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RESEARCH ARTICLE

SOCIO-ECONOMIC JUSTICE AND PROTECTION OF WEALTH VIA MALAYSIAN TAKAFUL OPERATIONS: AN ANALYSIS FROM MATERIAL, IMMATERIAL EFFECTS AND THEORETICAL FRAMEWORK DEVELOPMENT.

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Abstract

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Takaful companies in Malaysia operate their business and services based on Shariah principles. As one of the vital sectors in Islamic Finance, takaful business requires for continuous compliance with relevant regulations in ensuring income legitimacy and organizational stability. Five (5) Islamic Finance principles which stand as the bases underlying takaful operations are deliberated in this research in highlighting its differences from conventional financial counterparts. This study is library based and the analysis primarily focuses on both material and non-material effects as a result of applying these principles to the Takaful operators itself. The list of key literatures are reviewed and their relevance to Islamic finance principles, material and immaterial effects which finally leads to the theoretical framework formation.

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Introduction:-

Islamic Finance practices attract global attention in view of its dynamic growth as well as its unique products' formulation processes. Based on Masud (2010) states that "because it developed outside the current financial industry, the underpinnings of Islamic finance sharply contrast with traditional financial instruments. Under the ambit of Islamic Wealth Management, wealth protection has its own role in completing a set of its relevant process. Besides wealth creation, wealth enhancement as well as wealth distribution where protecting the existing prosperity is encouraged by Islam. There is the Hadith narrated by Anas Ibn Malik, "One day Prophet Muhammad (pbuh) noticed a Bedouin leaving his camel without tying it and he asked the Bedouin, "Why do not you tie down your camel?" The Bedouin answered, "I put my trust in Allah." The Prophet Muhammad then said, "Tie your camel first, and put your trust in Allah." (Tirmidhi). The key lesson to be highlighted in this incident is on how the concept of "tawakkal" being practiced in its truest sense. "The hadith does not only illustrate how a Muslim should deal with his fate, but it also instructs to manage the risk of calamities and losses". (Agha & Sabirzyanov, 2015). Additionally, Al-Rifai & Hunt-Ahmed (2013) mention that this complete reliance in Allah is encouraged after all relevant efforts had been put in to ensure the objective or target could be achieved.

As a complete religion, Islam was revealed with specific guidance for each and every process or event. This, includes on how people gain, manage and ensure the growth of their wealth to be in line with the rules set by God. Bello & Maiyaki emphasize that "management of wealth in Islam is a bit complex because it considers the intention of the owner, how the wealth is earned, how it's grown or developed, how it's spent and the right of the poor and the needy given or taken from it".

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The overall wealth management in Islam drives with the aim to fulfil the objective of *deen* or Shariah itself. “Islamic wealth management would entail strategies and mechanisms to protect and develop wealth for different segments of the population and provide a sound framework for transferring it in a Shariah compliant manner”. (Swain, 2015). Ahmed (2011) mentions that there are five (necessities) or maqasid as explained by Al-Ghazali is to safeguard the “faith, self, intellect, posterity, and wealth”. (as cited in Chapra, 2008). Fulfilling these basic necessities would solve the initial requirement of life and subsequently leads to social harmonization. This, partly could be achieved from Islamic trade and industry. (Ahmed, 2011). Having said that, Bello & Maiyaki emphasize on the trust given by Creator for human beings with regards to wealth and bounties. As a trust, those abundance must be managed in according with the will of God and this will be rewarded in the Day of Judgement. In a Hadith narrated by Ibnu Mas’ud (RA)[1], Prophet Muhammad (PBUH) said: “In the Day of Judgement, the generation of Adam (RA) will not be allowed to escape without being questioned on the following five (5) basic responsibilities:

1. How did one spend own life time
2. How did one spend own young life
3. How were the sources of one’s income
4. How did one spend own wealth
5. How much did one practice knowledge, which one acquired?” (Ma'sum Billah, 2003)

As mentioned above, after all, wealth protection awareness and acceptance keep on growing. Based on Annual Takaful Statistics 2015 of Bank Negara Malaysia (BNM), there were 4,112,556 certificates issued by Malaysian Takaful Operators (TOs). This certificate issuance equals to RM 13,769,312,421 contribution amount. (BNM, 2017). This encouraging figure stands as an evidence on wealth protection acceptance among community at large. Based on Ayinde & Echchabi, (2012), the major reasons of takaful acceptance among Malaysian are due to the claims payment efficiency, staff effectiveness and credibility as well as prestigious effect. In line with the growth of this wealth protection, it is worth to analyze its impacts toward Shariah principles which underlie the governance of this Islamic financial instrument. In catering this purpose, this paper is structured as follows. The first section is the literature review deliberating on takaful and its basic elements and 5 principles of Shariah governance. The next section highlights the literatures review on topics such as takaful and its basic elements and applicability of underlying principles through takaful. The next section discusses the analysis on material and immaterial effects for Malaysian Takaful Operators (TOs). This is later followed by the formation of a proposed theoretical framework and the paper ends with conclusion drawn for future possible research on the same subject matter.

