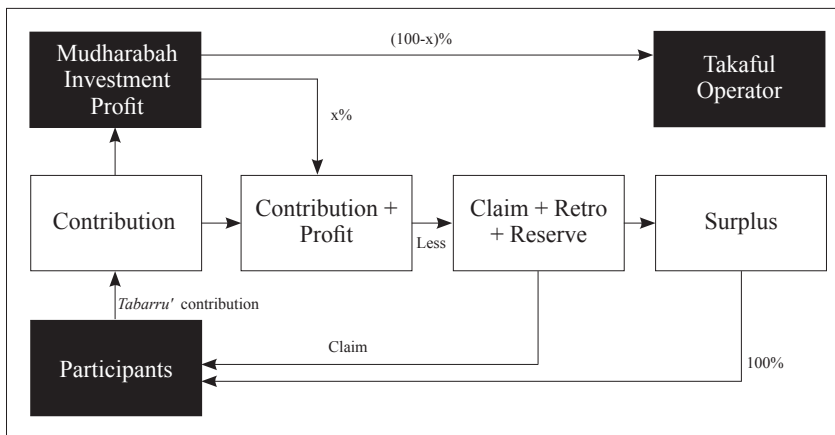


Figure 1: *Mudharabah* Model

The *mudharabah* model allows *takaful* operators to share in profit in line with a pre-agreed ratio but not in underwriting surplus. The absence of surplus sharing renders this model commercially unviable. This model, therefore, was altered to become a modified *mudharabah* which construed the underwriting surplus as the ‘*mudharabah* profit’.<sup>29</sup> Operationally, this allowed the profit from investment activities to be pooled into the PRF, from where it could be used for claims, *retakaful* and reserves. The remaining balance was then treated as the underwriting surplus and shared between the *takaful* operator and participants at an agreed ratio. Figure 2 shows the operational flow of the modified *mudharabah* model.

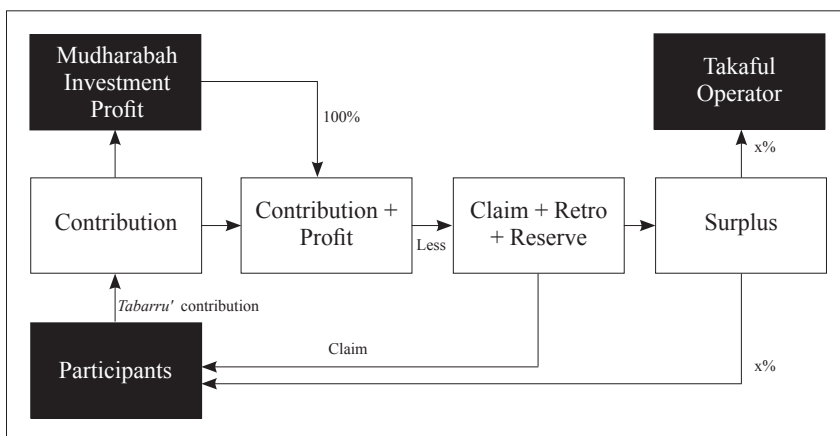


Figure 2: Modified *Mudharabah* Model

The application of the *mudharabah* model within the *takaful* industry has provoked considerable criticism. Ayub argued that the *mudharabah* concept is highly suitable for banking but not for insurance.<sup>30</sup> *Takaful*, he argued, is established on the notion of mutual assistance and achieving societal goals, while *mudharabah* is a commercial-based contract. They are therefore two different concepts with completely different objectives. Ultimately, the application of *mudharabah* in the context of *takaful* brought some questions to the fore. Firstly, from the Shari'ah point of view, is it possible to treat *tabarru'* contributions concomitantly as *mudharabah* capital? For instance, *tabarru'* causes the relinquishment of the donor's ownership, while in a *mudharabah* contract the capital providers retain ownership. Second, in the case of a deficit, does obliging the *takaful* operator to inject money into the fund go against the essential concept of *mudharabah*? A *mudharabah* contract is a trust contract in which the operator is a trustee-manager and not a capital guarantor. Third, in the modified *mudharabah* model, is it permissible for *takaful* operators to take a portion of the surplus, and as is practiced by their conventional counterparts? Is, in other words, the surplus equivalent to profit? While profit is the positive outcome of a business activity, surplus is the accumulation of profit and what is left of contributions after deductions for claims, reserves and *retakaful*.

