

# Introducing Waqf Based Takaful Model in India

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## Abstract

**Objective** – Waqf is a unique feature of the socioeconomic system of Islam in a multi- religious and developing country like India. India is a rich country with waqf assets. The history of waqf in India can be traced back to 800 years ago. Most of the researchers, suggest how waqf can be used a tool to mitigate the poverty of Muslims. India has the third highest Muslim population after Indonesia and Pakistan. However, the majority of Muslims belong to the low income group and they are in need of help. It is believed that waqf can be utilized for the betterment of Indian Muslim community. Among the available uses of waqf assets, the main objective of this paper is to introduce waqf based takaful model in India. In addition, how this proposed model can be adopted in India is highlighted.

**Methods** – Library research is applied since this paper relies on secondary data by thoroughly reviewing the most relevant literature.

**Result** – India as a rich country with waqf assets should fully utilize the resources to help the Muslims through takaful.

**Conclusion** – In this study, we have proposed waqf based takaful model with the combination of the concepts mudarabah and wakalah for India. We recommend this model based on the background of the country and situations. Since we have not tested the viability of this model in India, future research should be continued on this testing.

Keywords : Wakaf, Takaful, Kemiskinan dan India

## Abstrak

**Tujuan** - Wakaf adalah fitur unik dari sistem sosial ekonomi Islam yang diimplementasikan di sebuah negara berkembang dengan multi- agama seperti India. India merupakan negara yang kaya dengan aset wakaf. Sejarah wakaf di India dapat ditelusuri kembali sejak 800 tahun yang lalu. Sebagian besar peneliti, telah merekomendasikan bahwa wakaf dapat digunakan sebagai alat untuk mengurangi kemiskinan umat Islam. India memiliki penduduk Muslim tertinggi ketiga setelah Indonesia dan Pakistan. Namun, mayoritas Muslim termasuk dalam kelompok berpenghasilan rendah dan tidak mampu. Wakaf dipercaya dapat digunakan untuk memperbaiki taraf hidup masyarakat Muslim India. Di antara berbagai penggunaan aset wakaf yang memungkinkan, tujuan utama dari paper ini adalah untuk memperkenalkan model takaful berbasis wakaf di India. Penekanan pada penelitian ini adalah bagaimana model yang diusulkan ini dapat diadopsi di India.

**Metode** – Tulisan ini menggunakan studi kepustakaan yang bergantung pada data sekunder dengan merujuk pada literatur yang paling relevan.

**Hasil** - India sebagai negara yang kaya dengan aset wakaf harus sepenuhnya memanfaatkan sumber daya untuk membantu umat Islam melalui takaful.

**Kesimpulan** - Penelitian ini merekomendasikan model takaful berbasis wakaf dengan kombinasi konsep mudarabah dan wakalah untuk diterapkan di India. Kami merekomendasikan model ini berdasarkan latar belakang negara dan situasi. Karena kami belum menguji kelayakan model ini untuk dapat diaplikasikan di India, penelitian selanjutnya sebaiknya merupakan uji kelayakan pada model yang ditawarkan.

Kata kunci : Wakaf, Takaful, Kemiskinan dan India

## 1. Introduction

Risks are everywhere and they are always associated with human life in which most of their daily activities are exposed and not free from risk. It may affect any life, property or even a business organization, Risk often creates lot of hurdles and wounds the lives of many in society. This question makes us to think how to assist these unfortunate people. The only way to tackle such situation is through insurance. The foremost objective of insurance is to distribute liability among the concern parties through mutual co-operation and understanding. By this, the uncertain risks can be avoided and a victim can be saved from such dangers.

Actually, there was a steady improvement of the thought and philosophy of assurance in various states. Even the Muslim educated society felt the need for insurance. This sector consequently looks towards *Ulama's* for guidance. But keeping with religious principles and beliefs, they discuss the matter and declare a “*Fatwa*” that insurance is un-Islamic (Billah, 2007).

Consequential Muslim population worldwide and especially India need for *Shari'ah* based insurance has become more urgent and this will affect huge business capacity. Islamic finance gave a birth to a new term in trade and commerce that is known as "*Takaful*". *Takaful* is an Arabic term it means "guaranteeing each other" or joint guarantee. The very idea of *Tabarru* is the core of *Takaful* system which is purely without the elements of uncertainty and gambling (Nasser & Jamil, 2011).

*Takaful* operations have not yet started functioning in India. It has examined the huge potential; and reliance life has come out with *Shari'ah* based code though it is not a *Takaful* product. This indicates *Takaful* would be launched in India in the future. Insurance Regulatory and Development Authority of Indian Act (IRDA) should think in terms of developing the required regulatory framework for *Takaful* (Islamic insurance).

Since India is a country rich with waqf and the majority of the Muslims in India are poor, it is advisable to introduce takaful in India based on waqf model. This paper is organized in five sections. The second section discusses waqf in India. The third section discusses the needs of takaful in India. The fourth section elaborates on the several takaful models and the last section concludes.