Literature Review:-

Takaful and Its Basic Elements:-

With the aim of providing protection towards its subscribers, insurance plays an important role in risk management effort among the community. From Islamic point of view, this effort is accepted providing that the contract does not involve such a selling-buying of policy between company and customers as it would involve Riba. In fact, it is noted that the concept applied by insurance possesses such prohibited elements, namely uncertainty, gambling and usury. Hence, takaful was formulated in encountering this limitation especially for Muslims. (Nahar, 2015). Nahar explained that “By selling insurance coverage, insurers assume that the subject risk stipulated in the insurance contract, as evidenced by the fact that premiums paid are then treated as insurers’ income, signifies the shift of rights of such premiums from the insured to the insurer”.

By applying the spirit of cooperation and mutual assistance among its participants, “Takaful, however, involves sharing risk wherein participants voluntarily agree to subsidize each other’s risk through a pool of voluntarily contributed funds”. (Hunt-Ahmed, 2013). As it is designed based on Shariah principles and requirements, Takaful is the best option to conventional insurance for the society. (Ayinde & Echchabi, 2012). Additionally, Masud points out that Takaful carries the meaning of which literally means unity; set to be a structure in which members decide to protect each other from loss. The existence of a special fund known as ‘Tabarru”, all participants are in solidarity to assist each other once misfortune events occurred. “In line with Islamic ideals of welfare and charitable giving, the system is a collective enterprise that allows a community to pool together resources in order to assist members of the community in times of need resulting from casualty or loss”. (Masud, 2010)

[1] Sunan Al-Tirmidhi

Takaful is managed and run by institutions which are legally established as well as being endorsed by the respective country's regulatory body. In Malaysia, Takaful Operators or TOs are registered with Bank Negara Malaysia (BNM). Besides TOs, other Islamic Financial Institutions (IFIs) supervised by BNM are Islamic banks, Retakaful Operators and development institutions which participate in Islamic related financial schemes. IFIs are totally different from their conventional counterparts in overall principles and business practices. The IFIs develop their business which are summarised under these five (5) key principles:

1. Prohibition of Riba or Usury
2. Prohibition on realising a gain from speculation (Maisir)
3. No uncertainty (Gharar) which is excessive in commercial transactions
4. All activities must be for permitted purposes (Halal)
5. Making money from money is not permissible

In the light of the above, obviously takaful is dissimilar from conventional insurance in the form of principles and operations. Nahar (2015) in his analysis on accounting and reporting realms for both insurance and takaful finds out that there are slight similarities on the application. These connexions, however do not invalidate the Shariah principle in essence. Hence, some suggestive recommendations have been shared for future research in the similar area. Undeniably, there are some hiccups on operational related matters which require for improvement. This is admitted by Akhter & Hussain (2012) that indicate "Taka¯ful industry is faced with numerous operational and transformational issues that may affect its functioning in one way or the other". As times grow, such operational glitches as well as product issues need for rectification and this is not supposed to lead to any retardation of takaful development. Fortunately, Islamic based financial institutions including takaful are well managed and supported by government or regulatory authorities. This is proven by Yudistira (2003) stating that Islamic banking institutions could remain stable after world financial crisis due to strong support provided by their respective governments. Besides this strength, the forte of Islamic financial institutions including takaful is inspired by Shariah underlying principles as below:

Applicability of Underlying Principles through Takaful:-

Prohibition of Riba or Usury:-

The application of Riba is totally forbidden in Al-Quran. Riba is an Arabic word which stands for excess, increase, addition, expansion or growth. Any interest or predetermined payment over and above the actual amount of principle which is riba is strongly prohibited by the Quran and the Sunnah. (Marimuthu, Jing, Gie, Mun, & Ping, 2010). "More precisely, any guaranteed increase in return tied to the maturity and the amount of principal, regardless of the performance of the investment, would be considered riba and is strictly prohibited." (http://www.islamic-banking.com/shariah_ruling.aspx)

The prohibition of riba is very crucial while the emphasis is given more on moral, philosophical and religious aspects in Islamic finance area of discussion. (Iqbal & Mirakhor, 1999, p.382). According to Saeed (1995), the root word of 'Riba' has been mentioned twenty times in Al-Quran while eight time in the actual applicability. It is explained by Chapra (1984) Riba literally means increase, addition, expansion or growth. It is, however, not every increase or growth which has been prohibited by Islam. In the Shariah, riba technically refers to the "premium" that must be paid by the borrower to the lender along with the principal amount as a condition for the loan or for an extension in its maturity. In this sense, riba has the same meaning and import as interest in accordance with the consensus of all the fuqaha' (jurists) without any exception."

