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A SURVEY OF ATTEMPTS TO ESTABLISH ISLAMIC
BUSINESS ORGANIZATIONS IN MALAYSIA

BY :

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INTERNATIONAL ISLAMIC UNIVERSITY MALAYSIA
بَوْتِنَبْرُؤِيَّتِي اِسْلَامًا اَنْبَارًا رَجَسًا مُلَدِيَّتًا

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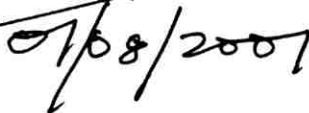
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TABLE OF CONTENTS

Chapter		Page
1.	INTRODUCTION	1
2.	CSR DEFINITIONS	2
3.	SYARIKAT TAKAFUL MALAYSIA	8
4.	BANK ISLAM MALAYSIA BERHAD	22
5.	HOTEL ANSAR	30
6.	PUSAT RAWATAN ISLAM (PUSRAWI)	34
7.	PUSAT PUNGUTAN ZAKAT (PPZ)	40
8.	BAITULMAL WILAYAH PERSEKUTUAN	44
9.	INTERNATIONAL ISLAMIC UNIVERSITY MALAYSIA	52
10.	LEMBAGA TABUNG HAJI	60
11.	ANALYSIS OF FINDINGS AND RECOMMENATIONS	67
12.	APPENDICES	
13.	BIBLIOGRAPHY	

LIST OF APPENDICES

1. Questionnaire for Profit-Oriented Organizations
2. Questionnaire for Non-Profit-Oriented Organizations
3. Copy of Approval for Research Paper Proposal

ABSTRACT

This paper studied the corporate social responsibilities of profit and non-profit Islamic organizations in Malaysia. The organizations involved are as follows:

1. Baitulmal Wilayah Persekutuan
2. Pusat awatan Islam
3. International Islamic University
4. Pusat Pungutan Zakat
5. Lembaga Tabung Haji
6. Bank Islam Malaysia Berhad
7. Syarikat Takaful Malaysia Berhad

The interview conducted with each organization was based on a prepared questionnaire. The questionnaire is divided into two sections; one, for profit-oriented organization, and second, for non-profit organization. In order to effectively analyzed the CSR contributions, it is important to understand the nature of their businesses. Where relevant, comparison between Islamic and conventional aspects of business is made.

The findings from the interview were obtained directly from the organizations' representatives. It was their own perceptions of their company's contributions to CSR.

A discussion of Islamic CSR is also conducted. This was as the result of an interview with Professor Dr. Wan Mohd Nor Wan Daud, Deputy Director of International Institute of Islamic Thought and Civilization. In the analysis of the interview findings, the CSR perceptions of each organization will be reflected against both Western and Islamic views of CSR.

1. INTRODUCTION

The main objective of this research paper is to find out how Islamic-based organizations contribute to the social development of Malaysian society. It is also intended to research the common CSR practices and understanding of the Islamic-based organizations. For profit-oriented organizations, it looks at whether they have a narrow view i.e. profit maximization only, or a broad view i.e. CSR oriented. If these organizations are lacking in CSR practices and understanding, then what are the reasons for such a situation and how could they improve the situation?

The research methodology adopted is as follows:

- a. Primary information was obtained through direct interviews with officers of the Islamic-oriented organizations. At least the heads of corporate affairs department of the organization were interviewed.
- b. Secondary information was obtained through readings of CSR practices in magazines and journals.
- c. Secondary information was also obtained through interviews with local Islamic scholars.
- d. References were also made to the Holy Quran and the Hadith of Prophet Muhammad (peace be upon him) to provide the basic Islamic principles of CSR.

2. CSR DEFINITIONS

In the beginning, the author had only defined CSR through research based on western authors. It was after the interviews with all Islamic-oriented organizations that the author sought views on Islamic CSR.

