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RESEARCH ARTICLE

WAQF-TAKAFUL DEATH COMPENSATION: A CRITICAL ANALYSIS FROM THE PERSPECTIVE OF MAQASID SHARIAH

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Abstract

Takaful is an Islamic insurance system that follows Shariah rules, avoiding prohibited elements such as interest, gambling, and uncertainty. Waqf involves transferring property ownership for the benefit of Allah SWT, allowing its use without physical loss to the beneficiary. Presently, only four takaful companies provide the chance for takaful participants to endow death compensation through waqf instruments, namely, Takaful Ikhlas Family Berhad, Etiqa Takaful Berhad, Zurich Takaful Malaysia Berhad and Great Eastern Takaful Berhad. Besides problems in managing waqf, the takaful companies also vary in their waqf contributions to religious institutions, and they often overlook the concept of Maqasid Shariah. Hence, this study was carried out to critically analyze the waqf death compensation through takaful products in Malaysia according to the perspective of Maqasid Shariah. This study adopts a qualitative method, collecting data from interviews with selected takaful operators and secondary published sources. The data was then analyzed using content analysis. The study found that waqf-takaful death compensation offered by takaful companies in Malaysia adheres to Maqasid Shariah. However, these companies face challenges in applying Maqasid Shariah to their waqf-takaful death compensation products. The study proposes that emphasizing Maqasid Shariah could improve waqf-takaful death compensation offerings in Malaysia.

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Introduction:-

Islam's takaful system is constructed on the tenets of cooperation and mutual aid, all of which are meant to ensure that people who take part in it are all protected from each other (Rafdi et al., 2017). According to Muhamat et al. (2019), the application of waqf in takaful refers to the distribution of death benefits from takaful participants to particular religious institutions in order to generate waqf property that is permanent. Waqf in takaful has the ability to supplement contributors' financial needs while also meeting societal requirements, which is one of its benefits. Under this circumstance, the waqf will remain in place after the donor's passing, and the compensation obtained by the waqf recipient will continue to be utilized for religious welfare.

If observed, various Arab nations around the world, including Pakistan and South Africa, have successfully applied the waqf-takaful concept. In fact, some takaful operators in Malaysia are still using the idea of waqf-takaful in their products. This is because waqf is seen as a form of charity and is associated with the promise of a continuing recompense from Allah SWT, since it was also stated in the hadith of Prophet Muhammad SAW: "Among the good deeds that continue to benefit a believer after death are: a knowledge that he taught and disseminated, a righteous child who lived after him, a Qur'an book that he left as inheritance a masjid that he built, a house that he built for the two wayfarers, a stream that he ran, or a charity that he gave from his wealth during his healthy lifetime so that it would reach him (in rewards) after death." (Sunan Ibn Majah, n.d).

Takaful Malaysia Berhad (TMB) became the pioneer company to introduce waqf in takaful products in Malaysia. In fact, TMB was also the first takaful operator to be founded in Malaysia, which was formed in 1984. The Waqf Takaful Plan was launched by TMB in 2002 and was in effect till 2009. The takaful participants have welcomed this plan during the period it has been in effect, particularly from 2002 to 2004. After seven years of implementation, the plan was taken off the market in 2009 and its application was cancelled. As mentioned by Wan Ab Rahaman & Yaacob (2014), this plan was discontinued starting 9 February 2009.

Beginning in 2019, Takaful Ikhlas Family Berhad launched Family Takaful in line with other takaful operating companies which gave institutional receivers like Yayasan Waqaf Malaysia (YWM) and Perbadanan Wakaf Selangor (PWS) access to waqf chances. Later, any religious and charitable organization recognized by the Registration of Societies (ROS) or The Companies Commission of Malaysia (SSM) has been included to the list of waqf beneficiaries who get waqf benefits, which include approximately 5% to 30% distribution of death compensation and savings according to the method of al-Qiyas and hadith (Ahmad et al., 2022).

Waqf in takaful has only been utilized voluntarily and is not a part of the takaful product policy at Takaful Ikhlas Family Berhad. The same approach was also taken by Etiqa Takaful Berhad, for instance by permitting the distribution of waqf benefits to particular religious institutions. It was put into practice by writing a specific letter to the takaful operating company requesting that certain religious organizations receive death compensation. The takaful operating company further demands that the heirs submit a letter of consent for the participants in takaful to obtain waqf benefits (Ahmad et al., 2022). The latest takaful company offering waqf-takaful death compensation is Great Eastern Takaful Berhad. The permissible waqf portion ranges from 5% to 30%. Through this allocation, if a participant passes away, the takaful operator is permitted to deduct from the basic coverage amount as a waqf to be distributed by any appointed waqf organization in a manner deemed most suitable and compliant with Shariah law. To date, only four takaful companies are offering death compensation waqf opportunities through takaful products in Malaysia.

While, the branch of Islamic knowledge known as Maqasid Shariah delves deeply into the motivations and ultimate goals of Islamic law. It explores how to apply Islamic law to obtain the desired result while adhering to the tenets of the law. In other words, Islamic law can be applied in a more comprehensive and multifaceted way using the maqasidic approach. Shariah in the context of Islamic finance refers to orders, prohibitions, guidelines and principles that have been determined by Allah SWT for human actions in this world and their safety in the hereafter (Lahsasna, 2013). Whereas, there are various definitions of Maqasid Shariah given by past and contemporary scholars. There are many researchers trying to get the best meaning for the term maqasid. They present the expressions of previous scholars and the understanding proposed by contemporary scholars (Abd Rahman, 2014).