The practice of riba since the times of ignorance was full of injustice and oppression towards the weaker parties. Kahf (2006) discusses the implication of riba in the applicability of Maqasid of Al-Shariah for human community. In this situation, riba would disallow the process of wealth preservation which is highly emphasized in Islam. In takaful operation, the issue of riba triggers from the context of investment where some portion of participants' money are allocated for that purpose. The modern takaful products mostly are linked with investment part where the diligence of takaful operator in selecting the relevant counters is highly regarded. Conventional insurance companies normally place insurance funds in Riba/interest bearing instruments such as bond and loans (Hussain & Pasha, 2011 as cited in El.Gamal, 2001). On the other hand, the investment portion of takaful can be alternatively channelled to Shariah approved counters which are such sukuk and Islamic equity funds. Swartz & Coetzer (2010) mention that "Takaful is restricted to an interest-free system. A takaful entity must ensure that both its policyholder and shareholder funds are invested in assets which do not have riba and that any bank with which the takaful entity has dealings should not be involved in the practice of riba" (as cited in Anwar, 2008).

Obviously, riba element is indirectly impacted the application of takaful as far as the investment aspect is concerned. This accountability lies on takaful operators in ensuring their third party; which is in charge of investment part plays its proactive roles to guarantee it is carried without any ribawi elements tainted to it. Saaty (2008) stresses "in Takaful terms it is treated as being a contribution in the form of donation with a condition of compensation. Furthermore, the pool of funds secured from those participants' contributions or donations must be managed and invested in accordance with the Shariah." This fact serves to reiterate the mechanism of takaful which is mostly influenced by the spirit of brotherhood or "ta'awuniah".

Prohibition on realising a gain from speculation (Maisir):-

The element of speculation and gambling is one of the forbidden aspects in any Islamic financial transactions. In brief, gambling is speculative in risk assessment nature and it is understandable that one may possibly win or lose through that created particular risk. (http://www.islamic-banking.com/gambling_and_insurance.aspx). In other word, gambling possesses the element of zero sum game for either of parties involving in a certain transaction. As Islam promotes brotherhood and supporting to each other, such practice is totally unacceptable. "Iqbal and Molyneux (2005) state the reason behind prohibition of Maysir is that gambling and game of change can lead to greater financial and societal problem. In addition, these are unnecessary for the society because they do not provide any surplus to the societal wealth."(as cited by Marimuthu & et.al, 2010).

In justifying the difference of gambling scenario that exist in this worldly life, Siddiqi (2006) draws the example of activities which are excluded from the one applied in financial ambient. He indicates that gambling inheres into games of chance played for a gain. The activity is created or voluntarily entered into. It is not like the chances one has to take in the ordinary business of life, i.e. the risks and uncertainties attending upon sale, purchase, investment and production, even upon travel, choosing a career or choosing your doctor." This illustration serves to clarify the situation and problem faced in the case of financial activities which must be observed strictly in parallel with Shariah requirements.

In respect of takaful application, gambling is discarded through the adoption of contracts that are relevant with it such as Tabarru', Mudarabah, Wakalah and Wakalah-Waqf. This is therefore, preventing takaful from being affected with the possibility of providing financial benefits for its participants. Kassim (2005) in his recommendation for future takaful enhancement has mentioned the following:

"If asked to describe *takaful* as simply as possible, I would describe it as comparable to a mutual insurance operation in which the mutual's investments conform to the requirement of *Sharia*. That would define the organizational structure. To that must be added that the mutual's product lines would also need to observe the ban against *Maysir*."

It is agreed as the basis of Islamic financial contracts must uphold the ethical principles taught by Al-Quran and Hadith of Prophet Muhammad (pbuh) at all times and in any circumstance.

No uncertainty (Gharar) which is excessive in commercial transactions;-

Waemustafa & Sukri (2016) come out with various definition of gharar basically deriving from the root of Prophet Muhammad (pbuh) hadith on the subject matter. Briefly defined, "in Islam risk or probability is referred to "Gharar" in Arabic language that means risk, hazard and perils; however in business term it means to undertake anything blindly without sufficient knowledge or to risk oneself in a venture not knowing exactly what will be the outcome, or to rush headlong into perils by not considering to its consequences." As a just religion, Islam does not honour any transaction involving extensive uncertainties which would possibly affect the contracting parties.