2.1 Western views of CSR

Definition No. 1 – Social responsibilities mean that businessmen should oversee the operation of an economic system that fulfills the expectation of the public. This means, in turn, that the economy's means of production should be employed in such a way that production and distribution should enhance total social-economic welfare. Social responsibility implies the corporation's position towards society's economic and human resources. Also, the willingness to see that those resources are used for broad social ends and not simply for the interests of private persons or selected firms.¹

Definition No. 2 – Corporate social responsibility is the concept that corporations have an obligation to constituent groups in society other than shareholders and beyond that prescribed by law. Two aspects of this definition are critical. First, the obligation must be voluntarily adopted. If that behavior is influenced by coercive forces of law or union contract, it is not considered voluntary. Second, the obligation is a broad one,

extending beyond the traditional duty to shareholders, i.e. to other groups in society such as customers, employees, suppliers, and neighboring communities.²

Definition No. 3 – Corporate social responsibility is the overall relationship of the corporation with all its stakeholders. These include customers, employees, communities, owners, investors, government, suppliers and competitors. Elements of social responsibility include investment in community outreach programs, employee relations, creation and maintenance of employment, environmental responsibility, human rights and financial performance. Specifically, CSR is about producing and delivering socially and environmentally responsible products and services in an environmentally and socially responsible manner. It is about a company’s commitment to being a fair employer; and it is about strategic social investment.³



Definition No. 4 – The pyramid of the corporate social responsibility is depicted above. It portrays the four components of CSR, beginning with the basic building blocks and economic performances fundamental of all else.⁴

2.2 Islamic views of CSR

The basic role of the human being on earth is to worship Allah [s.w.t]:

“I have only created Jinns and men, that they may serve Me.” (Quran, 51:56)

To serve and to worship Allah is a comprehensive way that covers every aspect of life. Fulfilling all that God has demanded from us in terms of praying, fasting, alms and Hajj indicates worshipping. The same could be said regarding any action that the human being performs in fulfilling his obligations towards another human being.

Islam lays down the principle of mutual responsibility in all its various shapes and forms. In it we find the responsibilities, which exist between a man and his soul, between a man and his immediate family and society, communities and other communities.

In Islam, the basis of social responsibility is through *fardhu kifayah*. It has imposed obligations on all Muslims to undertake social obligations for the benefit of the whole

society. If no individuals come forward to fulfill a particular necessary function, then the entire Muslim community will be answerable to God. If there are a few who are able to perform that social function, then the whole community will be religiously freed from that responsibility. In short, *fardhu kifayah* is the social responsibility based on religious injunctions.

Therefore, the corporate social responsibility of profit-oriented and non-profit-oriented organizations that are Islamic-oriented could be concluded to fall within the realm of *fardhu kifayah*.

In order to fulfill the *fardhu kifayah* obligation, these organizations has to first fulfill their *fardhu ain* obligations. *Fardhu ain* is the obligatory responsibilities of every individual to their stakeholders. Among the *fardhu ain* obligations are as follows:

- a. Fulfill the obligations to the employees by paying agreed salary at agreed time and not practicing discrimination.
- b. Fulfill the obligations to the business partners by fulfilling promises made in business agreements.
- c. Fulfill the obligations to the customers by not producing goods that are *haram*, not hoarding goods, manipulating prices, weights and quality.
- d. Fulfill the obligations to the society by paying *zakat* over profits.

- e. Fulfill the obligations to protect the environment by producing environmentally friendly products and conducting business operations in a manner that does not pollute the environment.

The author could not find any local references that describe the Islamic views of corporate social responsibility. The author had sought the views of Professor Dr Wan Mohd Nor Wan Daud, the Deputy Director of International Institute of Islamic Thought and Civilization (ISTAC) on the Islamic views of corporate social responsibilities.

Professor Dr Wan Mohd Nor states that if an organization could not fulfill its *fardhu ain* obligations, they could not possibly fulfill their *fardhu kifayah* obligations. He said if these organizations are set up to fulfill a particular field or function, if they function well and excellently, they have fulfilled their social responsibility.

2.3 Comparison between western and Islamic views of CSR

The western version of CSR views social responsibilities more in terms of the corporations' external stakeholders' relationships. From the Islamic perspective, it views most of western CSR views as corporate responsibility or *fardhu ain* rather than CSR or *fardhu kifayah*. In Islam, a corporation have fulfilled its social responsibilities

if it has performed its job well, i.e. the corporate social responsibility in Islam is fulfilled by first fulfilling the *fardhu ain* obligations and then performing well in whatever field the business is in.

The question is how to determine whether the corporation has done well in its business field. The author is of the opinion that the corporation would have done well if it has operated and functioned within the guidelines of the holy Quran and the Hadith, particularly within the Islamic *muamalat* framework.

