

# Protection of *Wakaf-Zakat* Properties for the Needy and Poor via *Takaful*

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## Abstract

In Islam, *wakaf* and *zakat* are instruments aimed at helping the needy and poor. Consequently, *wakaf* and *zakat* authorities design schemes including funding the building of new properties for the needy and poor or repairing their existing properties. Naturally, the completed properties and their contents are exposed to a variety of risks such as fire and natural disasters, hence the need for appropriate protection. According to Shariah, such protection is allowed through *takaful*. However, literature is lacking on the provision of risk protection of *wakaf* and *zakat* properties and contents therein. As such little is known about the concept of risk protection of *wakaf* and *zakat* properties designated or occupied by the needy and poor. This paper endeavours to unveil the concept of risk protection of *wakaf* and *zakat* funded properties belonging to or occupied by the needy and poor, highlights its importance and identify the means available to the *wakaf* and *zakat* authorities for securing the required risk protection. The paper is conceptualized through desk study and review of *wakaf* and *zakat* authorities' manual guidelines and reports on the provision of *takaful* as protection of *wakaf* and *zakat* funded properties and contents therein. Results from the study suggest that (i) importance of *takaful* to protect properties are acknowledged, but there appears lackadaisical attitudes in terms of the important of *takaful* in protecting properties belonging to *wakaf* and *zakat* authorities and occupied by the needy and poor; (ii) unclear provision of *takaful* as stated in *wakaf* and *zakat* authorities' reports in terms of management and procurement, operations, and amount allocated and spent for *takaful* contribution in protecting *wakaf* properties as well as assisting the relevant *asnaf* via *zakat* fund; and (iii) authorities lack forward thinking in terms of the need for such risk protection and therefore unable to design schemes that extend the assistance given to the needy and poor in providing the necessary funds to pay for the contributions on their behalf. This paper is considered significant in terms of (i) highlighting the need for risk protection of properties belonging to or occupied by the needy and poor so that should unfortunate events occur, the needy and poor would not be 'out of pocket' and the authorities do not have to dig deeper into their coffers for the necessary funds needed for repairs and rebuilding; and (ii) the idea of *wakaf*, *zakat* and *takaful* to collaborate is considered a novelty in effort to reduce the cost of contributions and to achieve efficiency and effectiveness in the services provided thereto.

**Keywords:** protection, properties, risk, *wakaf*, *takaful* *zakat*

## INTRODUCTION

A reasonable and fair distribution of wealth, is encouraged in Islam with the rich to help those in need as enshrined in the Qur'an:

“Let the man of means spend according to his means: and the man whose resources are restricted, let him spend according to what God has given him. God puts no burden on any person beyond what He has given him. After a difficulty, God will soon grant relief.” (Qur'an 65:7)

*Wakaf* and *zakat* are among the key instruments that are available to provide assistance for needy and poor Muslims. In 2016, more than 30,000 hectares of *wakaf* land in Malaysia and RM 1.6 billion *zakat* funds are distributed for respective *asnaf*<sup>i</sup> (JAWHAR, 2017; MAINS, 2016). *Wakaf* and *zakat* can be either in the form of cash or properties i.e. land or/and buildings or both. Specifically, in the context of properties, past reports and literature have shown the involvement of *wakaf* and *zakat* in the provision of housing the needy that include building and repairing existing houses for the needy and poor (refers to those needy Muslims as recipients in the categories of either *asnaf faqr* and *miskin*).

There are six states in Malaysia have published and share the distribution of *zakat* for 2016 i.e. Selangor, Johor, Sabah, Perak, Pulau Pinang and Kedah. However, only Selangor and Johor have made available of the details distribution of *zakat* that show housing-related *zakat* fund assistances. For instant, Lembaga Zakat Selangor (LZS) (2016), reported that in 2015 and 2016, the assistance for building new homes and house repair in Selangor amounted to RM 28.9 million. In addition, Majlis Agama Islam Negeri Johor also provided *zakat* assistance for building new houses and house repair for the needy and poor in Johor amounted to more than RM 15 million (Majlis Agama Islam Johor (MAIJ), 2017).

The continuous and upward increases in the cost of living, coupled with similar increases in the rate of growth in the population (Department of Statistics Malaysia, 2017) mean that the number of people in need of help to having access to decent and affordable housing is expected to rise. These phenomena implies that the involvement of *wakaf* and *zakat* in the provision of housing for the needy and poor is also on the rise.

Properties funded by *wakaf* and/or *zakat*, as with other properties, would require protections as they could also be exposed to common risks such as fire, theft, flood, construction works and design failure. In the conventional way, protection of properties and contents therein may be secured through the various conventional insurances. However, since these properties are funded by *wakaf* and/or *zakat*, the modus operandi for protection of risks should be in accordance with the Shariah. Under the Shariah, such protection scheme available is known as *takaful*.

The provision of housing for needy and poor through *wakaf* and *zakat* is not new. It has been in existence since the time of the Prophet Muhammad (p.b.u.h) and the Companions but have been modernized especially during the reign of the Ottoman Empire (Siti Mashitoh, 2015). However, few studies have been reported on the protections of *wakaf* and *zakat* funded properties and contents therein. This paper discusses on the concept of risk protection and the need for *wakaf* and *zakat* funded properties and contents therein belonging to or occupied by the needy and poor to be adequately protected against risks. The aim of the study is to ascertain the concept and importance of risk protection of *wakaf* and *zakat* funded properties belonging to or occupied by the needy and poor and identify the means available to the *wakaf* and *zakat* authorities for securing the required risk protection.