### 3.2.2 The Wakalah Model

The substantial criticisms and Shari'ah issues associated with the *mudharabah* model pushed Shari'ah scholars and industry players to search for an alternative. As a result, they introduced the *wakalah* model, which *takaful* operators have gradually adopted. *Wakalah* is an agency contract whereby a party mandates another party as their agent to perform a particular task. Under this model, the *takaful* operator serves as an agent charged with managing and investing the contributions of their participants and, in compensation, will enjoy a predetermined fee. The profit and underwriting surplus, if any, will be fully distributed to participants. Figure 3 exhibits the operational flow of this model.



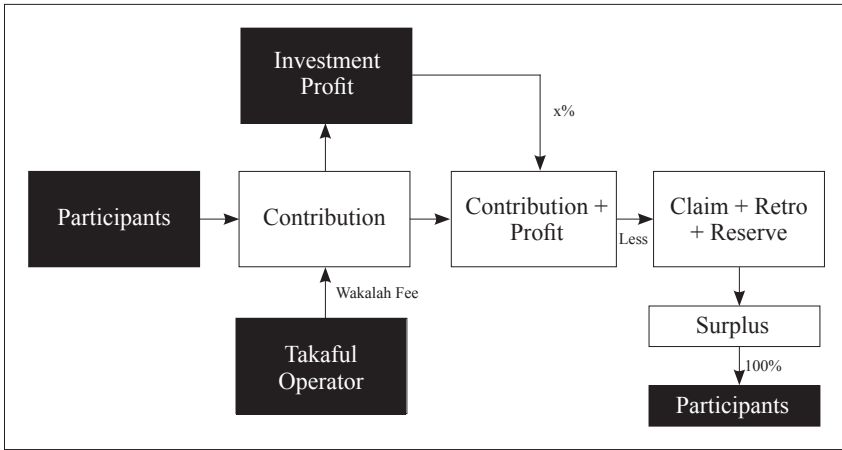


Figure 3: *Wakalah* Model

In its purest form, however, the *wakalah* model is commercially unattractive for operators; the absence of any surplus sharing makes it unviable and has led to calls for it to be revisited. As a result, the original model has indeed been modified. In the modified version, the operator, and in addition to their entitlement to a *wakalah* fee, takes a portion of the underwriting surplus based on performance. Figure 4 illustrates the process flow of this modified *wakalah* model.

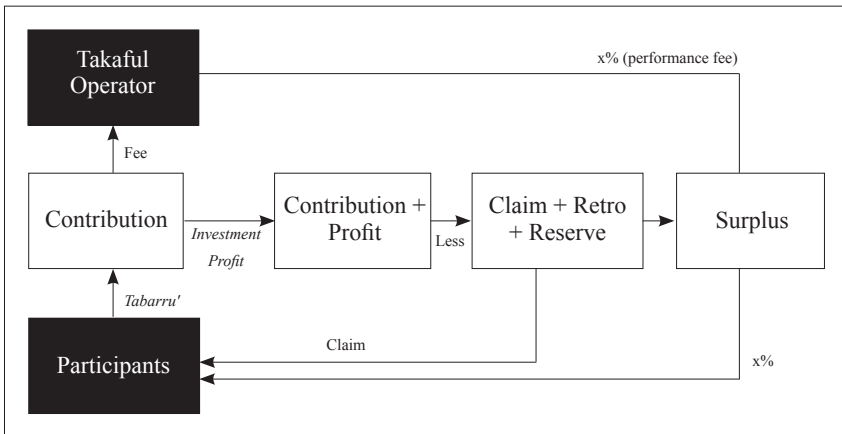


Figure 4: Modified *Wakalah* Model

At the time the model was first introduced in Malaysia, operators took 90% of the surplus, with only 10% going to participants. This division was also applied in Saudi Arabia, where it remains in practice until the present.<sup>31</sup> In both places, however, it has triggered criticism: many considered the way surplus is being shared as exploitative and unjust. In response, the Central Bank of Malaysia issued guidance in the form of the *Takaful* Operator Framework (TOF) 2010. This stipulated that the total amount of incentive fee from the PRF payable to the *takaful* operators should not exceed the amount of surplus paid or accrued to participants.<sup>32</sup> In other words, a *takaful* operator's share of the surplus is limited to a maximum of 50%.

Despite the issuance of TOF, the practice of surplus sharing under the modified *wakalah* model still raises concerns. This is largely because the performance fee is based on the operator's capacity to underwrite the PRF. This criterion is difficult to measure and easy to manipulate. For example, to generate a large surplus the operators can make claims difficult, thereby reducing the reserve portion and/or minimising the *retakaful* contribution. Many argue that it would be fairer if the performance fee were based on the operator's ability to manage the investment fund effectively. For example, if the operator were able to generate a profit rate above 10%, they could keep the excess as a performance fee.