## **2. Methodology**

This research employed library research method since this paper relies on secondary data by thoroughly reviewing the most relevant literature. The paper attempt to explain sequencely about the concept of waqf in India, takaful and its various models. After reviewing the concept and its model, it continuously followed by the discussion about the researcher's opinion.

### *2.1. Waqf in India*

Waqf is a unique feature of the socioeconomic system in Islam. In a multi-religious and developing country like India, the society is divided into various groups and pushed by socioeconomic compulsion. The philanthropic Muslims of the olden days were generous and they rightly and accurately anticipated the gloomy future of Muslims and took care to contribute their share for the elevation of the downtrodden. They left behind them a glorious asset of numerous Waqf properties worth tentatively much more than billions of rupees. If they are managed discreetly and utilized properly, the income generated from the Waqf properties can considerably help in uplifting the downtrodden.

#### *2.1.1 History of Waqf in India*

800 years is how old the institution of Waqf is in India. It began when Muslim rulers donated huge lands for charity. After the establishment of the Delhi sultanate in the 12<sup>th</sup> century, the Islamic rule in India was born in the year 1206 AD. A description by Ibn

Battuta offers evidence as to the mode of administration of Waqf by Mutawallis during the Sultanate period. With the establishment of Muslim rule in India, large-scale construction of public places such as mosques, tombs, Madrasahs and graveyards took place and were destined mostly to become Waqf, for the benefit of the succeeding generations.

The sultans paid a good deal of their attention in not only preserving the then existing Waqf buildings, but also constructing tombs, water-reservoirs, canals, roads, cities and educational institutions. Akbar the Moghul Emperor is reported to have made grants in favor of ancestors belonging to a family famous for its religious learning. The later Mogul Emperors have also bestowed grants and cash allowances for the maintenance of the Madrasah.

### *2.1. 2 Waqf in British India*

No accurate account of the Muslim Waqf developed in India during British Rule is available. Until 1920, no serious study was made to count the number of Muslim endowments in India. After 1920, several State and Central laws were placed on the Statute Book, which required the custodians of the Waqf properties compulsorily to register their endowments with the Government's agencies-Waqf Board, etc. Despite this legal requirement of compulsory registration of Waqf property, no one seems to have a precise idea of the number of Muslim Waqf in British India. The British system of law, land tenure and administration seem to have created hurdles in the way of creation of New Waqf and therefore, the development of Waqf during British Rule has been very discouraging and unfavourable.

### 2.1.3 Administration of Waqf in India

The law related to *Waqf* forms an essential and most important branch of Islamic law. The various enactments on the creation, maintenance and development of *Waqf* are aimed at the very aspect of administration of *Waqf*. The Indian law in its totality has helped or otherwise restricted the smooth functioning and development of *Waqf* in India. During the period of Sultans of Delhi and Moghul, the institution of *Waqf* developed enormously but neither the Sultans nor the Moghul created any separate department for *Waqf* administration. The British India followed the English Law which passed controversial judgment which was in direct conflict with Islamic law of *Waqf*. Under the Islamic law, a *Waqf* could be created not only for public charity but also for the purpose of benefit to one's own family which is called *Waqf-al Al-Aulad (Family Waqf)*, whereas the English law recognizes only public charity.

### 2.1.4 The Waqf Act, 1954

The *Waqf Act, 1954* was the Central Legislation which governed the entire field of *Waqf* Administration in the length and breadth of the country. The *Waqf Act, 1954*, was aimed at providing better administration and supervision of *Waqf*. However, it did not yield the desired results and the condition of the *Waqf* properties throughout the country was deplorable. This attracted the attention of the Central Government and a Paramilitary Committee known as the *Waqf Industry Committee* was constituted. The *Waqf Inquiry Committee* made a larger number of recommendations envisaging a through restructuring of *Waqf* administration designed to improve the financial position of the *Waqf* institutions and to plug the loop holes noticed in the working of the Act. Certain amendments were made to this Act over a period of time but most of these amendments didn't make the working of *Waqf* easier until 1995 when the new *Waqf Act* was passed.

### 2.1.5 Sources of Revenue for Waqf Institution in India

The sources of Revenue of the *Waqf* Board include the following:

#### 1. *Waqf Fund*

It is the money received as donation, benefactions and grants form.

#### 2. *Qaza'at Revenue*

Qazis in India deal with matters pertaining to performance of Nikah (marriage), Divorce and Dissolution of marriage. The Qazis is supplied with Siyahas (Performa of registration of marriage). By the sale of the Siyahas, there was additional income to the *Waqf* Board.

#### 3. *Rents*

The Income received from Land and buildings of the developed urban *Waqf* properties.

#### 4. *Management Charges*

The fees it receives for carrying out certain activities in the *Waqf* properties.