This paper is structured into 5 parts. A brief review on *wakaf* and *zakat* assistance related to properties and the requirement of protection are presented in the introduction. This is followed

by a review of literature on the concept and need of risk protection of *wakaf* and *zakat* funded properties and contents therein through *takaful*. Following with that, methodology adopted for the study is provided. The subsequent part presents critical review analysis on the involvement of risk protection for *wakaf* and *zakat* funded properties and contents therein based on relevant authorities' reports and guidelines. Finally, conclusion with recommendations for *wakaf* and *zakat* to collaborate with *takaful* in ensuring the protection of their funded properties and contents therein against risk for the needy and poor is presented.

## **CONCEPT OF RISK PROTECTION OF WAKAF AND ZAKAT FUNDED PROPERTIES AND CONTENTS THEREIN**

### **Risk protection of properties in Islam**

Literally, risk refers to the potential of loss. In the context of *mua'malat*, the word '*khatar*' is used to connote risk that refers to variety of meaning such as fear of destruction and an exalted position (Asyraf Wajdi Dusuki, 2012). In Islam, Muslims are required to succumb to *qada'* and *qadr* i.e. to submit and leave matters to the will of Allah SWT, but only upon taking utmost precaution and striving to achieve the best in this world and the hereafter. Muslims are required to make efforts to reduce hardship and improve their life as enshrined in the Qur'an:

“For each one are successive [angels] before and behind him who protect him by the decree of Allah. Indeed, Allah will not change the condition of a people until they change what is in themselves. And when Allah intends for a people ill, there is no repelling it. And there is not for them besides Him any patron.” (Qur'an, 13:11)

Preservation of wealth is one of the element of *maqasid al-Shariah* (objective of the Shariah). The protection of wealth is indeed encouraged based on a *hadith*:

Narrated 'Abdullah bin 'Amr bin Al-'As: I heard the Prophet saying, “Whoever is killed while protecting his property then he is a martyr.” (Al-Bukhari, *Sahih Bukhari, Kitab al-Mazalim* (Book of Oppression), vol.3, no. 660, ed. 2009:565)

A variety of rules related to the preservation of property and wealth is promulgated in the Shariah that include prohibitions of misappropriating others' property by acts such as stealing and devouring the wealth of the needy and poor or orphans. In addition, Islam also emphasis on the importance of acquiring and maintaining wealth. Islam provides guidelines for ways to develop and use wealth, such as in business, investment and properties activities.

As Islam recognizes the presence of risk in business and *mua'malat*, Islam also acknowledges and encourages that risk can be managed and mitigated. Muslims is required to take full precautions and safety measures to uphold utmost good faith in ensuring that the loss and damage shall not get worse or lead to other harm and damage (Mohamad Akram Laldin, 2009). This concept is justified by an Islamic legal maxim that harm shall not be inflicted nor reciprocated (*la darara wa la dirar*). This maxim is applied to ensure that necessary measure should be taken in order to prevent any kind of loss or damage from happening (Mohamad Akram Laldin, 2009).

The concept of mitigation and management of risks is based on a *hadith*:

“Anas bin Malik narrated that a man said: "O Messenger of Allah! Shall I tie it and rely (upon Allah), or leave it loose and rely (upon Allah)?" He said: "Tie it and rely (upon Allah).” (Tirmidhi, *Jami' at-Tirmidhi, Kitab al-Fitan* (Book of Witness), vol.4, chap. 60, no. 2517, ed. 2007:509)

The Prophet Muhammad s.a.w. (p.b.u.h) was asked by a Bedouin whether he should tie his camel and leave it to Allah SWT or completely leave it to the will of Allah SWT. The Prophet Muhammad (p.b.u.h) instructed him to leave the fate of his camel to Allah SWT only after he ties it.

Conventionally, there are many methods of managing risk such as risk avoidance, reduction, retention, transfer and sharing. According to Asyraf Wajdi Dusuki (2012), total risk avoidance by obtaining profit without taking any risks and excessive risk-taking with the involvement gambling are among the concepts condemned by the Shariah. Shariah only allows and permits management of risk through the concepts of risk-sharing. In the context of properties, naturally, the completed properties and their contents therein are exposed to a variety of risks such as fire and natural disasters, hence the need for appropriate protection. According to Shariah, such protection is allowed through *takaful*.

### ***Takaful as tool for protection against risk***

*Takaful* is a Shariah compliant insurance where there is no involvement of prohibited elements in the Shariah i.e. usury (*riba'*), uncertainties (*gharar*), and gambling (*maisir*). *Takaful'* is defined as:

“An arrangement based on mutual assistance under which *takaful* participants agree to contribute to a common fund providing for mutual financial benefits payable to the *takaful* participants or their beneficiaries on the occurrence of pre-agreed events.”

(Islamic Financial Service Act (IFSA), part 1, 2013:24) There are two main principles underlying *takaful* that are mutual assistance (*taa'wun*) and donation (*tabarru'*). These main principles are based on the concepts of solidarity and brotherhood in Islam as enshrines in the Qur'an:

“...And cooperate in righteousness and piety, but do not cooperate in sin and aggression. And fear Allah; indeed, Allah is severe in penalty.” (Qur'an 5:2)

Donation (*tabarru'*) is a payment by *takaful* participants to operator for mutual protection and assistance upon occurrence of specified risks under a *takaful* certificate. In *takaful*, a group of people (as participant) mutually agreed to donate a sum of money (*tabarru'*) into a fund that will be managed by a *takaful* operator to provide joint-guarantee or protection against a defined loss and/or damage. Upon occurrence of the defined loss and/or damage, the money therefrom could be utilized for compensation to the suffered participant (Mohammad Akram Laldin, 2014; Puteri Nur Farah Naadia Mohd Fauzi & Khairuddin Abdul Rashid, 2013).

