Takaful (Islamic Insurance) In Nigeria: Hopes, Hurdles and Harmonization

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Abstract: *This paper investigates the prospects of successful operation of Islamic (Takaful) Insurance in Nigeria especially from the regulatory perspective. Having successfully experimented with Islamic banking, the Nigeria monetary authorities seem to have followed up with an adequate and in appropriate legal platform for Takaful operation. Adopting a prognostic analytical approach, the paper assembles analyses and synthesizes the factors that will enhance success of Takaful in Nigeria as well as those factors that may imitate against it. The paper observes that while Takaful has a bright prospect in Nigeria, public acceptance will be a challenge except if Takaful companies can outperform or at least, perform as well as conventional insurance companies. One way of doing this, the paper observes, will be by delivering estate and commercial property, especially the types that are more affordable than are presently available under conventional financing. The researchers opine that the success of Islamic insurance in Nigeria will not only help the spread of Takaful and other Islamic financial institutions in Africa and other emerging economies, it will also help reverse the insinuation that Islamic finance is petro-dollar driven. The paper postulates that a re-enactment in Nigeria of Dubai, Qatar and Bahrain property and other development miracles will be more enduring evidence of the success of Islamic finance in Nigeria than flashy profitability and return on investment or mere recourse to the philosophical palatability of Islamic injunctions which many are trying assiduously to abuse.*
Keywords*: Takaful, maumalat, halal, haram, Sukuk, Jaiz.*

1. Introduction
With the successful take-off of Islamic banking in Nigeria with its flag-ship bank (the Jaiz Bank Nigeria) in 2012, and following the work of (Jankara 2013); it appears that Nigeria has finally opened its doors to a new window of financial resource flow that has been opening in the world for over fifty years now. On the heel of Jaiz bank in Nigeria is the emergence of Islamic Insurance (Takaful). According to the Institute of Islamic Banking & Insurance, IIBI, (2007), Takaful is essentially a cooperative system for the reimbursement or compensation made to people or organizations who suffer losses out of a fund to which they all agreed to make small regular 'donations' and managed by an operator (the Takaful manager) in compliance with Islamic injunctions.

When the Banks and Other Financial Institutions' Decree (FGN,1991) provided for Islamic (Profit and Loss Sharing) banks in Nigeria, the psychological gap between Nigerian Muslims and Christians on Islamic financial institution was not as large as it was in the early 2000s when Islamic banking was to actually begin operation in Nigeria. This psychological gap evoked lots of verbal tussle and near squabble between Nigerian Muslims and non-Muslims. The rancorous reception meted out to Islamic banking, especially by the non-Muslim public could be attributed to three factors. (i) the misrepresentation, misconception and or misunderstanding of Islamic banking as a purely Islamic or Muslim institution (ii) Lack of awareness by some members of the public; including Muslims, as intoned by Bello (2006) that Islamic banking (non-interest banking) has Judio- as well as Christian origin and (iii) the fact that in recent times fundamentalists/Islamists who prefer the forceful propagation of Islamic ethics have frightened people and therefore negated the finer theological and moral aspects of Islam.

With the take-off of Jaiz bank and its successful operations for some years now; having non-Muslim board members, shareholders as well as staff, and as can be deduced from Ashraf (2008), it appears that Nigerians are becoming more at home with the tenets of Islamic finance in general and therefore hopefully Takaful too.

Secondly, notwithstanding the Islamists' activities, the world, including people in non-Muslim dominated countries are keying into Islamic finance and accepting the fact that how a few people prefer to propagate

Islam should not be confused with what Islam itself stands for. The result is that many developed countries: Britain, USA, Canada, Germany, Luxemburg Switzerland, France, as well as developing ones - Malaysia, Pakistan, South Africa and many others now have interest free banking and other Islamic financial institutions, both de-facto as well as operating window versions. It is therefore hoped that Takaful insurance will soon effectively take root in Nigeria where NBF News (2011) and Cornerstone Insurance Co. (2012) repot that at least three insurance companies are already fully involved.

Islamic finance issue became topical in the closing years of the last to the first few years of the new century, especially in 2000-2004. The focus then was simply Islamic banking which as we noted earlier evoked lots of rancour. Since then, other Islamic financial institutions and instruments like Takaful and Sukuk (bond) have been of interest to both researchers and practitioners. However, only a few researches have been undertaken in these areas. Ashraf (2008), Ibrahim (2011) and Ejiofor (2013) are among the few such research works. Although Ibrahim (2011) examined the challenges and options of Islamic finance in Nigeria, the work did not look specifically into Takaful. While Islamic financial institutions and instruments seem to have come to stay in Nigeria, it will be inappropriate to take such semblance of acceptance as hope for success. It is therefore necessary to inquire into the factors that may enhance acceptance and therefore engender success as well as those that may militate against it.