Classical scholars like Al-'Izz (1999), Al-Ghazali (1995) and Al-Shatibi (2001) have given a thorough definition of Maqasid Shariah. According to Al-'Izz (1999), the purpose of Maqasid Shariah is to explain the benefits and goodness behind all forms of obedience, muamalat and human behavior so that Muslims strive to achieve it in addition to explaining the mistakes that need to be avoided. Meanwhile, Al-Ghazali (1995) stated that *maslahah* (goodness) is to

preserve the purposes of Allah SWT. There are five purposes of Allah SWT towards humans which are to protect their religion, life, intellect, lineage and property. When all of this purpose is lost, damage occurs. The purpose of Allah SWT establishing Shariah is to give good benefits in this world and hereafter. Allah SWT made the purpose of goodness alone. So, it is certain that the goodness promised by Allah SWT in Shariah is eternal and general, and covers all His commands, all His servants who obey and, in every situation (Al-Shatibi, 2001).

Besides that, contemporary scholars have also provided a comprehensive explanation of Maqasid Shariah, including 'Alal al-Fasi (1993), Ibn 'Ashur (2001), Al-Qaradhawi (2006) and Al-Raisouni (2003). What is meant by Maqasid Shariah is the purposes of Shariah and the secret that Allah SWT determines for every law ('Alal al-Fasi, 1993). Ibn 'Ashur stated the Maqasid Shariah as the meaning and wisdom observed by Shariah in every state of Shariah or most of it. In fact, this observation is not limited to certain types of Shariah laws (Ibn 'Ashur, 2001). In other words, Maqasid Shariah is to bring *maslahah* (goodness) to people and reject *mafsadah* (harm) (Al-Qaradhawi, 2006), or the purpose determined by Shariah and it must be achieved for the good of people (Al-Raisouni, 2003). As can be observed, all definitions of Maqasid Shariah, whether given by classical or contemporary scholars, focus on the essence of the maqasid itself. Similarly, the efforts of contemporary scholars to provide a definition of Maqasid Shariah with the selection of words and the arrangement of language that is easier to understand (Abd Rahman, 2014). Though, all the definitions given revolve mostly around the concept of accepting *maslahah* (goodness) and rejecting *mafsadah* (harm).

Basically, there are various ways of dividing Maqasid Shariah presented by Islamic scholars. However, the most used division by scholars in the debate of Maqasid Shariah is its division into *daruriyyat*, *hajiyyat* and *tahsiniyyat*. *Daruriyyat* is the need for a problem that is required and desired to the point of emergency, which is a situation that is very necessary and urgent to the point of being in a dangerous and life-threatening situation when the need expires. *Daruriyyat* consists of the main things in religion which are preserving religion, life, intellect, lineage and property (Al-'Izz, 1999). *Hajiyyat*, on the other hand, is at the second level of importance in Maqasid Shariah. It is an objective or purpose that is needed to achieve spaciousness in life, at the same time removing the narrowness that usually leads to hardship (Al-Shatibi, 2001). The last stage is *tahsiniyyat*. It is a helper in achieving common needs and basic interests are also complementary to the achievement of *hajiyyat* and *daruriyyat* (Al-Ghazali, 1995).

A Muslim's responsibility to society is based on humanity and religious brotherhood. The higher the income and wealth, the higher the contribution and benefit to society, especially the obligatory contribution in the form of zakat. While other donations, such as waqf despite circumcision, are also expected to increase in line with the increase in earnings (Hasan, 2008). Indeed, this is the core of the takaful business, which is that participants are entitled to gain profit like investors and at the same time have the opportunity to help friends who are in trouble. Even, the rules of donating are part of takaful and waqf contracts (Yusof, 2002). This is what is enshrined in the main purpose of property care from a positive point of view, which is the circulation of property among people who need it, instead of being kept solely at home without being spent for investment purposes whether the outcomes can be enjoyed in this world or in the hereafter (Al-'Alim, 1994).

In terms of waqf-takaful implementation, takaful companies will work together to market waqf products by appointing agents from individuals or registered entities. This takaful waqf product is more to general welfare, educational, development purposes and others (Syed Adwan Wafa, 2010). Takaful companies receive donations from takaful participant or waqf donor (*waqif*) that participate in this program. Participant or waqf donor (*waqif*) pay a certain amount according to their ability for a period of time specific until maturity. If the *waqif* dies before the takaful matures, the company will contribute the same amount as the party replacing the participant to meet the *waqif* requirements. If the *waqif* is still alive until maturity, the amount of funds will be handed over to certain bodies for the purpose of waqf (Salleh & Muhammad, 2008).

Nonetheless, there are some challenges in implementing the waqf-takaful death compensation. The challenges include the implementation standards of the concept of waqf-takaful death compensation in Malaysia which are seen as inconsistent, less in sync with Maqasid Shariah, besides having flaws with waqf management. Among the factors for this scenario to happen is because the waqf contributions developed by each takaful operating companies to religious institutions are different from each other with lack of Maqasid Shariah elements in the product itself (Ahmad et al., 2022; Muhamat et al., 2019). Therefore, this study was conducted to critically analyze the waqf death compensation through takaful products in Malaysia according to the perspective of Maqasid Shariah.