### 3.2.3 The Hybrid Model

In view of the substantial criticisms directed at the practice of surplus sharing and the possibility of adopting a performance fee, industry players developed a new model: a combination of *mudharabah* and *wakalah* called 'the hybrid model'. This model is normally applied to family *takaful* products and divides the participants' fund into two pools: PRF and PIF. The model employs a *wakalah* contract to govern the operator's role in managing the PRF, while a *mudharabah* contract is used to explain the operator's capacity as an investment manager for the PIF. As compensation, the operator reserves the right to a predetermined fee for managing the PRF and a profit share for managing the PIF. In this model, the issue of surplus does not arise because all surplus is supposed to be returned to the participants. Only a performance fee is taken from the PIF. Some *takaful* operators, however, still take a portion of the surplus from the PRF as an incentive. Figure 5 illustrates the hybrid model.

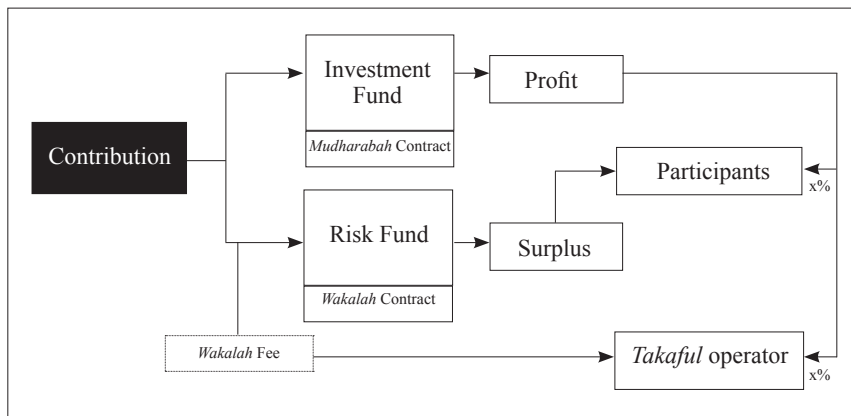


Figure 5: Hybrid of Wakalah and Mudharabah Model

### 3.2.4 The Waqf Model

Mufti Taqi Usmani, a renowned Pakistani Shari’ah scholar, has developed a combined cash *waqf* and *wakalah* contract model for *takaful*. This model has been successfully implemented in Pakistan and South Africa. In essence, it aims to enable individuals to assist each other in the event of catastrophe by using a *waqf* fund. The shareholders in a *takaful* company will initially place donations in order to facilitate the establishment of the *waqf* fund. Simultaneously, participants contribute a sum of endowment to the fund. Thus, the fund consists of two sources: a fund established by the shareholders and another established by the participants. Throughout the process, the *takaful* operator serves as an agent (*wakil*) for both shareholders and participants, helping to administer the fund and pay claims. Concomitantly, they act as an investment agent to help invest the fund in Shari’ah-approved business activities. As payment, the operator will be entitled to a certain percentage of a predetermined *wakalah* fee in addition to a performance fee.<sup>33</sup> The proceeds of the *waqf* fund will be used to assist any participant who experiences misfortune and/or catastrophe.<sup>34</sup> Figure 6 illustrates the process flow of this hybrid *wakalah* and *waqf* model.

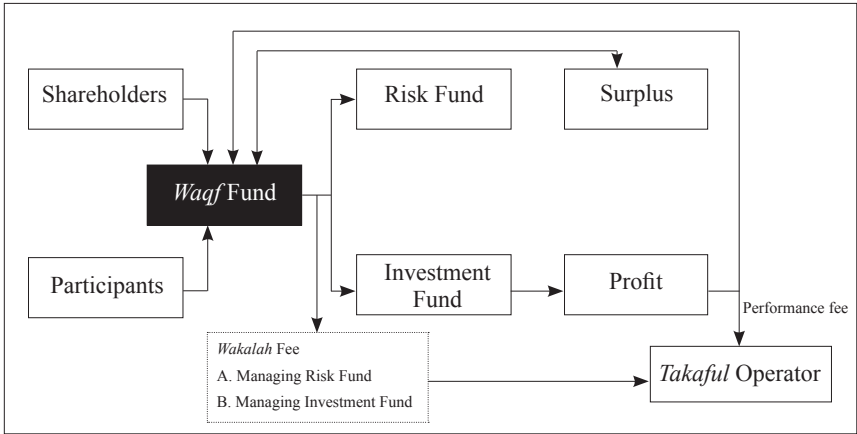


Figure 6: Hybrid of *Wakalah* and *Waqf* Model

There are at least three main concerns surrounding the application of this model. First, the introduction of cash *waqf* into the operation of *takaful* undermines the fundamental objective of *waqf*. Thus, *waqf* should ideally provide benefit for both the poor and the rich. In *takaful*, however, only the rich (participants) will benefit.<sup>35</sup> Second, inflation and the possibility of loss when investing the *waqf* fund could diminish the value of that fund, contradicting the perpetual nature of *waqf*. Third, and finally, in the Malaysian context the application of this *waqf* model would face restrictions because *waqf* is traditionally administered and governed by the states.<sup>36</sup>