The application of takaful somehow exposes to the element of uncertainty which is tolerable in nature. On the other hand, the existence of excessive gharar or known as "Gharar Fahish" is prohibited. The existence of gharar in insurance is obvious and it invalidates the transaction in totality. According to Islam (n.d), gharar appears in a way that "insurance contract is an exchange contract between insurer (Insurance company) and insured (policy holder) in which the insured pays an amount as premium to the insurer and the insurer undertakes to pay an amount as compensation equal to actual loss of the insured caused by some undesired event." The transaction takes place in insurance where the insured buys the policy in expectation to be indemnified in the event of misfortune only. From takaful application perspective, the existence of gharar is levelled as acceptable by Muslim scholars. This matter has been discussed by Lambak (2013) by drawing some important conclusions as below:

"Gharar applied in determining Takaful contribution does not against any Islamic texts, even it is a subject that is generally recognized in Islam particularly in the form of masyaqqah (difficulty). This gharar is different against the gharar that inherent in insurance contracts.

In the case of gharar being applied as an element to predetermining the Takaful contribution, the writer is in opinion that it does not impair the Takaful contract. Instead, the application of gharar or risk in this circumstance is consistent with the motives of people seeking for Takaful coverage. It is therefore valid to conclude that this type of gharar is a slight gharar, hence it is permissible from Shariah perspective."

However, it is still required for further analysis and clearance on the status of gharar which is seen as lighter and acceptable in validating takaful operations as currently practiced in the industry. A proper Fiqhi justification which is anonymously agreed by Jumhur Ulama' (unanimous jurists) to be documented and published for community comprehension.

All activities must be for permitted purposes (Halal):-
It is undisputable that all activities involved in Islamic financial arrangement to be permitted in the eyes of Shariah. The guidelines laid by the sources of Shariah as well as the consideration of serving the purpose of Shariah (Maqasid Al-Shariah) need to be prioritized accordingly. It is mentioned by Marimuthu & et.al (2010) that apparently "the business and investment undertaken by Islamic banks must be on the basis of Halal (legal, permitted) activities. All activities should be in line with Islamic principles, with a special Shariah board to supervise and advise the bank on the propriety of transactions. Besides that, Ahmad, Saif & Safwan (2010) reiterate that the basis of activities which are permitted by Shariah only would allow the overall Islamic banking business to be halal or acceptable from Shariah perspective. "Islamic finance encourages people to invest their money, but this general encouragement is expected to comply with the rules set by *Sharia*. According to Islamic doctrine, some commodities, such as alcohol, drugs, and pork, are strictly forbidden. Thus, people should not use or exchange items banned by the *Holy Quran*." (Gait & Worthington, 2007).

The same principle applies to takaful operations which need to be thorough particularly in the process of underwriting and claims payment. All investments are transacted in permitted shares and properties. (Kassim, 2005). Principally, this synergy leads takaful to maintain its end-to-end operational settings are in compliance with Shariah. It is explained by Nienhaus (2011) on the recommendation in practicing ethical banking or socially responsible investing (SRI) which allows for more stringent compliance and good governance. The difference between SRI and Islamic finance in financing/investment decision lies on their second filter. This second filter shows their distinctive aspect where ethical finance uses a positive list in providing financing and investment for to support such as in poverty alleviation, energy saving and etc. Whilst in Islamic finance, the second filter is basically another negative list where stricter selection for financing project is taken place. Based on the opinion, it is noted that Islamic finance could enhance the investment method in ensuring the objective of serving the purpose of Shariah is achievable in deeper manner. However, there is a need to observe that the application of so called ethical investment or socially responsible financing could not be implemented at the expense of depriving any Shariah principles.

In the case of takaful, some arising issues are related to underwriting. The explanation gathered by Htay, Jawahir & Salman (2013) on the view of Shariah experts in Malaysian takaful operators' practice for underwriting and risk assessment. It is deliberated as follows:
"Pertaining to the use of occupation as a factor, most of the Shari'ah scholars are of the opinion that the takaful operator should consider providing coverage to applicants who are deemed to have risky occupations but who provide halal services to the community. Most of them are also of the view that it is permissible to give takaful coverage to an individual working in a haram environment. However, most of them state that it is not permissible to give coverage to a person having a haram occupation. The views stated above reflect the general consensus among the scholars on the factors which underwriters use in the risk rating and selection process. However, it should be noted that there has been some minor differences in the juristic opinion on certain cases since the scholars derive these opinions based on their own mental efforts or on ijtihad, and thus juristic differences may arise."

As the main aim of takaful in providing coverage to one's life, most of the scholars prefers to the approach of emphasizing the maslahah or benefit rather than reputational risk which may arise from society's perspective.