Literature Review:-

Takaful's use of the waqf concept is known as waqf-takaful. Rahman & Ahmad (2011) has illustrated this implementation as where a portion of the company's capital has been allocated as a waqf fund for participants who are affected by the catastrophe in accordance with the fund-use guidelines. Chowdhury et al. (1996) stated waqf as the ownership and preservation of a specific sadaqah (charity) with the goal of forbidding any use or disposing of the property aside from the particular objectives. Further, Ali et al. (2014) elucidated waqf as the holding and preservation of a donation, and is built on the notions of bilateral in terms of assistance (ta'awun), security and responsibility (*tadhamun*), and protection. The investment of waqf is made using various models. Some of the models include *mudharabah*, *wakalah*, or hybrid models, with waqf going into a designated fund for the aim of carrying out waqf's objectives. Since before this, waqf and takaful have been the subject of in-depth research in Malaysia for the past few years. In actuality, the most studies concentrated on Maqasid Shariah applied to both waqf and takaful separately. Even though numerous studies have been conducted, they are often areas to be concentrating primarily on the issues, challenges and prospects that are specific to waqf and takaful, as well as takaful models in general.

Waqf & Maqasid Shariah

Previous researchers such as Abdullah (2018), Mohamed Azmi et al. (2019), Abdullah (2020), Hardiati (2020), Mohamed Fisol et al. (2021), Pattanaprichawong (2021) and Zunaidi (2022) have studied waqf and Maqasid Shariah in multidimensional perspectives. Abdullah (2018) in his study has made an effort to clarify the possible function of waqf in the modern world, especially in the field of development. The study goal is to establish a framework for waqf in preserving its alignment with some of the Sustainable Development Goals (SDGs) core objectives, which are also consistent with Maqasid Shariah. A qualitative research approach was used to analyze the existing literature centered on desk-based research. This study discovers that the majority of the 17 SDGs harmoniously align with the long-term goals of Shariah, and that there is ample opportunity for waqf stakeholders to create a waqf-based development plan that adheres to the SDGs framework. Furthermore, this study concludes that the global waqf have the financial resources necessary to assist Muslim-majority nations in promptly achieving some of the most crucial and urgent maqasid-oriented SDGs. Mohamed Azmi et al. (2019) in his study try to extend previous research on Maqasid Shariah for waqf by suggesting Maqasid Shariah for waqf property development. The study used content analysis to find appropriate components to include in the proposed Maqasid Shariah of waqf property development. The study also found that core goals of the proposed Maqasid Shariah of waqf development are the preservation of life, property, and religion as they were in the original Maqasid Shariah. Yet, being strengthened with six extra necessities or components to be seen as the ancillary goals of Shariah. Consequently, the study offers an extension and insight to acknowledge the purpose of establishing the waqf properties when viewed through the lens of Maqasid Shariah.

Besides, Abdullah (2020) has used the socio-legal research paradigm to analyze literature related to waqf, social responsibility and real economy. According to Abdullah (2020), waqf is intended to support the unorganized sectors of the economy by responding to and supporting them. For waqf to successfully achieve its socio-economic goals, it is imperative to pinpoint the expenditure gaps that currently exist in the public and private sectors. The utility of waqf-resources can be increased by prioritizing the areas of the economy that lack resources, which in turn strengthens the foundational elements of the actual economy. This is indeed claimed to be in accordance with the Maqasid Shariah of waqf. Here, the researcher identifies various proposals to strengthen the role of waqf after critically analyzing the moral philosophy, the value proposition, and the operational mechanism of an ideal waqf.

Aside from Abdullah (2020), Hardiati (2020) in her study asserted that due to the great need for money to alleviate poverty and the fact that the locations are dispersed outside of the waqf givers, the concept of financial donations such as cash waqf has emerged. In fact, people can readily spend their money because cash waqf is so convenient. On the grounds of *istihsan bi al-'Urfi* (custom), the Hanafi schools permit cash waqf as an exemption to the traditional waqf. However, scholar like Al-Bakri claims that the Shafi'i schools' forbid cash waqf because when money is paid, dinars and dirhams vanish and cease to exist. This study found that the difference in the views of scholars is due to cash waqf isn't being supported by specific hadiths and using verses from the Qur'an and hadith that are general in nature. Therefore, the determination of the conditions of the waqf object is included in *ijtihad*. This study contributes in terms of the implementation of contemporary waqf in the form of cash waqf that meets the Maqasid Shariah of waqf.

Meanwhile, according to Mohamed Fisol et al. (2021), the management and development of waqf land for the aim of the socioeconomic growth of the ummah is hampered by several problems. These occurred because of a few restrictions imposed by the waqf giver of the waqf assets. The researchers have verified the opinions of Shariah scholars with regard to altering the terms of a waqf made by the waqf giver using the Maqasid Shariah's method viz.

Tasarruful imami 'ala al-Ra'iyati manuthun bi al-Maşlahah. As per the study's findings, there is a better way to use waqf property to achieve benefits while avoiding harm (*Jalb al-Manfa'ah wa daf' al-Madarrah*) which is more compatible with the concept and tenets of Maqasid Shariah. The research findings are helpful in improving both the socioeconomic status of Malaysian society overall as well as the administration and development of waqf properties.

Considering of Maqasid Shariah, Pattanaprichawong (2021) in his study investigates the question of waqf substitution. The findings of this study suggest that waqf management should be done from a Maqasid Shariah perspective. Nearly every essential component of Maqasid Shariah is connected to waqf administration. However, waqf management is specifically linked to protection of religion in addition to property. In short, waqf management essentially entails property preservation in the context of Maqasid Shariah; (1) preventing damage and destruction to waqf property; (2) preserving waqf from unauthorized encroachment; (3) purging corruption from the waqf administration; (4) ensuring openness and accountability; and (5) achieving agreement.