Essentially, through *tabarru'* the element of *gharar* and *maisir* are eliminated. Upon the payment of *tabarru'*, risks are shared between *takaful* participant and operator. The *takaful* operator will not solely bear the risks, but share equally with participants (Rodziah Ahmad & Zairol Azhar Auzzir, 2012). The *tabarru'* from *takaful* participants are not aiming to profit from uncertainties but to fulfill obligations of mutual protection and assistance. In regards with this, it is prohibited under the Shariah for *takaful* participants to demand for consideration or benefits upon providing donations. In addition, there are four main parties involved in a typical *takaful* scheme i.e. the participant, operator, insured and beneficiary. Figure 1 shows the relationship of four main parties in a *takaful* scheme.

*Takaful* for properties is divided into two (2) scenarios, 1) during construction works and 2) upon completion of construction works. *Takaful* transaction for construction works commences when contractor submits application for protection of works during construction to a *takaful* operator. Meanwhile, *takaful* transaction upon completion of construction works commences when owner submits application for protection of properties to a *takaful* operator.

Upon any occurrence of specified risks to the properties that give rise to a claim, contractors or owners may submit claims. If the claims made meet the requirements, they are entitled for compensation to the specified loss and damage that they suffered (Syarikat Takaful Malaysia Sdn. Bhd., 2014). The main objective of protection of properties and reimbursement or compensation of loss and damage are to provide a fair-estimated cost in order to place the

participant back to the participant’s same financial position immediately before the loss (Takaful Ikhlas Sdn. Bhd., 2014). Hence, through this the needy Muslims are insured on their wealth i.e. properties and assets upon any unexpected events or catastrophes.

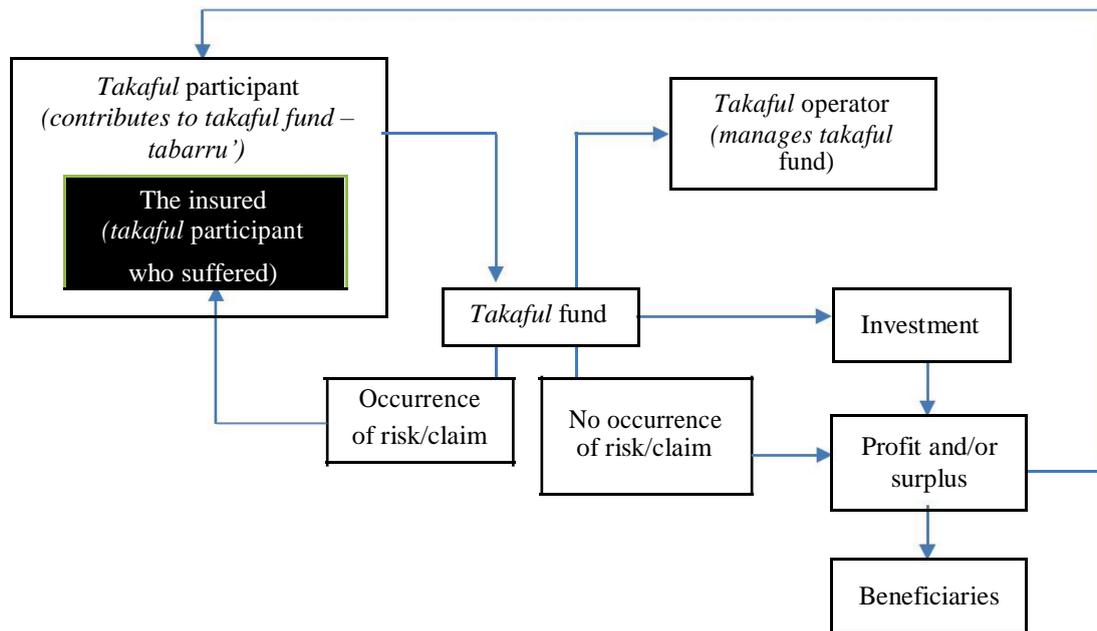


Figure 1: Relationship of four main parties in a typical *takaful* scheme.

Protection of construction works against loss and damage is covered under the insurance of works offered by *takaful* operators to contractors and clients typically through Contractor’s All Risks (CAR) *Takaful* certificates. The Contractor’s All Risks (CAR) *Takaful* certificates are designed to provide protection against loss and damage to 1) construction works, materials and plants, and 2) liability for property damages and bodily injury to third parties occurring in connection with a contract works.

In addition, *takaful* operators also offer protection of properties (i.e. land, house, building, etc.) and contents therein against unexpected risks such as fire, theft, faulty of design and workmanship through specific *takaful* certificates. For example, property all risks and homeowners’/householders’ *takaful* schemes are offered by some *takaful* operators in Malaysia. The property all risks and homeowners’/householders’ *takaful* schemes provide protection to commercial and residential properties against loss or damage caused by perils such as flood or earthquake. Such *takaful* schemes cover not only the house and property, but also the contents therein as specified such as garage, outbuildings, walls, gates and fences around the properties, permanent fixtures and fittings and fatal injury to the participants.