#### 4. *Takaful* Models: Future Direction

In 2010, the International Islamic Fiqh Academy (IIFA), a subsidiary organ of the Organisation of Islamic Cooperation (OIC), in its conference on “Cooperative Insurance: Dimensions, Perspectives, and the Position of the Islamic Shari’ah” held in Amman, called for a re-examination of the *fiqhi* characteristics of *tabarru’* when used in *takaful*. This call was reiterated in its 20<sup>th</sup> session, held in Algeria from 13-18 September 2012, and further reinforced in its 21<sup>st</sup> session in Riyadh, held from 22-28 November 2013.<sup>37</sup>

The main issue discussed during these conferences was the ownership of the *tabarru’* fund used in *takaful*, which could affect treatments of underwriting surplus. SAC BNM, for example, allows the distribution of underwriting surplus to be shared between participants and *takaful* operators based on the terms of a

mutual agreement. This is on the basis that, since the participants have donated the contribution as *tabarru'*, they lose ownership of it as prescribed by the rules of *hibah* in the Shari'ah. As Ibn Qudamah points out, *hibah* requires the donor to relinquish ownership of the object of *hibah* and transfer it to the beneficiary. Based on these premises, it is argued that the donor (participant) has no right or claim over the contributions they make unless it is stipulated in the agreement that any surplus from the contributions can be exclusively given to them. Otherwise, the distribution of surplus will be based on the agreement and conditions stipulated in the contract, meaning the *takaful* operator may take a share.<sup>38</sup> This corresponds to the legal maxim:

The fundamental [requirement for the validity of a contract] is the consent of the contracting parties, and its effects are the rights and duties they agree to.<sup>39</sup>

This signifies the recognition by the Shari'ah of the freedom of contract and the flexibility of contractual stipulations and agreements so long as they do not conflict with the inherent nature and the fundamental objective of contract.

The SAC BNM position concerning the underwriting surplus is, however, disputed by a number of international standards and fatwa-issuing bodies. Dallah al-Barakah, for example, in its *Fatawa Ta'min* (1986), resolved that the underwriting surplus is the exclusive right of the participants, meaning that it should be returned to them. The *takaful* operator therefore has no right to enjoy a portion of the surplus. The AAI OFI Standard on *takaful* states:

The underwriting surplus and its returns, less expenses, and payment of claims, remain the property (*milk*) of the policyholders, which is the distributable surplus. This is not applied in commercial insurance, where the premiums become the property of the (insurance) company, by virtue of contract and acquisition, which would make it revenue and a profit for commercial insurance.<sup>40</sup>

To overcome the issue of ownership in the underwriting surplus, some scholars propose the application of a *wadiyah yad dhamanah* (safekeeping with guarantee) model for the operation of *takaful*. Under this model, the *takaful* operator acts as a custodian or depository institution with whom participants place their fund as a deposit, coupled with a waiver clause to release some amount of the deposit for the purpose of indemnifying other participants. Under this concept, the participants maintain ownership of the fund and the issue of surplus distribution is thus resolved.<sup>41</sup>

Another proposal is the application of a 'conditional contribution' scheme to a cooperative fund. Under this concept, participants will contribute funds

for mutual assistance with the condition that any surplus be redistributed to participants. The concept therefore allows participants to retain the ownership of any surplus.<sup>42</sup>

Others believe that the best model for the operation of *takaful* is the one practiced by the Prophet (pbuh) and his Companions based on the concept of *tanahud* or *nihad* (share in expenses). Under this concept, each member of a travel group contributes some funds and/or food to cover their needs during a journey. Although the contributions may vary from one person to another, the surplus (if any) will be shared equally.<sup>43</sup> This concept is deeply rooted in the hadith which reads:

When the Ash’aris run short of provisions in campaigns or run short of food for their children in Madinah, they collect whatever is with them in a cloth and then partake equally from a vessel.<sup>44</sup>