Finally, Zunaidi (2022) in his research titled "Productive Waqf in Maqasid Shariah Perspective" employs library research techniques to demonstrate productive waqf from Maqasid Shariah perspective, including *ijtihad maslahi*, which must be grounded on the primary goals of Islam. He stressed out that the *ijtihad maslahi* must serve as the foundation of knowledge of *maslahah al-Shariah*. The *ijtihad maslahi* must also adopt and consider some aspects including the advantages for society of comprehending the text in both Qur'an and hadith. Finally, the *ijtihad maslahi* must also bring profit and loss into effect.

Takaful & Maqasid Shariah

Prior researchers have examined waqf and Maqasid Shariah from a variety of angles, including Mohamed Fisol (2018), Yunadi (2020), Ahmad & Hasan (2020), Abdullah et al. (2020), Tahir & Rashid (2021), Cheha (2021) and Sembiring et al (2021). Therewithal, takaful products essentially make up a significant part of Islamic financial planning from a Maqasid Shariah standpoint. Mohamed Fisol et al. (2018) investigates the development of takaful products as sustainable financial planning based on Maqasid Shariah principles. A qualitative approach was adopted and the results of study demonstrate that a number of products being developed by takaful institutions are in line with the Maqasid Shariah perspective as sustainable financial planning which thus promotes social welfare and justice for the general goodness (*maslahah*). As a result, the creation of takaful products should be centered on the preservation of five necessities (*daruriyyah al-Khamsah*), namely the preservation of religion (*al-Din*), the preservation of life (*al-Nafs*), the preservation of intellect (*al-'Aql*), and the preservation of the wealth (*al-Mal*).

Moreover, Yunadi (2020) uses a philosophical approach to analyze takaful from a Maqasid Shariah viewpoint. The findings of the study suggest that takaful and Maqasid Shariah share the same objectives or at least contribute to achieving the benefits of humankind. Meanwhile, Ahmad & Hasan (2020) as well as Abdullah et al. (2020) have also successfully explored takaful and Maqasid Shariah via different stances like economic development and trust. Ahmad & Hasan (2020) try to review Malaysian takaful companies' contributions to economic developments in fulfilment of Maqasid Shariah using regression analysis. Although the study is only applicable to the Malaysian environment, but somehow the study still offers empirical evidence that enables regulators and takaful operators to recognize the value of the takaful to the economy.

Abdullah et al. (2020) have studied the implementation of the takaful trust idea in satisfying the requirements of the Maqasid Shariah i.e *hifz al-Mal*. The study employed descriptive methodology and content analysis via qualitative research. Takaful trust was viewed as a potential useful tool. The findings showed that takaful trusts have the potential to be an effective tool for Islamic estate planning and Maqasid Shariah compliance via *hifz al-Mal*. To conclude, Malaysia's Muslim legacy planning industry values takaful trust. In addition, Tahir et al. (2021), in their research revealed that Shariah scholars and economists have qualms and skepticism about present takaful practices regarding Maqasid Shariah. The study looked at how well present takaful procedures adhere to Shariah goals that are pertinent to Islamic finance and takaful. The study first established the associated goals of Shariah for this purpose by using both classical and modern publications on the issue. The establishment of justice, fairness, and equity, as well as social welfare and the wellness of society, have been chosen as the four main goals of Shariah for the purposes of the study since they are directly related to Islamic finance. The study indicated that contemporary takaful methods more closely adhere to the criteria for a legitimate or Shariah-compliant transaction. But in terms of financial transactions, these takaful organizations have fallen short of the stated Shariah goal. Institutions that deal in takaful lack openness and impartiality in their dealings. Additionally, numerous unethical actions on the part of takaful agents have been documented. The study aid takaful institutions in rethinking their policies in light of Shariah's goals.

Therewithal, Cheha (2021) in his study evaluates the five preservations in family takaful, which is based on the Maqasid Shariah framework. Many of the products provided by takaful institutions are in accordance with the Maqasid Shariah perspective as sustainable financial planning that contributes to social well-being and impartiality for the public interest (*maslahah 'ammah*) by taking into consideration five preservations, namely the preservation of religion, life, lineage, and wealth. Likewise, it is crucial to expand takaful as a growing industry, but also to go beyond that to meet the demands of Muslims and everyone else, as well as to improve the halal sustainability through the growth of takaful products. Lastly, Sembiring et al. (2021) study tries to examine how the takaful waqf benefit feature is being implemented from a Maqasid Shariah perspective and in accordance with the guidelines of the DSN-MUI (Dewan Syariah Nasional- Majelis Ulama Indonesia). The study adopts a literature review methodology known as library research. The findings denote that, in accordance with the DSN-MUI Fatwa No. 106 of 2016 regarding waqf-takaful benefits and investment benefits in life takaful, Maqasid Shariah is being implemented in the waqf feature of the benefits of takaful policies through the waqf contract feature.

Methodology:-

This section outlines the technique and process used in the critical analysis of waqf-takaful death compensation products in Malaysia according to the perspective of Maqasid Shariah. The primary focus of the strategy is on the expert panel members' involvement in interview sessions to aid in the development of the study's conclusions. This subsection also covers the ethical concerns that arise when conducting interviews.