### **Wakaf**

Literally, *wakaf* is defined as ‘detention’ or ‘restrain’ (Solanki, 2015; Asmak Ab Rahman & Wan Marhaini Wan Ahmad, 2011). In the Shariah, *wakaf* refers to an act of dedication of usufruct of specific properties for pious purposes. The act of dedication is achievable through transferring of personal ownership to permanent ownership of Allah (Siti Mashitoh, 2015). *Wakaf* is initiated by the Prophet Muhammad (p.b.u.h) as accordance with the teaching of the Qur’an on spending for charitable purposes (*infaq*), allocation of wealth and/or property to the poor and trust and trusteeship responsibility (Asmak Ab Rahman & Wan Marhaini Wan Ahmad, 2011). The Qur’an enshrines:

“O ye who believe! Give of the good things which ye have (honorably) earned. And of the fruits of the earth which We have produced for you...” (Qur’an 2:267)

“And spend [in the way of Allah] from what We have provided you before death approaches one of you and he says, "My Lord, if only You would delay me for a brief term so I would give charity and be among the righteous.” (Qur'an 63:10)

The Prophet Muhammad (p.b.u.h) encourages *wakaf* based on a *hadith*:

Narrated on the authority of Wahb b. Kaisan with the same chain of transmitters but with this change that he said: “I earmark one-third for the poor, the needy and the wayfarers.” (Muslim, *Sahih Muslim, Kitab Al-Zuhd Wa Al-Raqa'iq*) (Book Pertaining to Piety and Softening of Hearts), chap. 5: Charity to be given to the poor or the wayfarers, no. 7113, ed. 2009:1774)

The practice of *wakaf* started during the *hijrah*<sup>ii</sup> of Prophet Muhammad (p.b.u.h) and his companions to Madinah. The Prophet Muhammad (p.b.u.h) with the Companions built Quba' mosque on a piece of land and dedicated the mosque as *wakaf*. Since then *wakaf* has been practiced and nurtured further by the Companions for the benefit and expansion of needy and *ummah* at large.

*Wakaf* is considered unique in terms of its ownership and benefits. The dedication of usufruct of specific properties has made *wakaf* a system whereby properties are owned by Allah alone and to be managed by a trustee. The right to enjoy the use and advantage of properties are given to certain beneficiaries permanently (Asmak Ab Rahman & Wan Marhaini Wan Ahmad, 2011). In addition, when a property has been bequeathed as *wakaf* it is irrevocable. An owner of a property is not allowed to revoke the act of dedication once he has bequeathed his property as *wakaf* (Siti Mashitoh, 2015; Asmak Ab Rahman & Wan Marhaini Wan Ahmad, 2011). Moreover, beneficiaries and trustees also have no right to dispose the *wakaf* property.

There are two forms of *wakaf* i.e. immovable that include land, buildings and houses and movable for instance cash or money. Most of *wakaf* institutions emphasize on the development of *wakaf* of fixed assets besides concentrating on the other forms of *wakaf*. The physical developments of *wakaf* include aspects of education, welfare, housing, economy, commercial, health, and religious activities that conform to the Shariah. In the management of *wakaf* assets and properties, there are three (3) legal principles to be adhered; assets and properties are not allowed to be sold, given as a gift, and/or to be inherited.

In Malaysia, *wakaf* institution plays a significant role in the Islamic socio-economic system for the Muslim with the aim to eradicate poverty (Z. Mohamed Isa, et al., 2011). The operation and monitoring of *wakaf* is administered by the respective State Islamic Religious Councils (*Majlis Agama Islam Negeri-negeri* or MAINs). At the Federal level, the Yayasan Wakaf Malaysia (YWM) act as a national charitable entity set up by the Department of Awqaf, Zakat & Hajj (JAWHAR), Prime Minister's Department. The role of YWM is to mobilize resources of *wakaf* properties in order to generate high economic potential and beneficial to the welfare of Muslims and society (JAWHAR, 2016). Some phases of the *wakaf* development have been successfully implemented by JAWHAR and YWM in cooperation with each MAIN at State level. In addition, MAIN has been actively building and managing their *wakaf* endowments.

During the 9<sup>th</sup> Malaysia Plan, a total of RM256.4 million was disbursed by the Federal Government for the development of *wakaf* properties in Malaysia. Further RM109.4 million has been disbursed in the 10<sup>th</sup> Malaysia Plan (C. Mohd. Anan, 2012). Specifically for housing the needy and poor, some State Islamic Religious Councils (MAINs) in Malaysia have provided assistances in developing *wakaf* lands for affordable housing projects. The developments were undertaken by MAINs individually as well as collaboration with corporate agencies and

developers such as UDA Land (North) Sdn. Bhd., Nada Sepakat (M) Sd. Bhd. and PIJ Holdings Sdn. Bhd. Currently, there are more than 30 developments of *wakaf* land for affordable housing projects worth more than RM 300 million in Malaysia.

### **Zakat**

*Zakat* refers to several literal meaning in the Qur'an that include 'to be clean' (Qur'an, *Surah An-Nur*, verse 21), 'to be pure' (Qur'an, *Surah Maryam*, verse 19) and 'obligatory charity' (Qur'an, *Surah Al-Baqarah*, verse 43). *Zakat*<sup>iii</sup> is an obligatory worship ordained by Allah to be performed by Muslims<sup>iv</sup> to help the poor and needy. *Zakat* is one of the five pillars in Islam. The *zakat* collected are to be expended to eight specific recipients or *asnaf* that are 1) *fuqara'*, 2) *masakin*, 3) *amilina alayha*, 4) *Mu'alafati qulubhum*, 5) *Fil-riqabi*, 6) *Gharimin*, 7) *Fi Sabilillah*, and 8) *Sabil*. The Qur'an says:

“Alms are for the poor and the needy and those employed to administer the (funds); For those who hearts have been (recently) reconciled (to the truth), for those in bondage and in debt, in the cause of Allah, and for the wayfarer; (Thus it is) ordained by Allah, and Allah is full of knowledge and wisdom.” (Qur'an 9:60, translation of 'Abdullah Yusuf 'Ali, 2000).