Making money from money is not permissible:-

This concept is quite similar to riba issue where money is considered as a commodity. Subsequently, it leads to generation of other monies which is forbidden from Shariah point of view. According to Gait & Worthington (2007), "in Islam, money is an exchange instrument that has no value in itself." Additionally, it has reemphasized by Kassim (2005) that "specifically, in Islam money cannot be treated as a commodity to be bought or sold but rather only as a medium of exchange. As an extension of this, financial assets can't be sold or used as collateral. In Islam, therefore, an entity cannot refinance receivables because they're not real assets. A *hadith* attributed to the Prophet Muhammad, "Every loan that attracts a benefit is *riba*," defines the ban on interest in Islamic finance." Islamic finance stresses this principle crucially as it goes against the key objective in fulfilling the needs of community through mu'amalah. In the context of banking, the generation of money from money obviously happens in loan transaction. It is important to take note on the wisdom of this prohibition in Islam. Siddiqi (2006) deliberates such dilemma in this easy comprehension:

"Islamic economic analysis has shown that, even in the case of a loan for business purposes, exchange of money now with more money later is unfair because of the uncertainty that accompanies the passage of time. Money needs being converted into goods and services before it can enter the process of production---the source of possible growth/value increase. The results of the process of production have to be reconverted into money before money can be paid back to the one who gave it in the first instance. This amount of money, resulting from conversion of the product into money, may be more than, equal to or less than the original amount of money."

Based on this, as it is crucial issue in economic transaction, Prophet Muhammad (pbuh) has taught on its solution which stands to be a fair action to be applied in this modern era. A hadith of Al-Bukhari, narrated by Abu Said Al-Khudri (RA) "Once Bilal brought Barni (i.e., a kind of dates) to the Prophet (sallallâhu 'alayhi wa sallam) and the Prophet asked him, 'From where have you brought these?' Bilal replied, 'I had some inferior type of dates and exchanged two Sas of it for one Sa of Barni dates in order to give it to the Prophet (SAW) to eat.' Thereupon the Prophet (sallallâhu 'alayhi wa sallam) said, « Beware! Beware! This is definitely Ribâ! This is definitely Ribâ! Don't do so, but if you want to buy (a superior kind of dates) sell the inferior dates for money and then buy the superior kind of dates with that money.'" (http://www.al-kanz.org/2015/02/09/islamic-loan-ribawi/)

The application of takaful is free from money creation as the concept applied reflects its operational mechanism accordingly. It is stated by Fauzi, Rashid, Sharkawi, Hasan, Aripin & Arifin, 2016). Takaful works as the participants agree to mutually help each other in any events of misfortune. Using the concept of donation, the fund is used for all pre agreed mishaps during the participation stage. 'Consequently, if any member of the group suffers any of the defined loss and/or damage the member would receive compensation usually in the form of money or benefits drawn from the mutual fund."

Analysis on Material Effects for Malaysian Takaful Operators (TOs):-

It is a matter of fact, all the above mentioned principles serve as the guiding path in ensuring Shariah compliance for Islamic financial institutions (IFIs). Basically, this application would affect the institution both directly and indirectly. At the same time, such effect comes in both materially and immaterially for IFIs and in this case, Malaysian Takaful Operators (TOs). First of all, the focus of analysis is on the material effect. According to Merriam-Webster Dictionary, "material can be defined as mean of or belonging to actuality. Material implies formation out of tangible matter; used in contrast with spiritual or ideal it may connote the mundane, crass, or grasping. ⟨material values⟩ physical applies to what is perceived directly by the senses and may contrast with mental, spiritual, or imaginary".[2]

Being operated since 1984 in Malaysia, takaful had gone through various stages of development as well as the enhancement of legal dimensions. The operations of takaful in Malaysia is governed and supervised by Bank Negara Malaysia (BNM). Being the highest regulatory body in managing Islamic Financial Institutions (IFIs) in Malaysia, BNM keeps on enhancing the statute and related guidelines, particularly in the Shariah atmosphere from time to time. The important roles played by Shariah Advisors for each IFI require for exclusive supervision and attention by BNM. Besides laws such as IFSA 2013, there are lists of guidelines issued in ensuring Shariah compliance by all Shariah Governance (SG) organs especially Shariah Advisors or Shariah committees. (Hassan & Hussain, 2013). Berkem (2014) analyzes the growth of Malaysian TOs under the supervision of BNM. He concluded that such

[2] https://www.merriam-webster.com/dictionary. Retrieved on 15 August 2017.

systematic regulations has resulted to an encouraging result for further success of this industry. This SG robustness serves as the main material effect to the organization while ensuring the daily operations work effectively.