### 2.1.6. Origin of Takaful

The insurance idea was conceptualized prior to the time of the Holy Prophet Mohammed (s.a.w.) and has ever since moderately blossomed until the starting of the 19<sup>th</sup> century, when a Hanafi lawyer Ibn Abidin (1784 –1836) became the primeval Islamic philosopher to come up with the importance, general notation or idea and legal basis of an insurance agreement. Ibn Abidin was affiliated to the school of law that respected Abu Hanifa as its divine leader (Klingmuller, 1969). We are able to observe today the establishment and function of a number of Islamic Insurance corporations in both Muslim and non-Muslims countries. The progress of Islamic insurance could be cataloged into the following stages.

### *2.1.7. Concept and development of Takaful*

The general notion or idea of *Takaful* welcome the elements of mutual protection and shared liability as a society could not save or secure without these elements. Similarly, there is a concept *Aqilah* which is adopted into Islamic concept through the judgment of the Prophet (s.a.w) *Aqilah* is nothing but payment of blood money or *diyyah* under the Arab tribal custom and it has been practiced since Prophet times (Engku Rabiah & Hassan Scott, 2008).

During the ancient periods Arab tribes followed a practice called '*Aqilah*'. For example, if any associate of the tribes was murdered by a member of another tribe, the heir of the victim would be paid an amount of blood money as indemnity by the close kin of the murderer. Those close kin of the killer known as '*Aqilah*' were presumed to pay blood money (Billah, 2003).

Consequently the basic practice of '*Aqilah*' was that the early Arab tribes should be willing to arrange financial contribution on behalf of the murderer to pay indemnity to the heir of the victim. Such willingness is to create monetary contribution that should be equivalent to the premium in insurance practice. The modern *takaful* compensation can be derived from the practice of *Aqilah*, whereby the beneficiary receives the compensation from the unpredictable death of the prey or victim.

### *2.1.8. During the Holy Prophet (s.a.w)*

The practice of insurance can be traced back before the time of Prophet Muhammad (s.a.w) and it has been practiced during His time as well.

The acknowledgment of the ancient Arab practices of '*Aqilah*' The Prophet (s.a.w.) himself established the concept of al- *Aqilah* in the following judgment given in a dispute among two women from the tribe of Huzail.

Narrated by Abu Hurairah (Rz), who said that “*once two women from the tribe of Huzail clashed when one of them hit the other with a stone, which killed her and also the foetus in the victim’s womb. The heirs of the victim brought an action to the court of the Holy Prophet (s.a.w.), who gave a verdict that the compensation for the infanticide is freeing of a male or female slave while compensation for the killing the woman is the blood money (diyat), which to be paid by the ‘Aqilah’ (The paternal relatives) of the accused*” (Sahih al- Bukhari).

It is admitted by many that Islamic insurance when first established in the beginning of second century of the Islamic period. It was the period was Arab Muslims began to enlarge their trade to other countries like India, Malaysia, archipelago and some other Asian countries. Due to long journeys, voyages, they had to face huge losses as they met mishaps, misfortunes or pirates along the way. Since then they started Islamic insurance. They agreed to contribute and share each other’s loss before they began their journey. The Europeans liked the concept and later they named it as marine insurance. In that the participants assured each other to offer financial help, in reality they acted as both the insurer as well as the insured at the same time without appointing the *Takaful* operator (Nasser & Jamil 2011).

#### *2.1.9. During the companions of the Holy Prophet (s.a.w)*

*In* the era of the second caliph, *sayyedna umar* (RZ) additional development of the idea of insurance - based transactions can be seen. Throughout his era, the administration inspired the public to practice *al-Aqilah* countrywide. *Sayyedana umar* (RZ) declared that a *diwan* of mujahidin be set -up in different region and those whose names were entered and included in the '*diwan*', owned each other mutual understanding to donate or share blood money for slaughtering a person from another tribes. Thus, the people became acquainted with the philosophy of *al-Aqilah* and it became more advanced



during the periods of *sayyadana umar* (RZ), with this elements of insurance practice was also accepted (Billah, 2003).

#### *2.1.10. During the 19<sup>th</sup> century*

Ibn abidin (1784-1836) a Hanafi lawyer examined the general notion of insurance and its authorized principle in the 19<sup>th</sup> century. He was the very first person who categorized insurance as a licensed organization and no sooner it became a traditional practice (Klingmuller, 1969). Ibn abidin's perception enlightened many Muslims who had no knowledge of insurance practice. His conceptions were well received thus encourage other Muslims to adopt the idea of involvement in insurance business (Billah, 2003).

#### *2.1.11. During the 20<sup>th</sup> century*

There has been a steady expansion of *Shari'ah* build insurance practice in the 20<sup>th</sup> century in both Gulf and other non-Muslim states. Development has been good enough, despite the truth that there are some areas to be evolved in this line in fulfilling the basic needs and requirements of the present society. The chief responsibility of the Islamic philosopher is to be innovating and to come up with a substitute neo idea of Islamic insurance which will eradicate all the elements forbidden by Islamic law. On the other hand it should assure the *ummah* in case of unforeseen risk and hazard or dangers (Billah, 2003).