This paper, although somewhat in line with Ashraf (2008) and Ibrahim (2011) look specifically at three fundamental issues that are considered germane to the successful operation of Takaful in Nigeria. The research focuses on i), the hopes (prospects), ii); hurdles (challenges) and iii) the approaches (modus operandi) which can engender not only smooth Takaful operations but also make it collectively beneficial to Muslims and non-Muslims alike.

2. Takaful Insurance: Origin, History and Typology.

2.1 Origin and History of Takaful Insurance.

Hussain and Pasha (2011) say Takaful is based on the principal of Aqilah, meaning mutual cooperation. This, according to them was not only practiced in the time of the Prophet but was made compulsory later in the second Caliph. In addition, Hussain and Pasha (2011) confirm that in the 14th -17th Centuries, under the Sufi Order, the principle of Aqilah was very active in Port cities like Malabar and China when it served more or less like a Marin travel insurance company. Hussain and Pasha (2011), citing Klingmuller (1969) further reveal that although Muhammed Baqit Mufti of Egypt approved the idea of Islamic Insurance as far back as 1906, it was only in Sudan in 1979 that the first Islamic Insurance Company, simply known as Islamic Insurance Company Ltd was established. According to them, the company distributed profit of up to 5%, 8% and 10% in 1979, 1980 and 1981 respectively. They also reveal that several other countries, notably Pakistan in 2004 and most of the Gulf Cooperation Council (GCC) countries have since then established Islamic Insurance Companies.

Yusuf (2012) observes that Aqilah, meaning “blood money”, is a somewhat compulsory payment by people to others or the relations of others when they suffer looses especially by death of their loved ones, hence the concept of 'social solidarity'. According to him, this was enshrined in Article 3 of the Madinah Constitution. (See: also Fisher and Taylor, 2000). Yusuf (2012) citing Islamic Financial Services report shows that Islamic insurance business is about US$2-3 billion and is expected to grow by $7.4billion till 2015. They also report that there are at least 80 de-facto-Takaful companies in existence worldwide as well as about 200 others that operate Takaful windows.

Bank Islam Malaysia Berhad (BIMB) (1994) contextualizes Islamic finance as falling under muamalat. Muamalat is God's (Allah's) provisions or rules that govern man in his relation with his fellow men. However, Sharia; the Islamic code of conduct which regulates man's entire conduct, apart from the outrightly forbidden acts (Haram) also incorporates some other components of which Muamalat is one. In muamalat, are three sub-divisions-haram, mandub (mustahab) and jaiz. Haram, are acts unequivocally prohibited by Allah. These, in man's relationship with his fellow men include interest on money borrowed (Riba/Usurery); garral, (uncertainty) and Maisir (gambling); (see Bhatty, 2011; Al-Salam Bank Bahrain, 2011; Vizcaino &Torchia, 2012; Ross, 2014). In the Noble Quran, 3:130 and 2:275, the prohibition of Riba (usurary) and the punishment attributable to it are clearly spelt out. Mandub are acts which Allah frowns at but the commission of which is not punished while Jaiz are acts to which Allah is indifferent provided they do not incorporate haram. It might be proper too to interject, here, that in the Holy Bible also; Exodus; 22:25, Leviticus 25:36-37 and Luke 6:34-35, God also specifically prohibit (usury) (see also, Bello, 2006; Bombale, 2007). To this extent therefore, we can conclude that the basic point of departure of Islamic Insurance from conventional Insurance, is actually in canonical and juristic semantics since they both have similar origin and intents.

One of the main reasons for the resurgence of Islamic finance is “the disenchantment with the value neutral capitalist and socialist financial systems which led not only Muslims but also non-Muslims to look for ethical values in their financial dealings” (IIBI, 2007); Memon (2007) corroborates (IIBI, 2007), saying “the inadequacy of the prevailing economic system in promoting real economic wellbeing of the masses is a strong impetus to the rise of Islamic finance/banking”. IIBI (2007), in line with (Fisher and Taylor, 2000) and corroborated by Bank Negara Malaysia, (2009) however admits that the increase in financial resources of the Arab countries especially, oil producing Gulf countries contributed to the rise of Islamic finance.