Through modern operational settings, there are various plans offered by all TOs in ensuring products and services remain competitive in the market. As stated in the analysis on takaful risk management, "wealth preservation using takaful aims to safeguard wealth against financial risks and threats, protect assets and physical property against unpredictable occurrences and potential loss. It also to safeguard personal health and energy against hardships from illness, prolonged sickness, injury or disability, or death". Aziz, Faizal & Mohamad (2013) deliberate on the wealth protection which is achievable via takaful. It does not provides the material benefits to participants and their heirs but the most important it is meant to fulfil the objectives of Shariah (Maqasid Al-Shariah) as promulgated in Islam. Jalil, Haris, Ramli, & Said (n.d) reiterate on the importance on social security from Islamic perspective. As the research's scope is wider, they have highlighted the aims of putting emphasis on social which simultaneously covers the wealth protection effort. A proper and well-planned of wealth and social security leads to justice, protecting the components in Maqasid Al-Shariah as well as the mutual support among the society.

Nowadays, takaful products are designed with exciting riders' selections rather than being traditional in nature. The attached elements such as hibah, tabarru' and waqf for example, suit to be embedded in takaful plan subject to certain strict requirements such as being Shariah compliant and compatible with Maqasid Al-Shariah. Jalil & Rahman (2015) exemplify on how hibah, tabarru' and waqf are possibly applied in takaful. In the light of Maqasid Al-Shariah, this arrangement could be done with a few observations such as:

1. "To increase gifts and donations so that they may benefit the public as well as individuals.
2. Gifts and donations must be voluntary and free from any reservation.
3. There must be tolerance and flexibility in the validation of donation contracts according to the wishes of the donor.
4. The act of donation does not cause loss of rights and suffering to others such as heirs and creditors".

Additionally, takaful is considered as one of the important avenues in protecting life, wealth and pride of an individual. (Abdullah, 2012).This emphasis is basically observed from this Hadith of Prophet Muhammad (pbuh): …."leaving behind one's heirs rich is better than leaving them poor" (Sahih Bukhari). Ismail (2009) reiterates on this wealth protection plays a simultaneous role of risk management technique especially for the affected heirs and family. Via takaful, immediate wealth is ready once the unexpected death of a wage earner.

Besides all the commercialized aspect of takaful operations which can be observed today, the effort to make sure Shariah compliance could not compromised in any ways. The adherence to Shariah precepts and governance is crucial to avoid such misleading in promoting takaful as a competitive avenue for wealth protection for community. Noordin, Muwazir & Madun (2014) mention "that only if these contracts are correctly and appropriately applied will the subsequent acquired revenue and profits be valid for the commercial takaful operator. Otherwise they could possibly be deemed invalid due to their association with gharar, jahala and other unfair practices".

Analysis on Immaterial Effects for Malaysian Takaful Operators (TOs):-

Another perspective of impact from the adoption of Islamic finance principles could be analyzed from its immaterial effects. Immaterial is simply understood as incorporeal, not material, bodiless, unembodied, disembodied, impalpable, ethereal, unsubstantial, insubstantial, airy, and aerial.[3] It is something which is intangible but still has its significant impact to the institution. Basically, it is important stand clarified by Beekun (1997) that any organizations engaged in halal businesses would be easily nurture ethical behavior through the development of an Islamic code of ethics. As an institution which is inspired by Islamic rules and guidance, IFI is indirectly adopting the values of Shariah within the operational settings. This is seen as a blessing which grows inside the institution silently. The most important finding by Gait (2008) shows that the majority of Islamic bank customers revert in a survey done that religion was the primary motivation in the use of Islamic products and facilities.

Shariah governance shapes the way of internal Shariah arrangement of any IFI. Therefore, the accountability towards the ultimate Creator becomes the most important objective to achieve my all key organs. This is proven by Mohamed Ibrahim, Fatima & Htay (2006) in which Islamic doctrine stands as the significant factor shaping the believers' minds and consequently, their performance. It is shown that Muslim management executive committees,

[3] https://en.oxforddictionaries.com/definition

particularly in Shariah based corporations would be similarly motivated to accomplish their responsibilities, not only to the shareholders and stakeholders, but ultimately to God.

In analyzing the immaterial effects for Malaysian TOs, the deliberation would be based on the Shariah governance principles as follows:
1. Tawhid is the Episteme
2. Appointed Shariah Committee
3. Shura
4. Minimal Regulatory
5. Social Well-Being

The first principle is on the foundation on how this concept is developed. Hasan (2016) explain this tawhidic paradigm provides foundation of Islamic faith, and, therefore, Islamic finance framework, which is faith-based, also emanates from this concept. Therefore, takaful is included. It is interesting that every task as action taken is considered as a devotion if it is done for God's sake. Through financial activities, this mechanism could be achieved through fulfilling the Maqasid Al-Shariah (objectives of Shariah). This holds SG and the overall system to be unique. "Shari'ah governance adds value to the existing corporate governance framework. It inculcates trust, ethical behavior, credibility, and values underlying faith and beliefs, Shari'ah, and ethics". (Malkawi, 2013)