Research Design

An approach to conducting research known as "research design" facilitates the development of research questions and the pursuit of predetermined research objectives (David & Sutton, 2004; Denzin & Lincoln, 2011). The purpose of research design, as stated by Eriksson & Kovalainen (2015), is to coherently and logically integrate the many pieces of research to make sure that the research effectively solves the research problem. Four factors, namely, the research problem, the research objective, the researcher's experience, and the target population will influence the choice of a research design (Neuman, 2015; Creswell & Creswell, 2018). According to Gaber (2020), when addressing a research subject, researchers should pay special attention to two important questions. First, what techniques and strategies would be applied in the proposed research. Second, how can we defend our choice and use of the tools and procedures we've chosen?

An understanding of a phenomenon using a variety of data sources within its context is promoted by qualitative research. This will guarantee that the research question isn't examined through a single lens, but rather via a variety of lenses that enable exposure to and comprehension of the phenomenon's numerous facets (Baxter & Jack, 2008). This study uses a qualitative design that is based on fieldwork and library methods and draws its information from both primary and secondary sources. Since the objective of this study is to critically analyze the waqf-takaful death compensation products in Malaysia according to the perspective of Maqasid Shariah, a qualitative design was used. Following the collection of diverse data from the literature research and interview sessions, all the data was thoroughly examined to draw conclusions. The analyzed data was then used as research findings in the researchers' study.

Data Collection and Analysis

The researchers have collected primary and secondary data in this study. Primary data involves interviews with informants. Meanwhile, secondary data involves existing data that have been collected through primary sources and processed by previous researchers (David & Sutton, 2004). Highlights from the literature were used by the researchers to collect data for this study, which may be divided into two categories. First, information gathered from published sources. Secondly, information retrieved from a database with access to the internet.

Data from interviews, database searches, library research, and writing-based documentation are used in this study's data analysis via content analysis techniques. Researchers have to look over resources connected to the research issue during this step. The research issue is waqf death compensation in Malaysian takaful products according to the perspective of Maqasid Shariah. All these processes are carried out systematically and repeatedly by focusing on several aspects such as concepts, themes, items, and others related to the study phenomenon (Berelsen, 1952).

Population and Sampling

The selection of subjects in qualitative research needs to be focused on selected informants who can explain the research questions better in addition to improving the understanding of the analyzed phenomenon. Paulsson et al. (2020) define an expert or selected informant as a person who has studied a field and is able to respond effectively to

problems or issues in that field without having to think critically. This view is also supported by Mohajan (2018) who defines an expert as someone who is experienced in a field in a certain way. Some scholars in the field of research have also outlined the criteria that qualifies someone as an expert or selected informant such as the individual being recognized professionally in his field, as well as his involvement as a source of information or opinion. Other criteria that can be taken into account include the production of quality research through scientific publications in the field (Mohajan, 2018; Silverman, 2020; Stough & Palmer, 2003). Thus, all of these criteria prove that the informant has sufficient expertise and experience in the specific field and can provide relevant information for research purposes (McGowan et al., 2020).

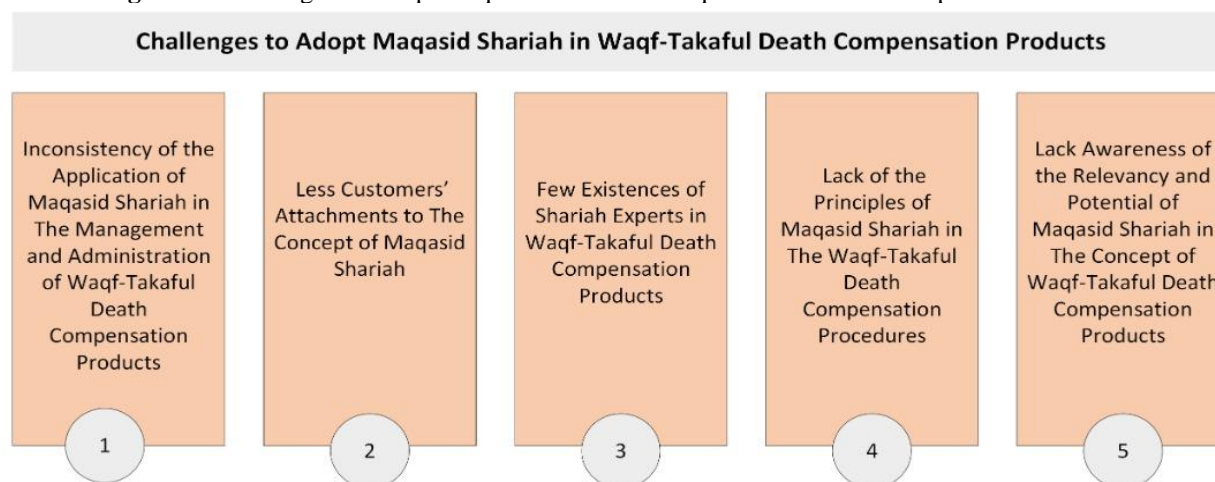
Whereas, in the context of this study, an expert is described as a takaful operator who has experience and is involved in waqf-takaful products in Malaysia. The researcher decided that the needs of experts in this study should consider the criteria of individuals who have mastery of skills or expertise in a particular field, namely (i) must have at least three years of experience in the field of waqf-takaful as it signifies maturity in expertise for their respective fields ii) be directly or indirectly linked to compensation practices waqf-takaful death. In this study as well, the aspect of quality and consistency of the informant is prioritized over the aspect of quantity (Paulsson et al., 2020). Therefore, any individual who has met the conditions will be identified and selected as an informant in this study. Table 1 below is a list of details of the study informants.