3. SYARIKAT TAKAFUL MALAYSIA BERHAD

3.1 Company Background

Syarikat Takaful Malaysia (known as Takaful Malaysia) was incorporated on 29 November 1984. It has an authorized capital of RM500 million and paid up capital of RM55 million. It has been converted into a public quoted company with the listing of its shares on the Main Board of the Kuala Lumpur Stock Exchange since 31 July 1996. It is a subsidiary company of BIMB Holdings Berhad which holds 65.5% of its equity. Other major shareholders are the State Islamic Religious Councils, Baitulmals of Terengganu, Pahang, Negeri Sembilan and Amanah Saham Bank Islam (ASBI). It was created after the formation of Bank Islam. This is because there was a need for an Islamic-based insurance coverage and protection for asset purchases and loans as well as life insurance schemes.

3.2 Corporate Objectives

The corporate objective of Takaful Malaysia is “to provide Islamic insurance services (*takaful*) at the highest standard of efficiency and professionalism to all Muslims and the population of the country.”

3.3 Shariah Supervisory Council

Underlining the importance of complying with the religion of Islam, the Memorandum and Articles of Association of Syarikat Takaful Malaysia prefaces that “all businesses of the Company will be transacted in accordance with Islamic principles, rules and practices.”

In this respect, Section 8 of Takaful Act 1984 states that:

“...3(a) A Religious Supervisory Council, whose members would be made up of Muslim religious scholars in the country, shall be established to advise the Company on the operations of its *takaful* business in order to ensure that they do not involve any element which is not approved by the Religion of Islam...”

Accordingly, in the Articles of Association of the Memorandum, there is a provision which specifies that...”

“...(5) The Director General shall also refuse to register an applicant unless he is satisfied (b) that there is in the Articles of Association of the takaful operator concerned provision for the establishment of a Shariah Supervisory Council to

advise an operator on the operations of its takaful business in order to ensure that it does not involve in any element which is not approved by the Shariah...”

The role of the Shariah Supervisory Council is to supervise and audit the company's operations to ensure their compliance with the rules of Shariah. The council members are Muslim scholars elected by the Takaful Malaysia on a two-year basis.

3.4 Islam and insurance

The essence of insurance could be seen in the system of mutual help. In fact, the principle of compensation and group responsibility was accepted by Islam and prescribed by the Holy Prophet. The origins that formed the basis of shared responsibility in the system of *aqila*, as practiced between Muslims of Mecca (*muhajirin*) and Medina (*ansar*) laid the foundation of mutual insurance.

As a complete religion, the teaching of Islam encompasses the essence of peace, economic well-being and development of the Muslim at the individual, family, social, and state levels. To illustrate the importance of this relationship in a life of a Muslim, Islam calls for the protection of certain basic rights, that is the right to protect the Religion, life, dignity, honor, property, and the mind.

Insurance in Islam should be based on the principles of mutuality and cooperation. On the basis of these principles, Islamic system of insurance embodies the elements of shared responsibility, joint indemnity, common interest, and solidarity. The concept of insurance is acceptable in Islam because:

- a. The policyholders would cooperate among themselves for their common good;
- b. Every policyholder would pay his subscription in order to assist those among them who need assistance;
- c. It falls under the donation contract which is intended to divide losses and spread liability according to the community pooling system;
- d. The element of uncertainty will be eliminated insofar as subscription and compensation are concerned;
- e. It does not aim at deriving advantage at the cost of other individuals.

The conventional insurance as an exchange transaction under a buy and sell agreement does not in its present form, conform to the rule and requirements of the Shariah as the former embodied the following three elements:

I. Al-Gharar

There is the element of *al-gharar*, i.e. the unknown or uncertain factors in the operation of a contract, in both the life and general insurance policies. This arises due to the uncertainty of the subject matter of the contract or "*ma'qud'alaih*" of which one

of the basic rules of contract in Islam is that the *ma'qud'alaih* must be clear. In such a contract the insured or the policyholder agrees to pay a certain sum of premium and in turn the insurance company guarantees to pay a certain sum of compensation (sum insured) in the event of a catastrophe or disaster. However, the insured, or the policyholder, is not informed, for example, of how the amount of the compensation that the company will pay him is to be derived nor is he certain of the amount.

In addition, any form of contract in favor of one party at the expense and unjust loss to the other, is also classified as *gharar*. This is prevalent in both the conventional life and general insurance policies. The policyholder will suffer loss of premium paid if he would have to cancel his policy before the policy acquires the forfeiture status.