Secondly, the existence of Shariah Committee or Shariah Supervisory Board (SSB) in each IFI serves to be invaluable added values to the organization. Nathan & Ribiere (2007) had stated that: "The SSB not only carries/transfers knowledge but, more importantly, Islamic wisdom that drives the operations and actions of the bank". Additionally, Nathan Garas & Pierce (2010) state that the Shariah advisors derives its importance from five (5) aspects such as religious, societal, economic, legal, and governance with objective in ensuring each of conducted activity by IFI is Shariah compliant through supervising management and being a provider of guided advisory. From regulatory point of view, SG works based on its strategic framework to ensure business is conducted within the Shariah principles environment. This factor would lead to public confidence and creates long term trust towards Islamic finance system in this country. (BNM, 2009).

Thirdly, pursuant to the notion of vicegerency and integrity, it is vital to acknowledge the implementation of Shura or Musyawarah for any decision related to the organization. "The stakeholders as vicegerent of Allah have fiduciary duty to uphold the principle of distributive justice via the Shuratic process. The constituent of Shura provides widest possible participation of the stakeholders in the affairs of the company such as Islamic banks". (Hasan, 2016).

The subsequent principle is related to minimal regulatory. In Malaysia, the recent and comprehensive act was enacted to ensure full compliance by all IFIs. Being the highest regulatory body in managing IFIs in Malaysia, BNM keeps on enhancing the statute and related guidelines, particularly in the Shariah atmosphere from time to time. The important roles played by Shariah Advisors for each IFI require for exclusive supervision and attention by BNM. Besides laws such as IFSA 2013, there are lists of guidelines issued in ensuring Shariah compliance by all SG organs especially Shariah Advisors or Shariah committees. (Hassan & Hussain, 2013). Berkem (2014) analyzes the growth of Malaysian TOs under the supervision of BNM. He concluded that such systematic regulations has resulted to an encouraging result for further success of this industry. Since 2009, BNM through Prudential Regulation and Supervisory Framework, reiterates on their formulation of new SGF which finally took effect on 1st January 2011. "A two-tiered Shariah governance structure has been established, comprising an apex.

Shariah advisory body at the Bank and a supervisory Shariah committee formed at the respective Islamic financial institutions". (BNM, p. 99). Comparing SG system applied by Gulf Cooperation Countries (GCC) and Malaysia, Hamza (2013) concluded the centralized SG system as being practiced in this country found to be efficient and conducive in enhancing IFIs system and control.

Furthermore, Malaysian TOs are supervised by BNM together with Islamic banks. "BNM was established in 1959 under the Central Bank of Malaysia Act 1958 (Act 519) which was repealed by current Central Bank of Malaysia Act 2009 (Act 701) (CBMA). In relation to the role of BNM, section 5(1) and 5(2) of CBMA spelt out the principle functions and the primary functions of BNM. BNM as the central bank is responsible for the supervision and regulation of banking institutions and insurance companies including Islamic banking and takaful. For takaful companies, section 54 of Takaful Act 1984 (Act 312) (TA), the Governor of the BNM is appointed as the Director

General of Takaful with such powers, duties and functions as provided under TA". (Hassan & Hussain, 2013). In summary, being a trusted individual in running Shariah compliant business, players and stakeholders are driven the attitude of "Ihsan" at all times. This is reiterated by Hasan (2016) that "Ihsan requires extra caution, effort and good intention where the individual performs good deeds with the realization that Allah is watching him at all times".

Last but not least, takaful concept and its application reflects social well-being of society across jurisdiction. It is different from conventional insurance where the essence of protection coverage is based on exchange money of money. Client pays such amount of premium to insurance company in order to get the protection. On the other hand, client participates in takaful scheme in order to get protected from any possible unforeseen catastrophes. However, should clients survive and healthy within the agreed tenure, they already participated themselves in good deeds which is done through 'tabarru' fund. Indeed, via takaful, community would spread the spirit of mutual help and cooperation as defined. "Takaful models based on the aforementioned Shariah concepts were found to be very much in compliant with the Maqasid Al-Shariah form and substance due to its nature of ta'awun". (Jalil & Rahman, 2015).