#### *2.1.12. The Basis of Takaful in Quran and Hadith*

The *Shari'ah* origins of *Takaful* can be deduced from various and common indications in the Qur'an, Hadith and Islamic legal maxim. Allah (s.w.t) says in the Surah al- Ma'aidah, verse no 2, "*Help ye one another in righteousness and piety, but help ye not one another in sin and rancor, fear Allah, for Allah is strict in punishment*" (Al-Qur'an, 5:2).

In the perceptive of the Quranic verse above, *Takaful* can be examined as a form of mutual assistance (*Ta'awun*) in promoting morality and righteousness, i.e., by helping the policyholders who are in need or in adversity due to the vulnerable or danger that befalls them. In the following Hadith, the Prophet (s.a.w.) also advocates people to help overcome the hardship of others: “*Whosoever removes a worldly hardship from a believer, Allah will remove from him one of the hardships of the hereafter. Whosoever, alleviates the needy person, Allah will alleviate from him in this world and the next*” (Translation from Sahih Muslim, Book 32, No, 6250).

Besides the Quranic verse and Hadith above there is one more Hadith of prophet (s.a.w) which suggest people to cope with reliable prevention or scenarios to mitigate or decrease peril or uncertainty. Once prophet (s.a.w) observed a bedouin leaving a camel unfastening and he asked the bedouin the reason for not fastening the bedouin replied, “I have faith in Allah' the prophet says, ‘fasten your camel first then have faith in Allah” (narrated by al-Tirmizi' and ibn Majah, book 60, no, 2517). In the context of the above, under the mentioned Hadith vividly states that a human being should always keep in mind several safety devices regarding his own life, family and property against peril or hazards. The above incident helps us to apply the practice of *Takaful*, as *Takaful* is a scenario of risk or peril minimized by way of sharing risk, distributing risks which do harm to large numbers of participants if he bears it individually (Engku Rabiah & Hassan Scott, 2008).

Eventually, there is also an Islamic authorized maxim (*Al qa'idah al fiqhiyyah*) that is closely related to *Takaful*, which reads: “*Al- darar yuzul*”; meaning: “damage or harm is removed”. The maxim entails that if there is any loss or destruction happens or occurs, endeavor to recoup it. In this case, *Takaful* acts as a bridge between the insurer and the insured as the insurer puts his efforts to remove damage or harm by granting donation or coverage to the affected person (prey) or his family (Engku & Scott, 2008). In the

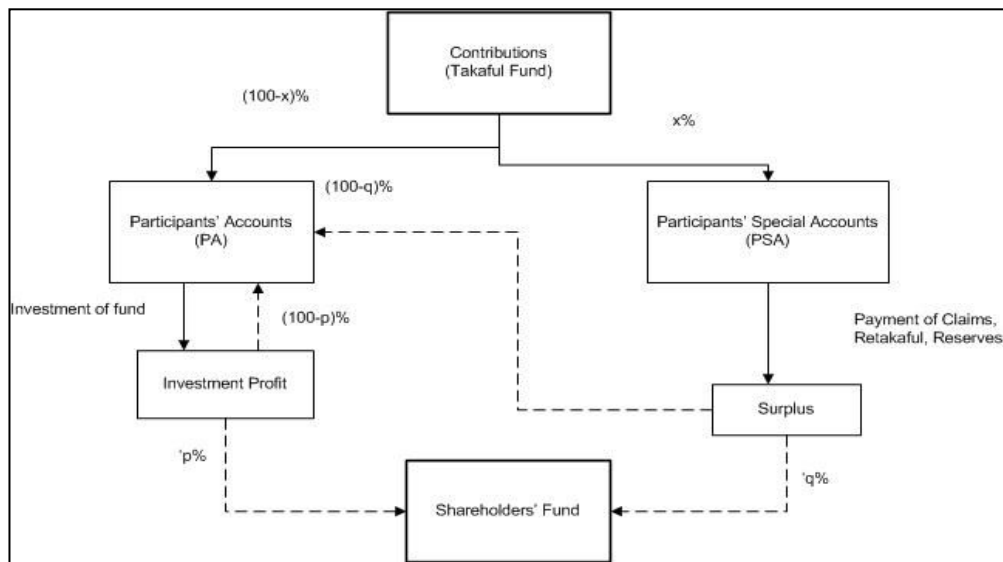
*Shari'ah, Takaful* is considered as a rightful concept as the principles of it are absolutely in the Quranic verses and a Hadith and Islamic legal maxim.

### **3. Result and Discussion**

#### *3.1 Mudarabah Model*

Khan (2000) states that Mudarabah is a contract of profit sharing in which, one party provides funds and the other provides management expertise. In other words, Mudarabah is a contract between the provider of funds and the managing trustee is provided with financial resources to run a particular project with the aim to make profits. This concept is further supported by Lewis & Algoud (2001) that Mudarabah signifies a profit and loss sharing contract where both of the parties will share the profits according to the pre-agreed ratio and the loss will only be borne by the capital provider.