In Malaysia, similar to *wakaf*, *zakat* is also administered by MAINs. JAWHAR is in charged for the purpose of coordinating and to increase the States' efficiency. In addition, the objectives of JAWHAR include improving the management of Muslim wealth in the forms of *awqaf*, *zakat*, *mal* and *haji* (JAWHAR, 2015). The collection and disbursement of *zakat* fund to the eligible *asnaf* are efficiently conducted and monitored by the various MAINs. In addition, the disbursement of *zakat* fund involved not only in the form of cash for daily substance but also in the form of other assistance such as scholarships, funding assistance for education, health, building new houses and/or repair of existing houses and building religious schools (Lembaga Zakat Selangor, 2017; MAIPP, 2017).

Specifically for housing-related assistance, help in terms of building new houses and repair of existing houses are available. However, the details of assistance for most of the states in Malaysia are not been reported in MAINs' websites and made available to the public. Based on the review, Lembaga Zakat Selangor (LZS) has reported on the details of housing-related *zakat* fund in its Annual Zakat Report. Table 1 shows the collection and distribution of housing-related *zakat* fund in Selangor.

Table 1: Collection and distribution of housing-related *zakat* fund in Selangor (LZS, 2017)

Year	Collection (RM million)	Distribution (RM million)	Distribution for properties <sup>v</sup> (RM million)				
			Building individual house	House Repair	Building <i>muallaf</i> center and shelter	Building house for <i>musafir</i>	Total
2011	394.1	373.4	9.8	4.6	0.8	9.8	25
2012	451.3	401.7	8.5	5.9	2.2	0.4	17
2013	517.3	463.4	13.2	3.8	1.3	0.1	18.4
2014	582.2	595.7	18.0	5.1	3.3	0.4	26.8
2015	627.2	676.0	19.9	8.9	4.1	0.1	33
2016	673.7	697.4		14	2.9	0	16.9

### ***The need for protection of properties specifically for wakaf and zakat funded properties and contents therein***

The need for *takaful* in protecting properties and contents therein is essential despite their funding i.e. individual or *wakaf* and *zakat* funded properties. Specifically for properties

belonging to *wakaf* and *zakat* authorities and occupied by the needy and poor, in the event of calamities, the needy and poor will suffer from loss i.e. properties as well as assets. Through *takaful* the fund used to compensate the needy and poor may assist them from further loss.

In the context of the study, the needy and poor are referred to those who are below the Poverty Line Income (PLI)<sup>vi</sup> level established by Jabatan Kebajikan Masyarakat (JKM) and Kementerian Kesejahteraan Bandar, Perumahan & Kerajaan Tempatan (KPKT) and need of assistance. Specifically for *zakat*, the needy and poor are referred to specific recipients (eligible 8 groups of recipients of *zakat* funds) in need of assistance or otherwise by applying the concept of *haddul kifayah*<sup>vii</sup> (LZS, 2016; Khairuddin et al., 2015).

For example, some 30 *tahfiz* (Islamic religious) and *pondok* residential schools occupied by the *asnaf* i.e. students studied in the course of Allah were reported fire in the first quarter of year 2017 (Astro Awani, September 14, 2017) with estimated losses amounted to RM 1.4 million. The Fire and Rescue Department reported that most of the *tahfiz* residential schools are not registered and may not be able to procure insurance for protection of the buildings. In addition, the Department also discovered that over 40% of the *tahfiz* schools in Malaysia have not complied with safety requirements (Bernama, October 6, 2017). The incompletion of safety requirements and no protection of building i.e. *takaful*, will cause excessive loss and damage in the event of calamities and disasters.

For instance, the tragic fire occurred at the residential *tahfiz* school Darul Quran Ittifaqiyah, Kuala Lumpur recently has caused 24 lives and more than RM100,000 of properties losses. The Urban Wellbeing, Housing and Local Government Minister reported that the said school has not been provided with valid permits from the fire and rescue department for the building to be occupied (New Straits Times, November 3, 2017). In addition, the building and contents therein are not insured.

Moreover, 10 residential buildings of Pondok Seri Permai in Pasir Puteh, Kelantan were destroyed in a fire on April 17, 2017, incurring losses estimated at RM161,000 (New Straits Times, November 3, 2017). Due to no protection of the properties and contents therein, the recovery of the residential properties are reported depends on *infaq* (philanthropies and charities) of individuals and financial assistance by governments and organizations. Therefore, having protection especially for *wakaf* and *zakat* funded properties is important in assisting *wakaf* and *zakat* authorities and the needy and poor to recover from loss should any calamities, fire or disasters happen. In the case of any misfortunes, compensation provided by *takaful* may help to restore and repair the buildings as well as reinstate contents losses. This ultimately helps and contributes in reducing poverty and deprivation of economic as well as the well-being of the needy and poor.

### ***Practice of takaful in protecting wakaf and zakat funded properties and contents therein***

Currently, there are two main types of home *takaful* schemes offered in Malaysia i.e. houseowner and householder.

1. Houseowner scheme provides protection of residential property against loss or damage caused by perils such as flood or earthquake;
2. Householder scheme provides coverage of loss or damage to the content of residential property and fatal injury to participant.