Table 1:- List of Informants.

No.	Informants	Position
1	Informant 1	Group Agency Manager, Takaful Ikhlas Family Berhad
2	Informant 2	Group Agency Manager, Takaful Ikhlas Family Berhad
3	Informant 3	Manager, Kedah Waqf and Hibah Program, Takaful Ikhlas Family Berhad
4	Informant 4	Business Development Executive, Takaful Ikhlas Family Berhad Sungai Petani Branch, Kedah
5	Informant 5	Head of Group Agency Manager, Zurich Takaful Malaysia Berhad, Sungai Petani Branch, Kedah

Results & Discussion:-

The implementation of waqf-takaful compensation products should comply with Maqasid Shariah to guarantee the preservation of the five core necessities or better known as *daruriyyat al-Khams* which consists of the preservation of religion, life, lineage, intellect and wealth. The preservation of these five elements of daruriyyat will be able to guarantee the socio-economic development of Muslims and the community. However, in implementing Maqasid Shariah via waqf-takaful death compensation products, the takaful operators had to struggle with some inherent challenges. The challenges can be classified into five main aspects. Firstly, the application of Maqasid Shariah in the management and administration of waqf-takaful death compensation products. Secondly, customers' attachments to the concept of Maqasid Shariah. Thirdly, the existence of Shariah experts in waqf-takaful death compensation products. Fourthly, the principles of Maqasid Shariah in the waqf-takaful death compensation procedures. Fifthly, the relevancy and potential of Maqasid Shariah in the concept of waqf-takaful death compensation products. Whence, these challenges need to be addressed by takaful operators in improving the waqf-takaful death compensation products offered in Malaysia. Figure 1 is the illustration of the challenges to adopt Maqasid Shariah in waqf-takaful death compensation products.

Figure1:- Challenges to Adopt Maqasid Shariah in Waqf-Takaful Death Compensation Products.

The Application of Maqasid Shariah in The Management and Administration of Waqf-Takaful Death Compensation Products

Basically, the waqf-takaful death compensation products offered by takaful companies in Malaysia are in line with Maqasid Shariah. This was evident by some the informants as follow:

“Above all, we have Takaful Act 1984...When we mention takaful, it refers to the status given by BNM (Central Bank of Malaysia) to insurance institutions that want to carry out Islamic insurance or protection. So, when you mention takaful... it demands Shariah and the need to follow Shariah goals or Maqasid Shariah... In fact, Shariah panels also have to be involved the takaful products itself...” – (Informant 1)

However, even though the products are in line with Maqasid Shariah, but on the other hand, in terms of Maqasid Shariah applications, there are still many loopholes that can be improved from time to time. It was found that there is an inconsistency in terms of the application of Maqasid Shariah through practitioners in the takaful industry especially in managing and administering waqf-takaful death compensation products. For example, there are takaful operators that apply Maqasid Shariah as a whole, while there are others that apply only some elements of Maqasid Shariah and even some takaful operators depend on the takaful companies in determining the priority of applying Maqasid Shariah. This inconsistency is narrated by the informants as follows:

“It is true that we comply with the Maqasid Shariah... but we do not cover all of them... I mean... we do not cover all five elements in the Maqasid Shariah...” – (Informant 4)

“Okay...first of all, what I noticed ...related to the five elements of Maqasid Shariah...all of them are there...but which one is the number one in the list...it is determined by the takaful company...” – (Informant 5)

“In my view, it is more about protecting lives in Maqasid Shariah when they are given compensations....” – (Informant 3)

While in terms of the application of the five elements of *daruriyyat al-Khams*, it was found that the takaful operators mostly lack implementation of Maqasid Shariah according to the priorities of the proper order that is balanced with the needs and demands of the Maqasid Shariah itself. Previously, the Islamic scholars have determined that there is an order between the five types of necessities, that is, the interests of religion are placed at the highest position and are more important than the interests of life, while the interests of life must be prioritized over the interests of intellect, the interests of intellect must be prioritized over the interests of lineage and the interests of lineage are prioritized from property interests. Accordingly, most takaful operators prioritized takaful death compensation waqf activities to religious projects such as religious institutions, places of worships, *tahfiz* schools and orphanages. Almost all takaful

operators didn't look at the other branches of waqf activities that can be channeled in the context of all five elements of *daruriyyat al-Khams*. This was agreed by some of the informants as below:

"The sequence of the five elements of Maqasid Shariah is determined by the takaful company. The first one is probably religion, right?... because it is a demand that must be met. If we put it at the level of ground field marketing....it starts from the protection of the intellect. We are subject to different perspectives..." – (Informant 5)

Up till now, we give the compensation to tahfiz schools and orphanages...that's how the compensations are usually given..." - (Informant 2)

Based on the analysis of the application of Maqasid Shariah, it was found that the understanding of Maqasid Shariah needs to be strengthened among takaful operators so that waqf-takaful death compensation products in the market can achieve Maqasid Shariah holistically. Among the implications if takaful operators failed to understand Maqasid Shariah are the tendency in making mistakes of prioritizing Maqasid Shariah that should come later in order and vice versa; tendency in making mistakes of determining the law, when making Maqasid Shariah as the main source of reference; and finally lost perfection and wisdom in Islamic law or Shariah itself. Feasibly, the application of other branches of Islamic jurisprudence knowledge such as *fiqh al-Awlawiyat* (fiqh of priorities) and *fiqh al-Muwazanat* (fiqh of balances) greatly assist takaful operators to determine the priority and balance of needs in waqf-takaful death compensation products that are suitable according to the requirements of Shariah as well as Maqasid Shariah.