The earliest Takaful model in Malaysia is the Mudarabah model (Macey, 2008; Laldin, 2008). Engku Rabiah et al., 2008 explained that in this model, the participants contribute to the Family Takaful Fund. She further clarified that the savings and investment will be credited into the PA while the donation into the PSA. Bank Negara Malaysia (2010) deduces that both the PA and PSA must be invested in shari'ah compliant investments by the TO. An inference could be made that the capital provider is the participant and the entrepreneur is the TO. Any profit is shared between the participants and the TO according to the ratio agreed upfront. The PSA is used for claims and reserves, etc. The PA will be accumulated and then paid together with the coverage amount from the PSA to the participants upon maturity or claim.

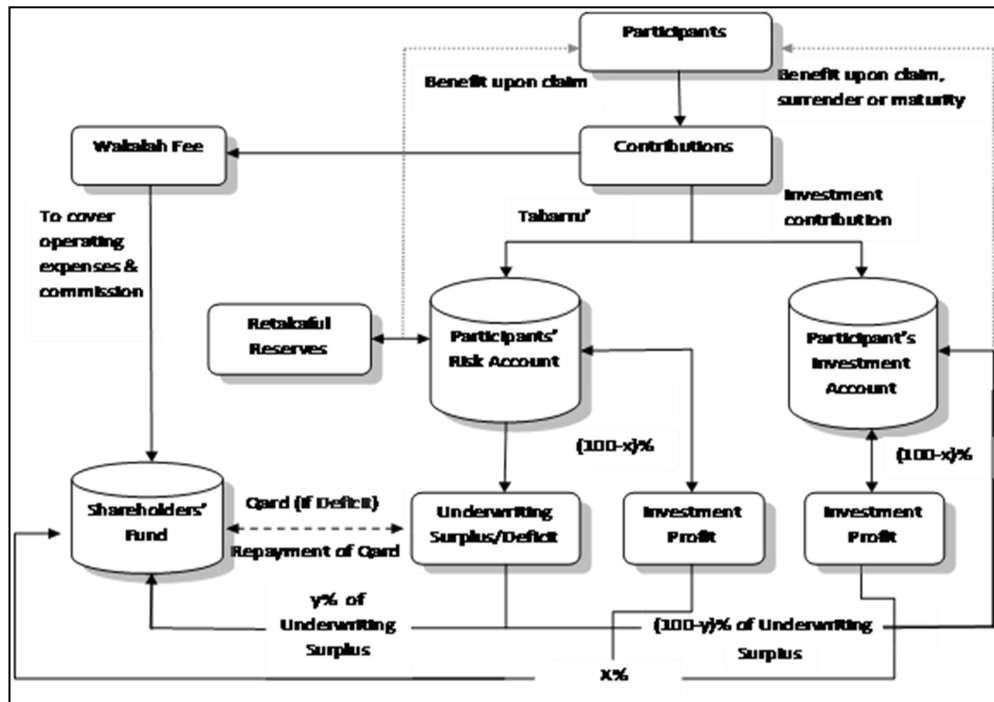


(Source: Zuriah and Hendon, 2009, 44)

Figure 3.1 Mudarabah Model

### 3.2 Hybrid Wakalah Mudarabah Model

Under this model, Wakalah fee is charged upon the contribution and the Mudarabah on the investments (Engku et al., 2008; Frenz, 2009; Frenz and Soualhi, 2010). Some Takaful operators in Malaysia modified the mudarabah model by sharing the net underwriting surplus (Engku et al., 2008). Meaning that, the PSA is not only channelled to the participants but is distributed to the Takaful operators as well (Soualhi, 2008). Any net underwriting surplus is returned to the participants.



(Source: Frenz and Soualhi, 2010)

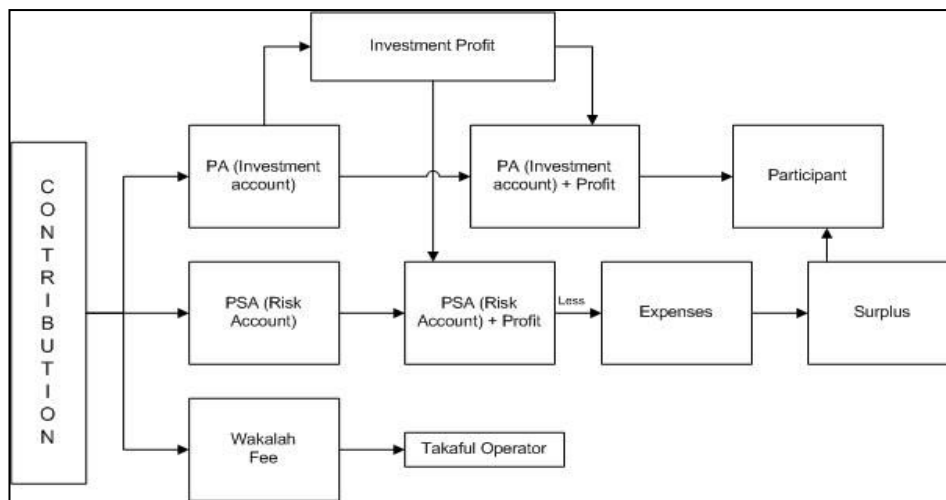
Figure 3.2 Hybrid Wakalah Mudarabah Model