One can own a residential property or house through direct purchase with seller or developer or take loan from finance institution or bank. For direct purchase, the purchaser as the owner of the house is required to insure his house and contents therein personally. However, in the case of one takes a financing to purchase a residential property, it is a requirement for the

purchaser to participate in houseowner *takaful*. In addition, the purchaser is also required to participate in a mortgage *takaful*. Mortgage *takaful* is a family *takaful* plan which will automatically settle the financing in the event of the purchaser's life misfortunes i.e. death or permanent disability (<http://www.insuranceinfo.com.my>, 2017).

Specifically for houseowner *takaful*, the scheme considers the increase in home value based on Consumer Price Index (CPI) subject to a maximum of 75% of the value of the purchased residential property. The *tabarru'* is approximately 1.75% of the maximum value (Syarikat Takaful Malaysia, 2017). The types of cover, items to be insured and sample of *tabarru'* and contribution rate are shown in figure 2. These items, should there be any occurrence of risks, the owner being the *wakaf* and *zakat* authorities and especially the needy and poor will suffer loss and damage.

<p><b>Types of cover</b>  The coverage provided under the respective takaful plans are as follows:  Houseowners takaful – Covers Section 1 and 3  Householders takaful – Covers Section 2 and 3  Houseowners takaful and householders takaful – Covers section 1, 2 and 3.</p> <p><b>Section 1: Buildings</b>  This section covers loss or damage to the building by any of the specified perils: a) Fire, lightning, thunderbolt, subterranean, fire; b) Explosion; c) Aircraft damage; d) Impact damage by road vehicles or animals; e) Bursting or overflowing of water tanks, apparatus or pipes (the takaful operator will not be liable for the first RM50); f) Theft by forcible or violent entry or exit; g) Hurricane, cyclone, typhoon or windstorm; h) Flood. The cover may also be extended to the following perils, subject to additional payment: Subsidence or landslip, riot, strike or malicious damage</p> <p><b>Section 2: Content</b>  This section generally covers loss or damage caused by any of the perils stated in Section 1 to the contents, including your household goods and personal effects, belonging to you, your family members or domestic servants. This section also pay compensation for death in the event of fatal injury caused by thieves or fire.</p> <p><b>Section 3: Other contingencies</b>  Loss of rent – This section covers for loss of rent or additional expenditure that incur due to damage to the building by any of the perils stated in Section 1, making it uninhabitable.  Public liability – This section will provide clauses for compensation to a third party for accidents in the residential property where the owner is found to be legally liable resulting in death or bodily injury to the third party; or damage to the third party's property. The third party can be any guest to the house other than the family members, household or anyone employed by the owner</p> <p><b>Example of contribution rate (tabarru')</b>  Market Value of the residential property: RM 100,000.00; 75% maximum: RM 75,000.00  Approx. <i>tabarru'</i> 1.75%: RM 1,312.15 (amount for the whole period of financing)</p>
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Figure 2: Details of the scope of covers and sample of contribution rate for houseowner *takaful* scheme (<http://www.insuranceinfo.com.my>, 2017)

However, in terms of protection of home contents, it is not a requirement by a financial institution for a purchaser to participate in a householder *takaful* scheme. It is an option for a purchaser or owner of the residential property to procure and insured the contents of the residential property. An approximate of RM 200 a year is charged for *tabarru'* to cover a total amount of RM30,000 to RM50,000 of house contents loss (Syarikat Takaful Malaysia, 2017).

In terms of *wakaf* properties management in Malaysia, based on the '*Manual Pengurusan Tanah Wakaf*' (JAWHAR, 2009) there is a provision of insurance of *wakaf* properties that include the process of acquiring and claim of insurance. This provision is stated under clause 3.16, pg. 59-60 of the manual:

### 3.16 Proses Menginsurankan Harta Wakaf

Menjaga kepentingan harta wakaf daripada berlakunya sesuatu kemalangan i.

Pengurus Wakaf mengenalpasti premis yang perlu diinsurankan.

ii. Pengurus Wakaf membuat penilaian ke atas premis.

iii. Pengurus Wakaf melantik panel insuran yang menepati syarak.

iv. Pengurus Wakaf mendapatkan kadar bayaran perlindungan.

v. Pengurus Wakaf menyediakan baucer bayaran perlindungan.

vi. Pengurus Wakaf menyimpan dokumen untuk tujuan rekod.

vii. Pengurus Wakaf mengemaskini rekod setiap tahun.

### 3.17 Proses Tuntutan Insuran

Tindakan untuk mendapatkan tuntutan ganti rugi insuran atas kemusnahan harta wakaf sekiranya berlaku sesuatu kemalangan ke atas harta wakaf tersebut.

i. Pengurus Wakaf perlu membuat laporan kejadian musibah kepada pihak yang berkuasa (Bomba, Polis dan yang berkaitan).

ii. Pengurus Wakaf membuat laporan kepada pihak insuran selepas membuat laporan Polis.

iii. MAIN menerima bayaran dan dimasukkan Akaun Badal (Gantian).

iv. MAIN mengambil langkah segera untuk menggantikan dengan harta wakaf yang baru.

v. Pengurus Wakaf mengemaskini rekod Daftar Tanah Wakaf tentang harta wakaf berkenaan.