2.2 Islamic and Conventional Insurance: Comparison and Contrast

To all intent and purpose, insurance is insurance whether Takaful or conventional in that each is a financial device/mechanism to assist members of a group from their collective pool of fund if or when they suffer pre-defined losses. To this extent therefore, their points of contrast may be more relevant in this research. From strictly legal point of view, conversional insurance is a simple contract of indemnity, Takaful is a three–in one mechanism- a guarantee, an indemnity and an investment or partnership all in one. The most important difference between conventional and Islamic insurance will be the same basic difference between Islamic and conventional finance as outlined by Jamaldeen (2014 a&b).

Padfied (1979), describes a guarantee as a contract between two parties, the guarantor (surety) and a creditor, where the guarantor (surety) undertakes - holds himself liable to a third party [the creditor] - for the debt or wrongful act [tort] of another person; a primary debtor. A guarantee is therefore an auxiliary contract, dependent on a primary contract; that between the debtor who is being guaranteed and the creditor. The contract of guarantee only crystallizes on the default of the primary debtor. A contract of indemnity on the other hand, is a primary and direct contract between two parties; the insured and the insurer, where the insurer, in consideration of periodic regular payments (premiums) by the insured undertakes to indemnify the insured in the event of the occurrence of a specified incident resulting into loss. Therefore, while both contracts of guarantee and indemnity are contingent liabilities, guarantee is contingent only on the action or default of a third party pre-supposing that there is a primary contract. The contract of indemnity on the other hand is contingent on the occurrence or non-occurrence of a specified event and the contract is primary and direct.

Based on Billah, (1998); Omar & Dawood, (2000); Ayuba, (2003), Billah, (2003); Khan, (2011) we can discern at least five characteristics which differentiate Takaful Takaful from conventional insurance. Islamic insurance, (Takaful) as we can see from the discussion this far, is a contract where (a) the insured contributes (donates) to a fund, part of which he may renounce in favour of all others by way of guarantee or suretiship for others (b) expects to be indemnified in the case of specified loss and (c) shares in the profit of the insurer-the Takaful operator who is obliged to invest the fund only on sharia-complaint (ethical, permissible or Hallal) businesses.

Secondly, although Takaful falls under muamalat-action of man vis-à-vis his fellow men, the haram provision extends to it as to all of man's activities. In this regard specifically, the insurer (takaful operator) can invest the Takaful funds only on hallal businesses which exclude production and distribution of alcohol, pornography, pig and its derivatives.

Thirdly, the Takaful operator is obliged, under Islamic law- the sharia- not to earn interest (Riba) of any kind from the use of the fund; nor to expose the funds to excessive risk or uncertainty; garrall. Finally, the Takaful operator is obliged to share any profit (or loses) with the insured on a pre-agreed basis. Hence the insured in a Takaful insurance is a guarantor, insured as well as a partner or shareholder in the Takaful business.

Furthermore, in the view of Hussein & Pasha (2011), the concept of Ta-awun – joint guarantee - is a basic principle of Takaful which implies responsibility sharing or social solidarity "bringing equity to all parties involved" as described by Maysami & Kwon, (1999), Maysami et al, (1997). In the words of Matsawali, et al (2012), Takaful is based on the principle of Tabarru – voluntary contribution. In addition there is an implied understanding of joint venture or partnership in that the takaful manager is obliged to share profit and loss as the case may be, with the contributors who are not just insured but also partners or shareholders, which is not the case in conventional insurance. According to Ahamed (2013), this is in keeping with the Islamic injunction against 'unlawful appropriation of others' property'.

Billah (1998) and Hussein & Pasha (2011) submit that central to Takaful is Aquila which implies restoration or indemnity based on one's own contribution (donations) as well as Ta-awum – joint guarantee. In conventional insurance, premiums are determined by the insurer and profit or loss belongs exclusively to the insurer. In takaful contribution (donations) which can be regarded as analogous to premium are determined by the insured and he/she also shares in the profit of the business. Omar and Dawood (2000) posit that Takaful entails risk distribution or risk sharing which one can argue is what conventional insurance equally entails except that while in conventional insurance the contract ends in this risk sharing, in Islamic insurance there are complementary extensions of relationships.

On the investment of Takaful funds, Ayuba (2003) and Kahn (2011) confirm that Takaful funds can only be invested in sharia complaint (Hallal) business which excludes interest earning investments (Riba), Pork production and distribution as well as alcohol and pornography. Also prohibited for Takaful investment are maisir-gambling and garrals uncertainty. This is not the case with conventional insurance where the insurer can invest in any business of his choice. It must be noted however that there are also restrictions on investment of funds in conventional insurance, although not on religious bases.