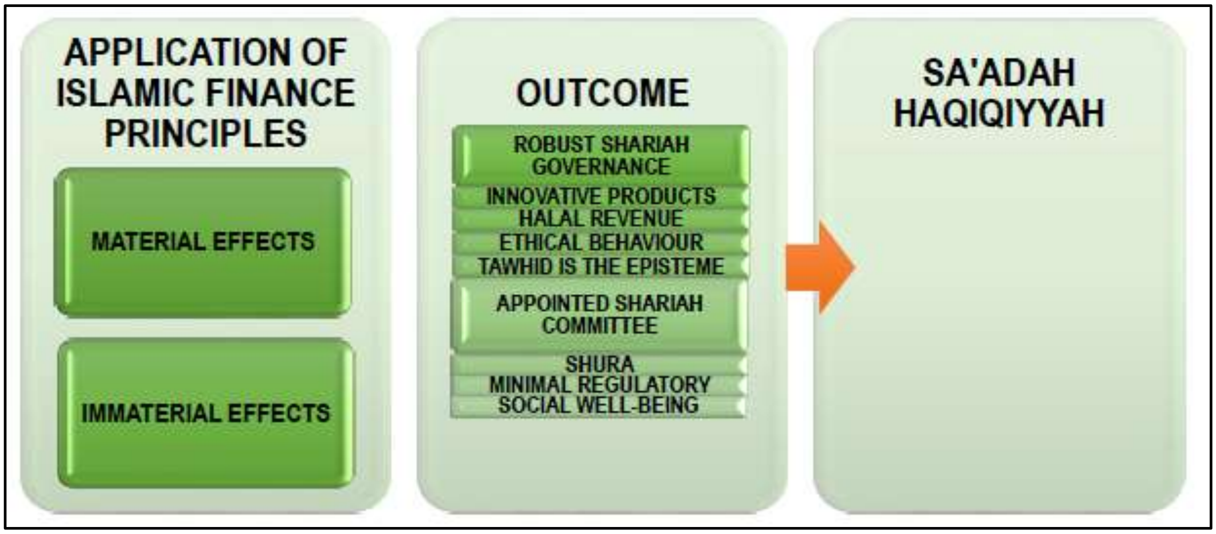
Despite this encouraging movement, it was reported that "industry pundits have said that the barriers to growth in the Takaful sector include: lack of Shariah uniformity, poor record of innovation, weak public awareness and limited educational outreach, limited corporate governance and weak technical underwriting and risk management, slow embrace of financial ratings, etc". (www.labuanibfc.com). additionally, it is stated by Akhter & Hussain (2012) that regulatory compliance failure usually is caused by ineffective practical implementation by the relevant industry players.

A Proposed Theoretical Framework:-

Based on the deliberated literatures above, this paper suggest a theoretical framework which would be beneficial for future research. Undeniably, takaful operations and other Islamic financial transactions are meant to serve the needs of Muslims who emphasize on the legitimacy of monetary related transaction and blessing from the Almighty. Shah Alam, Mohd & Hisham (2011) in their general study in purchasing behavior of Muslim consumers find out that the respective community group choose Shariah as the main reference in any actions including mu'amalah transaction. "This study confirms that religiosity acts as a full mediating role in the relationship between relative and contextual variables, and purchase behaviour of Muslim consumers". This finding suits the evidence on the availability of consumers' power which is centralized on religion influence. Therefore, it is assumed that the same scenario happens on takaful participation and engagement drive among customers in this country.

It is indicated by a study by Siala (2013) where "the results shows that there is a positive relationship between the exogenous religiosity and religious centrism constructs, and the endogenous attitudinal brand loyalty, price tolerance and word-of-mouth constructs. "As a matter of fact, religion has its vital impact on customers' preference in participating in any coverage protection and indemnification. In addition, Abdullah (2012) indicates that there is a positive relationship between religion factor and family takaful demand. The coefficient of this factor is positive and significantly related to the demand for family takaful. Apparently, there are certain group of consumers tie their financial preference with religious attributes.

Figure 5.1



Application of Islamic Finance Principles: A Theoretical Framework on Material and Immaterial Effects
Source: Authors' Compilation with Link to Islamic Worldview

Conclusion:-

This theoretical framework aims on achieving the ultimate success in Islam which is known as "Sa'adah Haqiqiyyah" (ultimate happiness). According to Muqorobin (2008), "Muslim economists invariably search for the new formulation of incorporating certain theories of secular economics, to be assimilated into the Shari'ah worldview, under the banner of Islamic economics." Such happiness works to shape human's attitudes in every aspect including financial transactions. Rosly (2005) mentions that Islamic worldview serves to unite both worldly affairs and hereafter under the same roof. It is understandable that the mission and vision of establishing Islamic finance as well as its related components are inspired by Shariah fulfilment with its maqasid. Gait & Worthington (2007) simplify that "Islamic finance is defined as a financial service principally implemented to comply with the main tenets of *Sharia* (or Islamic law)." The overall system is imbued with Islamic requirements which simultaneously shape its distinctive features from other form financial transactions.

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