In the context of *zakat* management, the assistance of *takaful* contributions is available for certain *asnaf*. However, the assistance of *zakat* fund for *takaful* contributions is been made in general, not specifically for properties belonging to *zakat* authorities and occupied by the needy and poor. According to the 'Manual Pengurusan Agihan Zakat' published by JAWHAR (2007), the assistance of *zakat* fund for *takaful* contributions is available under clause 24, pg.55 as stated:

### Skim Bantuan Takaful Berkelompok

i. Objektif: Memberi jaminan dan perlindungan dalam bentuk kewangan kepada *asnaf* berkenaan.

ii. *Asnaf*: Fakir, Miskin dan Muallaf.

iii. Syarat-syarat: a. Pemohon memenuhi syarat-syarat umum; b. Pemohon memenuhi syarat-syarat syarikat *takaful*.

iv. Kaedah Pelaksanaan: a. Majlis sebagai pemegang amanah polisi *takaful* sehingga tempoh matang; b. Keutamaan diberi kepada *takaful* yang memberi pulangan yang lebih menguntungkan kepada peserta; c. Mengisi borang yang ditentukan oleh Pihak Berkuasa Agama Islam negeri.

v. Cara Bayaran/Bantuan: a. Caruman dibayar melalui cek terus kepada syarikat *takaful*; b. Kredit ke dalam akaun bank.

In order to be provided with *zakat* assistance for contributions of *takaful*, relevant *asnaf* is required to make an application to their respective MAINs. There are specific documents to be submitted together with the application (LZS, 2017; MAIJ, 2017). Figure 3 shows a sample of checklist of documents to be submitted for *takaful* contributions via *zakat* assistance fund.

Bantuan Takaful Asnaf diberikan kepada penerima bantuan kewangan bulanan sahaja bagi meringankan beban *asnaf* yang ditimpa kemalangan dan kematian.

**Syarat Umum**

- Beragama Islam
- Warganegara Malaysia
- Bermastautin di Wilayah Persekutuan tidak kurang dari (1) satu tahun dan masih menetap di Wilayah Persekutuan
- Tertakluk kepada pengiraan Had al-Kifayah (Kira kelayakan Had al-Kifayah)

**Lain-Lain Dokumen Sekiranya Berkaitan Dengan Permohonan**

Keluarga bercerai.	Satu salinan surat perakuan cerai / prosiding mahkamah terkini / pengesahan masalah keluarga dari Bahagian Perkahwinan dan Pembangunan Keluarga (BPPK) terkini.
Ahli keluarga telah meninggal dunia.	Satu salinan sijil kematian ibu / bapa / suami / isteri.
Saudara baru.	Satu salinan kad memeluk Islam.
Orang Kelainan Upaya.	Salinan kad orang kelainan upaya (OKU).
Pengidap sakit kronik.	Surat pengesahan sakit kronik dari hospital kerajaan sahaja.
Sedang mengikuti pengajian di IPT.	Satu salinan pengesahan pengajian / kad pelajar / surat tawaran belajar.
Keluarga bermasalah.	Satu salinan laporan polis/ surat penjara.
Muflis.	Satu salinan surat pengesahan bankrupsi dari Syarikat Insolvensi.

Figure 3: Sample of checklist of documents to be submitted for *takaful* contributions via *zakat* assistance fund (MAIWP, 2017, <http://www.maiwp.gov.my>)



Manual on the management of *wakaf* land and distribution of *zakat* fund demonstrate the essentiality and necessity of properties funded by *wakaf* and *zakat* authorities to be insured. During construction phase, the insurance of such properties are ensured and procured based on the typical insurance or *takaful* procurement for construction works (MAINs, 2017). Protection of construction works is one of the condition precedent to the commencement of the works for a contractor to insure the works against loss and damage as specified by the major standard forms of construction contracts in Malaysia<sup>viii</sup>. Upon completion of construction works, the protection of completed properties funded by *wakaf* and *zakat* authorities are claimed be insured by the relevant MAINs (MAINs, 2017).

No evidence of literature to support the actual properties are being insured through *takaful* and amount spent by the *takaful* operators for restoration, repairing and reinstatement of residential properties and contents therein specifically for properties funded by *wakaf* and *zakat* authorities and occupied by the needy and poor. On the one hand, the importance of *takaful* to protect properties are acknowledged. However, there appears lackadaisical attitudes in terms of the important of *takaful* in protecting properties belonging to *wakaf* and *zakat* authorities and occupied by the needy and poor. There are unclear provision of *takaful* as stated in *wakaf* and *zakat* authorities' reports in terms of management and procurement, operations, and amount allocated and spent for *takaful* contribution in protecting *wakaf* properties as well as assisting the relevant *asnaf* via *zakat* fund.

## METHODOLOGY

This study is conducted through desk study. Literature are reviewed based on the primary sources of the Shariah, i.e. Qur'an and *hadith*, and secondary sources such as journal articles and books. In addition, official website of relevant authorities and departments are also reviewed. From the literature review, the concept of risks protection for *wakaf* and *zakat* funded properties via *takaful* is established. In addition, the current practice and application of *takaful* in protecting properties and contents therein belonging to *wakaf* and *zakat* authorities and occupied by the needy and poor are reviewed based on 2 JAWHAR manual guidelines and 6 MAINs reports available in the authorities' official website through web search.

In relation to this study, the subject of research focuses on the provision of *takaful* as protection of *wakaf* and *zakat* funded properties and contents therein. Hence, the manual guidelines and reports collected are used as the samples to review the provision of *takaful* as protection of *wakaf* and *zakat* funded properties and contents therein.

## ANALYSIS

Based on the review of 8 collected documents, table 2 shows the summary of the provision of *takaful* as protection of *wakaf* and *zakat* funded properties and contents therein.