In a nutshell therefore we can summarize the basic differences between conventional insurance and Takaful as follows: (a) Takaful is a contract of indemnity and guarantee (b) it entails a partnership or joint business relation (c) it is based on Brotherhood or, solidarity rather than as a pure business undertaken; (Jankara, 2013), (d) profit and loss sharing, (e) prohibition of certain business engagements and (f) voluntary contribution or premium rather than insurer-determined and fixed type of premium as in conventional insurance.

2.3 Models of Takaful Insurance

Jamaldeen (2014) reveals that there are basically four models of Islamic Insurance: (i) Mudharabah Model (ii) Wakala model (iii) A combination of i & ii and (iv) Al-Waqf Model.

2.3.1 The Mudharabah Model

Mudharabah per se, means sharing profit and losses of a business jointly owned by investors and managers but principally managed by the mudarib; the investment manager. In Mudharabah model of Takaful, which according to Wikipedia free encyclopedia was "used initially" in the far east; policy holders contribute (donate) to the Takaful managers some sums of money at regular intervals and share in the profit and loss there-off after which some people may have benefited by way of Takaful indemnity. This presupposes that each 'pool of fund' for a specified risk or across time is utilized to indemnify the insured who suffer the prescribed loss within a prescribed period. The remnant there-off is distributed after the time when the risk is expected to have passed.

2.3.2 Wakala Model

Bank Negara Malaysia, (BNM) (2009), and Wikipedia free encyclopedia, say wakal – meaning representation or wakili – representative is applied to Takaful. Thus, in the Wakala model, agency fees are received upfront from the contributors and transferred to the wakili's fee account while further contributions are applied for indemnity and other businesses and the shareholders/policy holders will share in the profit or loss if any.

2.3.3 Hybrid Model of I & II

This model combines both the mudarabah and wakala characteristics. According to BNM (2009), this model is common in Bahrain, UAE and Middle East. In the hybrid model, each risk class has a set of contribution which is designated for the wakili's fee, those for indemnifying contributors and an investment portion managed by the wakili. Thus, the first portion is of the wakala model while the indemnity and investment management are operated in the mudaharabah fashion.

2.3.4 The Al-Waqf Model

This model involves committing an irredeemable portion of members' contributions to the Takaful operation while the balance is administered in indemnifying and other accepted Takaful businesses. This mode according to BNM, (2009), Vizcaino & Torehia, (2012) is practiced in Pakistan and South Africa.

3.0 Takaful in Nigeria: A Prognostic Analysis

According to Ashiake (2013), Sanusi; the erstwhile governor of the Central Bank of Nigeria (CBN) maintains that properly structured, Islamic bond (Sukuk) can complement governments' efforts in infrastructure development. Recalling that insurance companies have large reservoirs of funds that can be committed to longer term investments, it goes without saying that Takaful has a potential of deepening the Nigerian bond market. As of now, some conventional insurance companies have delved into Takaful, both as windows as well as de-facto activity. (Cornerstone Insurance Plc (2012). The accumulated funds which cannot be invested in interest earning bonds will lie fallow unless non – interest bonds can be developed in which the huge surplus investment fund can be invested.

NBF News, (2011), confirm that Takaful policies are now available in almost all areas known to conventional insurance such as women compensation, Motor Takaful scheme; Osra Plan; (family Takaful), AL-Narr wa sarkhol (Fire & Theft), AL-mansil Takaful (property guard Takaful) and many more. It is also reported that Takaful has even reached reinsurance level called retakaful. NDIC (2014) reports that the CBN has put in place a robust regulatory framework to govern Islamic finance/Banking in Nigeria. These include approval of new model for Islamic Banking in 2010, with N10bn and N6bn minimum authorized paid up capital for national and regional Islamic banks respectively as well as NDIC's framework for non-interest deposit insurance scheme. The CBN has also instituted corporate governance rules for Islamic finance institutions including that Banks and other Islamic financial and non-financial institutions should have internal compliance mechanism which of course must incorporate Sharia advisory provisions and other Islamic provisions governing commercial and contractual activities as highlighted by Bombale (2007) and Das- Augustine (2014). Given all the above, it can safely be concluded that not only has Islamic banking found its feet in Nigeria, but also that Takaful (Islamic insurance), sukuk (Islamic Bond) etc have taken off in principles.