II. Al-Maisir

There is the element of *al-maisir*, or gambling, which arises as a consequence of the presence of *al-gharar*, in particular in the case of life insurance. When a policyholder dies before the end of the period of his insurance policy and after paying only part of the premium, for example, his dependents will receive a certain sum of money of which the policyholder, in the first place, has not been informed and has no knowledge of how and from where it is to be derived.

III. Al-Riba

There is the practice of *al-riba*, or interest, and other related practices in the investment activities of the conventional insurance companies which contravene the rules of the Shariah.

Thus, in consonance with the above basic characteristics, the Ulama' in Islam resolved that the system of insurance which falls within the confines of Islamic framework should be founded on the concept of "al-takaful". *Takaful* in Arabic means joint guarantee. Thus it can be visualized as a pact among a group of members or participants who agree to jointly guarantee among themselves against loss or damage that may be inflicted upon any of them as defined in the pact. Should any member or participant suffer a catastrophe or disaster he would receive a certain sum of money or financial benefit from a fund to help him meet the loss or damage.

In other words, the basic objective of *takaful* is to pay for a defined loss from a defined fund. Each member of the group pools its efforts to support the needy. It means mutual help among the group.

As an insurance system, Syarikat Takaful has confined the operation of *takaful* within the "*tijari*", i.e. the commercial sector. Thus the transactional aspect of the commercial activity of Takaful must be subject to the Islamic contractual laws in

order to ensure its compliance with the Shariah. Within this fundamental framework the contract of *tijari*, *takaful* is therefore based on the Islamic commercial profit-sharing principle of *al-mudharabah*.

IV. Al-Mudharabah

By this principle, the entrepreneur or *al-mudharib*, the *takaful* operator, will accept payment of the *takaful* installments or *takaful* contributions, or premium, termed as *ra's-ul-ral* from investors or providers of capital or funds from *takaful* participants acting as *sahib-ul-mal*. The contract specifies how the profit which is the surplus from the operations of *takaful* managed by the *takaful* operator is to be shared, in accordance with the principle of *al-mudharabah*, between the participants as the providers of capital and the *takaful* operator as the entrepreneur. The sharing of such profit from the surplus may be in a ratio 5:5, 6:4, 7:3, as mutually agreed between the contracting parties.

In order to eliminate the element of uncertainty in the *takaful* contract, the concept of *tabarru* i.e. to donate, contribute, or give away, is incorporated in it. In relation to this, a participant shall agree to relinquish, as *tabarru*, certain proportion of his *takaful* installments or contributions that he agrees to pay, thus enabling him to fulfill his obligation of mutual help and joint guarantee, should any of his fellow participants suffer a defined loss.

The sharing of profit that may emerge from the operations of *takaful* is made only after the obligation of assisting the fellow participants has been fulfilled. It is imperative for a *takaful* operator to maintain adequate assets of the defined funds under its care whilst simultaneously striving prudently to ensure the funds are sufficiently protected against undue over-exposure.

Therefore the provision of insurance cover as a form of business in conformity with *shariah* is based on the Islamic principles of *al-takaful* and *al-mudharabah*. The operation of *takaful* may thus be envisaged as the profit-sharing business venture between the *takaful* operator and the individual members of a group of participants who desire to reciprocally guarantee each other against a certain loss or damage that may be befall upon any one of them.

Thus it is necessary to emphasize at the outset that the *takaful* business as practiced in Malaysia is *al-takaful al taawuni*, a kind of cooperative *takaful*. This means that it is participated by a group of members of the public for their own cause within the domain of the private sector.

3.5 Sources of income to the Company

The principal activities of Takaful Malaysia are the provision and management of Family Takaful Business and General Takaful Business.

Syarikat Takaful Malaysia manages the following funds as its principal activities:

- a. Family Takaful Fund under the Family Takaful Business
- b. General Takaful Fund under the General Takaful Business

These *takaful* funds are kept separate from the Shareholders' Fund, which was originally funded wholly by the paid-up capital. Sources of income are as follows:

- a. Profits from the investment of its Shareholders' Fund;
- b. Its share of profits from the management of both the Family Takaful Business and the General Takaful Business in accordance with the profit-sharing agreement of *al-mudharabah*.

At present the profit sharing is based on the ratio 70:30 and 50:50 between the participants and the company for the Family Business and the General Business respectively. These respective shares of profit attributable to the company are credited into the Shareholders' Fund as the Company's total income. Profit or loss will be determined after deducting the Company's operating expenses.