### 3.3 Pure Wakalah Model

As for Wakalah, the literal meaning is looking after, taking custody or application of skill or remedying on behalf of others (Ayub, 2007). He is also of the opinion that Wakalah means to appoint a person to be responsible for something. It is therefore can be interpreted that Wakalah is a contract which a person delegates any job to any other person. The Wakalah model is different from the Mudarabah model in terms of management of the fund (Bank Negara Malaysia, 2005). Takaful Operator acts as the agent on behalf of the participants and is paid a fee for managing the fund. This fee is called a Wakalah Fee. In the pure Wakalah model, the investment or savings portion will be credited to the PA account and the donation is credited into the PSA (Engku et al., 2008; Archer, Rifaat Ahmed & Nienhaus, 2009; Frenz, 2009; Zuriah and Hendon, 2009;

Frenz and Soualhi, 2010). Here, all the underwriting surplus and investment profits belong to the participant.

The Takaful Operator in Wakalah model according to Zuriah and Hendon (2009) simply earn their income from the Wakalah Fee. They do not share in the underwriting surplus.



(Source: Engku Rabiah et al., 2008, 75)

*Figure 3.3 Pure Wakalah Model*

As depicted in figure 3.3, the Wakalah Fee is charged only once upfront. Zuriah and Hendon (2009) however believe that the Wakalah Fee is charged two times. There is actually (1) Wakalah Fee on contribution and (2) Wakalah Fee on value of investment. On the other hand, Bank Negara Malaysia (2010) mentions that for products based on the Wakalah contract, a fixed upfront fee can be charged on the contributions based on contractual terms entered with the participants. The Wakalah fee is to cover commissions and management expenses incurred in the management of Takaful funds. It does not specifically mention anything against charging the Wakalah Fee more than once.

### *3.4 Wakalah Model with Performance Incentive*

Frenz and Younes (2010) have named this model as Wakalah model with performance incentive while Engku et al. (2008) has named this model as a modified Wakalah model. Both models actually are the same. It is different from the pure Wakalah model because the net underwriting surplus in the pure Wakalah model is not to be shared with the TO. In this model a Wakalah fee is not only charged upfront but is also charged as a proportional share in the underwriting surplus. This practice is approved by the National Shari'ah Council of Malaysia (SAC) and it is said that the performance incentive can be in the form of gift (hiba), performance fee (Ju'alah) or waiver (tanazul) where the participants can waive part of their surplus shares.

Although this model has been accepted by SAC of Malaysia but Frenz and Younes (2010) have explained that it is has also been rejected by a lot of scholars and practitioners. The reason is simply because the Takaful Operator is not entitled to the fee, which is part of the surplus belong entirely to the participants. Other reason why it is not being accepted by many scholars around the world is because it is argued that this model practices an inequitable system (Islamic Fiqh Academy, 2000). The profits of underwriting surplus are shared between the Takaful Operator and the participants but the Takaful Operator is not responsible for the loss.