In the context of *takaful*, the concept of *tanahud* or *nahd* takes the form of *musharakah ta’awuniyyah* (cooperative partnership)—that is, a contract of cooperation and shared responsibility for mutual assistance with the objective of allowing indemnification to be given when needed, while eliminating the intention of some participants to profit from others. The calculation of contributions may differ from one person to another and the net contribution may remain unknown until ex-post dividends are paid.<sup>45</sup> This concept of *musharakah ta’awuniyyah* was first proposed at the aforementioned IIFA Conferences.<sup>46</sup> In response, in 2014 the International Shari’ah Research Academy for Islamic Finance (ISRA) Malaysia

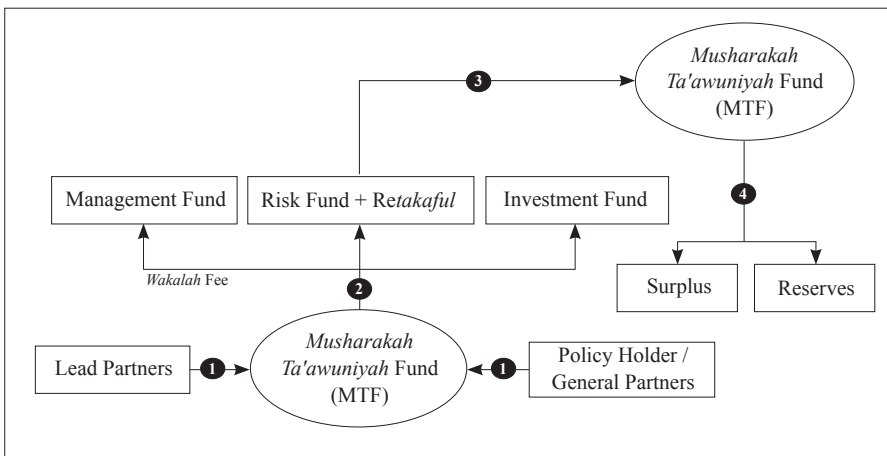


Figure 7: Modus Operandi of *Musharakah Ta’awuniyah*  
 Source: Ahmad, ISRA (2014)

designed a *takaful* model based on its precepts, as depicted in figure 7 below:

Explanation:

1. Participants (lead and general partners)<sup>47</sup> contribute capital under the *musharakah ta'awuniyah* scheme, which is then pooled into the *Musharakah Ta'awuniyah* Fund (MTF).
2. The MTF is divided into: a Management Fund for running the MTF's affairs; the Risk/*Retakaful* Fund for payment of claims and *retakaful* contributions; and an Investment Fund. In this structure, the *takaful* operator is entitled to a *wakalah* fee for managing the funds.
3. Risk/*Retakaful* Funds will be used to pay claims and *retakaful* contributions.
4. Any amount of the fund over and above what is required for the payment of claims is to be kept in reserve to provide a cushion for the payment of abnormal claims due to any calamity. The underwriting surplus over the claims, *retakaful* contributions and reserves, will be distributed to the lead and general partners at the end of the financial year. In case of a deficit in the MTF, the lead and general partners will inject funds.

## 5. Conclusion

*Takaful* has evolved and progressed tremendously in recent years. Nevertheless, some contentious Shari'ah issues continue to plague the various *takaful* models currently in use, and which require serious attention. Finding an ideal *takaful* model is 'the homework' of scholars, researchers, and industry players. Extensive research and deep study are essential in order to derive an ideal model for *takaful* operationalisation, a model that serves as a bridge for achieving the noble objectives of the Shari'ah.

The present study explored the evolution of various *takaful* models and the Shari'ah issues entangling them. The study revealed that the treatment of underwriting surplus was one of the main triggering factors behind the evolution of the various *takaful* models through a trial and error approach—one model was introduced to supersede another.

In conclusion, the study advocates *musharakah ta'awuniyah*, a concept deeply rooted in the Prophetic tradition under the notion of *tanahud*. However, the study acknowledges a potential gap between the proposed model and the requirements of business. Further study is therefore needed to examine the commercial viability and practicality of the proposed model, taking into consideration its operational and technical concerns, such as pricing, underwriting, actuary and the like.

## Notes

- \* *Mohammad Mahbubi Ali* is a Research Fellow at the International Institute of Advanced Islamic Studies (IAIS) Malaysia. He can be contacted at mahbubi@iais.org.my.
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47. Lead partners are the relevant industry/sector players and the group of people who established the MTF. They provide the minimum required capital. The general partners are the general participants who contribute to the MTF based on the amount determined by actuaries, as mutually agreed upon in an approved plan (Ahmad, 2014).