Table 2: Summary of the provision of *takaful* as protection of *wakaf* and *zakat* funded properties and contents therein (JAWHAR, 2007; 2006; MAINs, 2017)

Provision of contributions <i>takaful</i> for properties & contents therein	<i>Manual Pengurusan Tanah Wakaf</i>	<i>Manual Pengurusan Agihan Zakat</i>	Reports by respective MAINs					
			Selangor	Johor	Sabah	Perak	Kedah	Pulau Pinang
Identification of assistance for insurance of properties	✓	✓	✓	✓	✓	✓	✓	✓
Process								
Assessment of premise to be insured by	✓	X	X	X	X	X	X	X
Appointment of Shariah	✓	X	X	X	X	X	X	X

Provision of contributions <i>takaful</i> for properties & contents therein	<i>Manual Pengurusan Tanah Wakaf</i>	<i>Manual Pengurusan Agihan Zakat</i>	Reports by respective MAINs					
			Selangor	Johor	Sabah	Perak	Kedah	Pulau Pinang
compliant insurance panel Management								
Acquirement of protection fee	✓	X	X	X	X	X	X	X
Acquirement of protection cover	✓	X	X	X	X	X	X	X
Records of documents	✓	X	X	X	X	X	X	X
Operations								
Method of operations	X	X	X	X	X	X	X	X
Method of payment	X	✓	X	X	X	X	X	X
Amount allocated and distributed	X	✓	X	X	X	X	X	X

Based on the table 6, the provision of *takaful* for properties funded by *wakaf* and *zakat* authorities is been made available for the needy and poor in the manual guidelines and MAINs' reports. However, the process, management and operation of such provision are not reported in the MAINs' reports. A clear guideline on the identification and assessment of premise to be insured and appointment of Shariah-complaint insurance panel is provided for *wakaf* properties. In addition, *wakaf* trustee is also required to acquire protection fees and cover from *takaful* panel, records and update relevant documents to ensure the protection of *wakaf* properties is adequately procured. But, the operations of *takaful* provision for properties in terms of its methods of payment, allocation and distribution amount for *takaful* contributions are not clearly provided. Conversely, for *zakat* funded properties and occupied by the needy and poor, only the methods of operations and payment for *takaful* contributions are provided in general.

### **CONCLUSION AND RECOMMENDATION**

Results from the study suggest that the protection of properties and contents therein against risk via *takaful* is significant, but there appears lackadaisical attitudes in terms of the important of *takaful* in protecting properties belonging to *wakaf* and *zakat* authorities and occupied by the needy and poor. In terms of *zakat* funded house, perhaps it can be contended that there is no application for such protection made by the needy and poor. Probably this is due to low awareness of the needy and poor on the need for risk protection of their properties and contents therein. In addition, there is unclear provision of *takaful* as stated in *wakaf* and *zakat* authorities' reports in terms of management and procurement, operations, and amount allocated and spent for *takaful* contribution in protecting *wakaf* properties as well as assisting the relevant *asnaf* via *zakat* fund. Moreover, specific design schemes that extend the assistance given to the needy and poor in providing the necessary funds to pay for the contributions on their behalf specifically for protection of properties are not available. This demonstrate authorities lack forward thinking in terms of the need for risk protection of properties and contents therein occupied by the needy and poor.

In assisting the needy and poor, there is a potential for *wakaf* and *zakat* authorities to collaborate with *takaful* operators in providing protection of their properties and contents therein. Agency such as JAWHAR is best to play a significant role to initiate the immerse collaboration. The collaboration will help to facilitate the needy and poor by extending the functions of housing provisions with protections. This proposition may lead to further advantages:

1. An opportunity to provide a Shariah-compliant insurance panel;
2. The needy and poor could have their own *takaful* schemes for the protection of properties i.e. housing, preventing them to be ensnared into the poverty cycle should risk occurs. The

*tabarru'* for *wakaf* funded properties may be made through cash *wakaf* while *tabarru'* for *zakat asnaf* housing and contents therein perhaps can be made via a component of *haddul-kifayah* for housing; and

3. Economies of scale could be enjoyed leading to cheaper contributions should *wakaf* and *zakat* authorities and *takaful* operators consider to collaborate.

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<sup>i</sup> Recipients eligible and entitle for *zakat* fund. There are 8 groups/categories of *asnaf* as per clarified in surah at-Taubah: 60 that are *fakir*- one who has neither material possessions nor means of livelihood,  *miskin*- one with insufficient means of livelihood to meet basic needs, *amil*- workers associated with the collection and distribution of *zakat*, *mua'llaf*- one who converts to Islam. Literally those whose hearts are softened, *gharimin*- one who is in debt (money borrowed to meet basic, halal expenditure), *ibnu sabil*- one who is stranded in journey, *riqab*- one who wants to free himself from bondage or the shackles of slavery, and *fisabilillah*- literal meaning 'In the way of God', but it is used for Jihad.

<sup>ii</sup> Migration

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<sup>iii</sup> in the amount and style (as distributed to *asnaf*)

<sup>iv</sup> that fulfil all the requirements

<sup>v</sup> Distribution of *zakat* fund for properties and/or assets include building individual houses, house repair, building *muallaf* training centre and shelter house, building and repairing religious centre, institute and/or mosque, building house for *musafir* at the hospital

<sup>vi</sup> level of income sufficient only for 2 basic needs i.e. food to ensure necessary nutrition requirements for a household and fundamental necessity such as clothing and shoes, house rental, utilities, transportation, communication, medical and education

<sup>vii</sup> minimum sufficiency line for basic needs of an individual and his dependents based on the current cost of living

<sup>viii</sup> Among the major standard form of construction contracts in Malaysia are PWD series and PAM standard form of contracts that are dominantly use for public works and private works contract respectively.