Customers' Attachments to The Concept of Maqasid Shariah

In terms of customers' attachments to the concept of Maqasid Shariah, it was noticed that this element did influence them in making decisions to buy waqf-based takaful products. Notwithstanding, challenges exist on the part of takaful representatives who promote the products and the lack of awareness on the part of customers about the concept of Maqasid Shariah. In fact, the majority of customers who participated in takaful products before also proved to have lack of knowledge about property management, finance and Maqasid Shariah. This confession has been made by almost all informants:

"If the takaful agents did not declare that this product uses the Maqasid Shariah concept... the customers will not realize it... usually... they only realize that the compensations are to be distributed to the next of kins only." – (Informant 2)

"Usually, the customers want to know the amount of return they will get. For example, I pay RM100 a month, how much will I get in return? The customers are always unaware of the overall achievement of Maqasid Shariah for the ummah as a whole... usually, they only think about the financial gain of themselves and their heirs." – (Informant 1)

"Yes...the level of customer awareness about Maqasid Shariah...is still low. The first reason is the exposure. Sometimes the customers can't see the good behind donating many compensations. That's why the knowledge of Maqasid Shariah is important because it will affect the customers' selection of products in the end of the day." – (Informant 3)

"The fact is... it is also challenging for takaful agents to explain to the customers about the waqf-takaful product... because, while this takaful product itself is still not understood by many people.... not to mention when there is another adds on like waqf in a form of death compensation." – (Informant 4)

"It is true that many customers are still lacking knowledge about wealth distribution, finance, property management, Maqasid Shariah...etc. The awareness is still low and not all of them can accept the explanations made by the takaful agents. Sometimes it is more to mental blocks. Customers have bad or wrong perceptions about the takaful itself." – (Informant 5)

In addition, challenges also arise in marketing waqf-takaful death compensation products to customers. This is because the takaful industry has a low market penetration compared to other Islamic banking and finance industries. This adds another challenge to takaful operators to convince customers of the advantages and privileges of takaful products issued, especially those involving waqf-takaful death compensation products.

“As practitioners, we go to the field ... we sell waqf-takaful product ... but the penetration rate is still low due to the acceptance of the customers themselves” – (Informant 2)

“Indirectly, we have to explain to the customers. Perhaps, it’s okay if the waqf is not that much... even if 5%, it is okay. Even in our SOP, there is a minimum percentage for waqf... If you explain it, then they will understand it clearly...- (Informant 1)

The study also discovered that takaful operators have initiated many actions to create awareness among the community pertaining to the importance of takaful and waqf.

“Among the things we do to increase awareness about waqf-takaful product...we conduct talks in schools...Indeed, it is a big challenge when a takaful institution enter schools...as we will have to accept various views towards us...since each community has its own perception about takaful.” – (Informant 3)

“That level of awareness needs to come from the takaful agent and the community. Looking at the trend now, many takaful agents are made up of celebrity ustaz...so if they already have their own tahfiz schools... it is easier for us to help in the aspect of waqf...because he is an agent, and the Malaysians already know him.” – (Informant 5)

“For awareness...we do programs or talks in public and private agencies. Undoubtedly, most people who go to this program are due to the circumstances in which they need to take takaful. For example, when buying a house, it requires takaful...” – (Informant 4)

“If we go to the field... for example to SIRC... they prefer it... If we want to do any program, we will send a letter first. SIRC will check on the program. We...as takaful agents are more synonymous with promotion and marketing...” – (Informant 1).

“.... We need more disclosure about the progress of waqf projects on social media platforms...” – (Informant 2)

“On the company’s side, we hold training for agents... this is more about controlling the behavior of the agent itself to create awareness... Even, to encourage this waqf-takaful product... we give additional remuneration or even additional bonuses to any representative of the company who succeeded in closing the waqf-takaful product order.” - (Informant 1)

The Existence of Shariah Experts in Waqf-Takaful Death Compensation Products

The existence of Shariah experts in takaful products is indeed significant considering that takaful is part of Shariah compliant financial products. What’s more, when takaful is combined with waqf elements which are also part of the branch of Islamic philanthropy. Looking at this combination, in point of fact, the waqf-takaful death compensation products produced by takaful companies need to get the full recognition from Shariah experts. However, the reality is that takaful operators don’t place sufficient real waqf experts who have specific waqf expertise to develop, review and control their waqf-takaful death compensation products. This was voiced out by several informants:

“The Shariah panel also involved in product’s development... On our side... we are trying to expand takaful products... For example, in the distribution of takaful... so we are not limited to advertisements involving life takaful only... but there are also in general takaful. From this aspect, I think, we may be ahead of other takaful companies...” – (Informant 5)

“We do not have Shariah panel that focuses on waqf only. The reason... why this thing is happening, first of all, is that we are lacking in terms of the entry of people who make waqf and waqf producers themselves. After that, there are not many records for this waqf. If you want to find Shariah panel for waqf only, I think this will also add costs to the takaful company.” – (Informant 3)