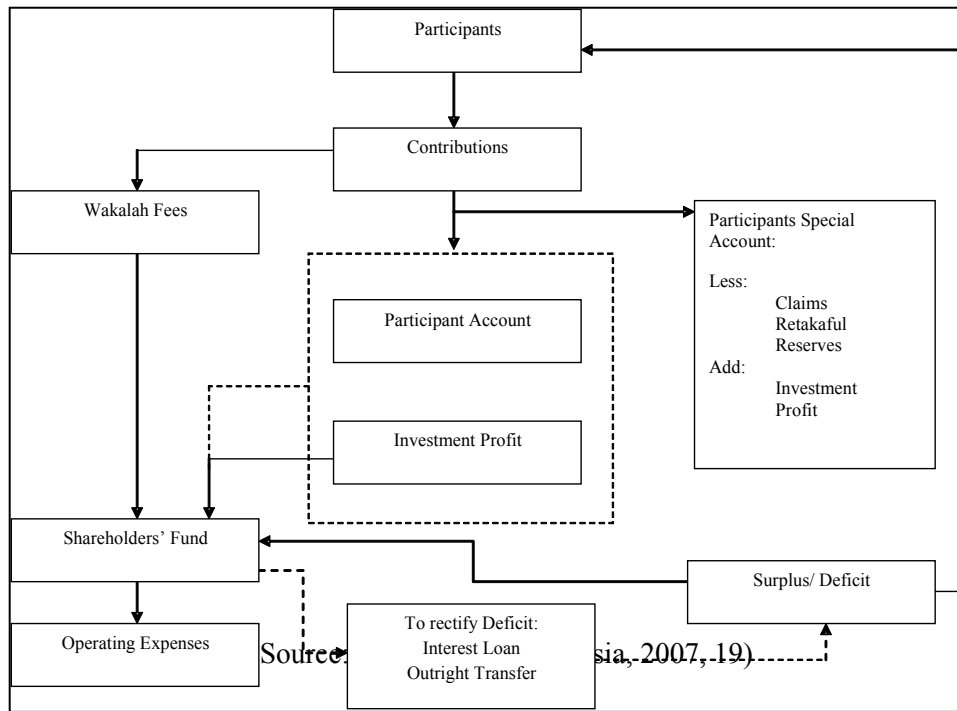


Figure 3.4 Wakalah with Performance Incentive or Modified Wakalah

### 3.5 Wadi'ah Yad Damanah Model

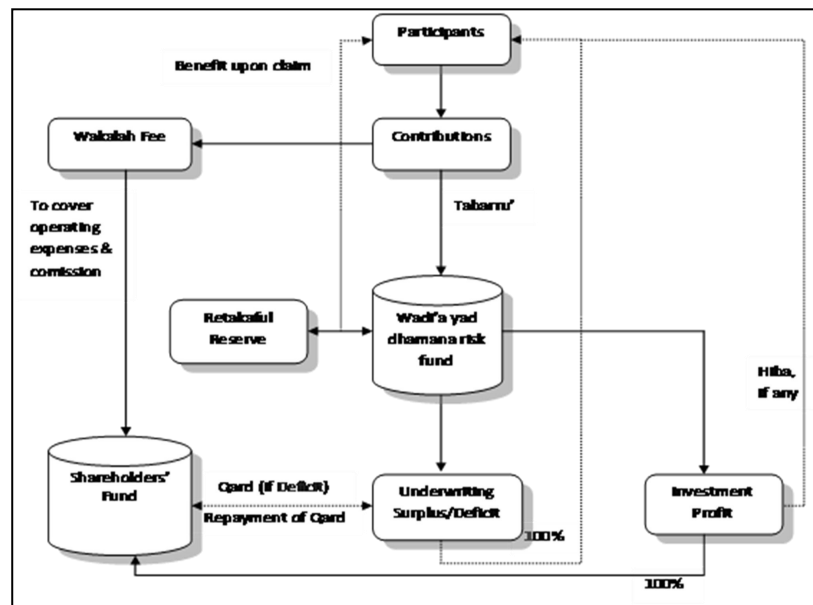
Wadi'ah Yad Damanah basically means guaranteed safe custody (Engku et al., 2008). The same authors unanimously agree that this principle actually is a combination of two contracts namely; Wadi'ah (safe custody) and Daman (guarantee). Frenz and Younes (2010) disclose in their book that under the contract of Wadi'ah Yad Dhamanah, a person would appoint another person to look after his wealth or deposit and the person appointed (guarantor or custodian) may use the wealth or deposit to generate income. The income generated will entirely go to the custodian. It should be noted that the risk of any losses will be borne by the custodian (Frenz, 2009).

This model operates under the ta'awuni model and all the contributions are allocated to the Wadi'ah Yad Dhamanah Fund. Takaful operator acts as a Wakil and the role is to invest the Wadi'ah Fund whose profit goes directly to Takaful. However,



Takaful Operator has the option to give some of the investment profit as a Hibah to the participants (Engku et al., 2008; Frenz, 2009; Frenz and Soualhi, 2010).

The thrust of this model is that the participants will get back their Wadi'ah in the form of underwriting surplus after waiving their right to receive the whole deposited Wadi'ah. Operationally, the participants will get less than what they have deposited as their Wadi'ah is used to pay the claims. This model solves the surplus sharing issue, which is often raised to claim that the participants have no share in the surplus after having donating its principal. Another variation of this model is when the Wadi'ah Fund is charged with no tabarru' nor Wakalah Fee (Frenz and Soualhi, 2010). They explain that the relationship between the Takaful Operator and the participants under this type of Wadi'ah model is similar to those depository institutions and the depositors. Yet, the participants would give away their right to receive the whole deposit due to claims payment. It simply means that the participants would receive their deposit minus the claims value at the end of the financial year. Frenz and Soualhi (2010) further exclaim that the Takaful operator is allowed to charge a Wadi'ah Fee given the high volume of assets that the Takaful Operator is managing.



(Source:Frenz and Soualhi, 2010)

Figure 3.5 Wadi'ah Yad Dhamanah

### 3.6 Waqf Model

There are many definitions of Waqf but Waqf according to Mahamood (2006) is defined follow: *“The term waqf refers to things which are intact in them and yet produce an income product that serves charitable purpose”*. Hence, it can be understood that the properties after being declared as Waqf no longer remain in the ownership of the donor. The ownership vests in Allah. Under this model, the shareholders have to inject an initial fund in order to create the Waqf fund (Khan, 2009). The participants become the members of the Waqf fund and the Waqf fund operates under the rules laid down in the Waqf deeds. Once the Waqf fund is created, the Takaful Operator has the option to manage the fund according to the chosen contract i.e. Mudarabah, Wakalah or Hybrid. The difference between this model and the other models explained earlier is that Waqf model operates as a public foundation. Unlike Mudarabah model or Wakalah model, the Waqf fund in this model is not owned by anybody. Any surplus can be distributed among

members in the Mudarabah model or Wakalah model but such distribution is not possible in the Waqf model.

In the case of India, we would like to propose the following waqf based takaful model.