“Our company has appointed a Shariah panel from Yayasan Waqaf Malaysia (YWM)... in this sense it is good because YWM is placed under Departmnet of Awqaf, Zakat and Hajj Malaysia (JAWHAR), which is a department under the Prime Minister of Malaysia. This can be considered as real expert in the waqf field, but not many people have this kind of expertise.” – (Informant 1)

“There are muftis in the Shariah board.... but these muftis will have a fatwa (Islamic ruling) issue...because they will be more inclined to follow the fatwa of their respective states and the fatwa is also different according to the states in Malaysia.” – (Informant 2)

“The fund for this waqf starts with the wakalah fund. We use the wakalah model in this waqf-takaful product... but for the implementation, there is still no adjustment of the determination of the percentage. One of the challenges for Shariah advisers is to set with the takaful company the determination of the waqf benefit and the percentage... because, this fund in the end... needs to continue to remain in accordance with the concept of waqf...On our side, we need more experts to apply the waqf model, so that this waqf model can comply with Shariah and also Maqasid Shariah.” – (Informant 5)

The Principles of Maqasid Shariah in The Waqf-Takaful Death Compensation Procedures

In general, the principles of Maqasid Shariah have already been incorporated in the death compensation procedures involving waqf-takaful products carried out in Malaysian takaful companies.

“In my view, the principles of Maqasid Shariah have already existed in the procedures. However, when talking about the five elements of Maqasid Shariah, I think it still needs to be refined.” – (Informant 1)

“For me, the principles of Maqasid Shariah need to go hand in hand with the procedures. Because we don’t want the concept of takaful to only look like it’s Shariah-compliant only...like it’s free from riba, gharar and maysir...but what we get in return. This is from the business side. Takaful is a business.... so, Maqasid Shariah which is to be applied also needs to meet the business criteria according to Shariah.” – (Informant 2)

Even so, challenges occurred when the takaful operators need to assure customers about the benefits of these waqf-takaful death compensation products. Most of the customers just want a win-win situation where they want to get financial benefits in return for the compensation that has been given. Since waqf involves the worship of property by getting closer to Allah SWT, then the reward for the act of waqf will not be achieved in the form of material or takaful business. The return exists in the form of continuous rewards as promised by Allah SWT.

“Always, the customers only think if they die, what will their children and family get. That’s all they’ll think about. There is a continuous reward that the customers did not realize which will last until the day of hereafter.” – (Informant 3)

“Some people have a strange perception with waqf-takaful product... because there are some people who feel that takaful companies make a profit only when product like this is offered. In addition, when surveyed in the market... there are only 3 takaful companies offered this kind of product. While the benefit goes back to takaful participants who do waqf in this world and the hereafter.” – (Informant 4)

The Relevancy and Potential of Maqasid Shariah in The Concept of Waqf-Takaful Death Compensation Products

All takaful operators are aware of the potential and relevance of Maqasid Shariah in the waqf-takaful death compensation concept. However, challenges arise to raise awareness among takaful participants about the potential and relevance of the product in developing the socioeconomic aspects of the community as a whole via Maqasid Shariah.

“The potential of this product is huge...especially in developing the socioeconomic aspects of the community. It’s just that the benefits have not yet been fully realized by takaful participants.” – (Informant 1)

“In terms of things that are endowed... we encourage the waqf manager to buy permanent property. For example, in tahfiz schools, we encourage the principal to buy land and build buildings from waqf donations. Because, if this waqf is permanent, the reward from the usage will also continue.” – (Informant 4)

“Yes... because I have many track records previously showed that there are individuals who received the compensation...and after the persons and its family can survive independently.” – (Informant 2)

Although the collaboration between the industries that channel the benefits from the waqf compensation is encouraging, challenges still exist in designing and cooperating with top guns from the industries involving high impacts and large scales projects. The main challenge on the part of takaful operators is to break the traditional wall of waqf which is limited to religious benefits only. New ideas related to waqf innovation through various industries combinations will be able to boost the distribution of waqf-takaful death compensations' benefits to achieve a balanced, holistic and inclusive socio-economic development in accordance with Maqasid Shariah.

"I'm not sure how is the implementation in other takaful companies...but for us...we are more to a win-win situation. Usually, we give waqf benefits that are related to products such as dialysis machines, oxygen etc... because the benefits are related to the medical plan that we offered." – (Informant 2)

"We did joint-ventured with State Islamic Religious Councils (SIRCs) and several organizations registered under ROS. But the portfolio has not expanded yet." – (Informant 1)

Conclusion:-

In conclusion, there are five challenges that need to be highlighted by takaful operators in applying Maqasid Shariah through its waqf-takaful death compensation products. Firstly, all of the elements of Maqasid Shariah, which comprise of *darurriyyat al-Khams* must be applied holistically in the management and administration of waqf-takaful death compensation products. Secondly, customers' attachments to the concept of Maqasid Shariah will affect in making decisions to participate in waqf-takaful death compensation products. Thirdly, the existence of Shariah panels or experts is necessary to control the implementation of waqf-takaful death compensation products. Fourthly, the principles of Maqasid Shariah must be applied in the waqf-takaful death compensation procedures. Fifthly, the identification of the relevancy and potential of each element of *darurriyyat al-Khams* in the concept of waqf-takaful death compensation products. Last but not least, apparently, in improving the existing waqf-takaful death compensation products, takaful operators need to emphasize the five core elements of Maqasid Shariah namely the protection of religion, life, intellect, lineage and property as it will help to achieve the socioeconomic development of the Muslims as a whole.

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