### 3.6.1 Proposed Waqf based Takaful Model in India

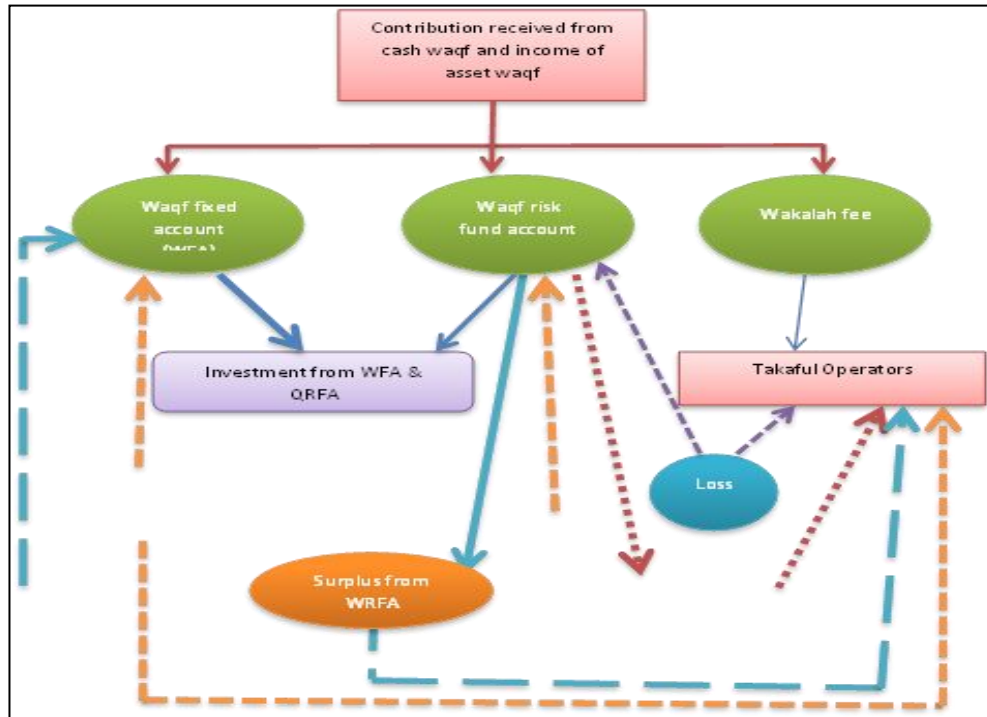


Figure 3.6. Proposed Waqf based Takaful Model in India

Since India is rich with waqf assets, the income generated from these assets should be used as contribution for the takaful. In addition, the donators may contribute cash waqf for takaful. In the case of the contractual relationship between owner of the funds (cash waqf contributors and management of waqf asset) and takaful operators, it should be based on the combined concept of mudarabah and wakalah. Therefore, in this study we suggest waqf based takaful model with integrating the concepts of mudarabah and wakalah. In this proposed model, waqf contributors are contributing for the sake of Allah

and they do not expect to get back any return from them and hence, the following rules should be applied:

1) The contribution from the cash waqf and income generated from waqf assets should be separated into three accounts, namely; waqf fixed account (WFA), waqf risk fund account (WRFA) and the wakalah fee.

(a) The purpose of maintaining waqf fixed account is to ensure that waqf fund can be sustained perpetually.

(b) The purpose of waqf risk fund account is to provide the claims.

(c) The wakalah fee is for the takaful operators.

2) Takaful operators as fund managers should receive the wakalah fee similar to the concept of pure wakalah model. In addition, they should share the profit from the investing WFA and WRFA similar to the pure mudarabah to be motivated. They will be shared the surplus from WRFA.

3) The contributors will not be sharing the surplus like pure mudarabah model. Their share of surplus will be accumulated in the WFA. This surplus is from WRFA. The purpose of accumulating the surplus portion in WFA is to ensure that the original waqf funds contributed can be restored and sustained perpetually. In addition, profit share from investing WFA and WRFA will be accumulated in WFA.

4) Any deficit in WRFA should be given loan by the takaful operators with free of charge.

#### **4. Conclusion and Recommendation**

This paper has highlighted how rich India is in terms of waqf assets and the need of the Indian Muslims to get the protection from takaful in the case of misfortune. Among the available takaful models, we suggest to introduce waqf based takaful model in India. Our recommendation is also supported by Shakun (2007). In her article for the Asia Insurance Review has mentioned that the Justice Muhammad Taqi Usmani feels that

Waqf is more compatible with the co-operative concept of Takaful as the fund is created for the purpose of cooperation and not for the purpose of producing profit. This model also is favoured by Justice Muhammad Taqi Usmani because it treats the Waqf fund as a legal entity (Yousaf and Usman, n.d.). He believes that in this model when one contributes to the fund, the contribution is regarded as a contribution for the common good.

In this study, we have proposed waqf based takaful model with the combination of the concepts and mudarabah and wakalah for India. We recommend this model based on the background of the country and situations. Since we have not tested the viability of this model in India, future research should be continued on this testing.

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