4.0 Takaful in Nigeria: Hopes, Hurdles and harmonization

4.1 The Hopes

With the successful take-off and operation of Jaiz (Islamic) Bank in Nigeria without any noticeable Muslim/Christian divide in shareholding structure, board membership, staffing or customers focus, it is obvious that Nigerians and soon other African countries yet to, will begin to reap the benefits of Islamic finance and provide at least an expansion as well as an alternative window of banking and finance in Nigeria and elsewhere.

In addition, Abdul-Maliq (2010) observed that Islamic banking has a large potential in Nigeria given that Nigeria is the 7th largest country in the world (by population); as well as Africa's largest economy, also by population and recently by GDP size. Nigeria is also the third largest country by population with 50% or above Muslim proportion. Magaji et al (2013), also observed the growth potentials of Islamic banking [finance] in Nigeria. What is favorable to Islamic banking will naturally help Takaful grow in Nigeria and elsewhere.

While it is proper to reiterate here that, Islamic finance is not for Muslims alone, there is no doubt that a large Islamic adherent population can more easily arrow-head Islamic finance. So, it could be expected that Nigeria's Muslim population of 80 million or more can be a very good start-off force for Islamic finance especially if run in strict compliance with Islamic injunctions and if it is noted to be beneficial to all and sundry in the true spirit of Islam.

4.2 The Hurdles and Expectations:

Ejiofor (2013) cited Mustapha Bintribi; former Managing Director: Jaiz Bank Nigeria as saying "in Nigeria many people told me it [jaiz bank] was not possible. But today, with a modest beginning, it is going to stay and is going to make impact in this economy". The experience of banks in Nigeria; with bank failures and distress syndrome being a recurring decimal in Nigeria (See Nwankwo, 1980; NDIC, 2014); the only ways Islamic finance can make a difference are (a) to perform better than the conventional financial institutions (b) be less expensive (c) be more accessible and affordable and (d) more than any other thing else, be visibly transparent, sticking to Hallal business and still remaining profitable.

Jaiz Bank Nigeria at its Annual General Meeting (AGM) 2014, revealed its plan to open about eight (8) new branches across the country. It will do well not to proliferate but to concentrate; to ensure that the next few branches it opens are not only successful but also focused, concentrated and consolidated; because the successes or failures of Jaiz bank and by extension Takaful will be judged not against its flag-ship companies but against other high performing conventional banks and insurance companies in Nigeria and even abroad. The public will find it hard to accept the conceptual and operational differences between conventional and Islamic finance as a ground to justify poor performance of the later. More importantly; asset, especially property based investment; affordable and available nationwide, may be a faster way of achieving and communicating its success to Nigerians rather than some fanciful financial ratios such as profitability and return on investment. It is opined that Jaiz Bank and Takaful company would have performed outstandingly well if they can deliver 5000 housing units or more in Abuja, Lagos, Port-Harcourt and other Nigerian cities in the next 3-5 years at end-users rate 25-30% lower than what conventional banks and mortgage institutions are offering now. Not only that but also to make them available to all comers irrespective of gender, religion or any other bias.

In a similar vein, if Jaiz Bank; in conjunction with Takaful Nigeria could design Islamic bond (Sukuk) that gives one-hundred thousand Nigerians affordable cars every year on non-interest bases, Islamic finance in general and Takaful in particular would have performed to or even beyond Nigerians expectations. The paper does not identify how Dubai (UAE), Bahrain and Qatar are financed but being leading GCC members and frontrunners in Islamic finance, a replication of their experiences and achievement in Nigeria will not only expand Islamic finance, it will explode it beyond bounds. That is perhaps one hurdle that will slow down Islamic finance in Nigeria if it fails to cross it but will be the foundation of its permanent and superlative success not only in Nigeria but the world over if it can overcome it.

Furthermore Islamic finance success in Nigeria will help the image of Islamic Finance in two other important respects. It will prove that Islamic finance is not only petro-dollar driven which one can canvass and is being canvassed with the GCC success. Secondly, as a leading emerging economy with large non-Muslim population and in a growth-bound continent; Africa-success of Islamic banking, Takaful and sukuk in Nigeria will be an example not quite comparable with the experience in other continents for now.

4.3 Harmonization

To the extent that the basic aims and objectives of insurance, (conventional or Islamic) are essentially the same, a convenient meeting point can and in fact has already been found. That conventional insurance has already taken root in almost all countries of the world before the re-awakening of Islamic Insurance means that Islamic insurance will have to integrate with conventional insurance at least for the time being rather than try to uproot or replace it. To this extent, most countries embracing Islamic insurance including the GCC countries have taken this approach with varying degrees of tolerance, patience and acceptance. Thus, even in largely and even the few completely Islamic countries where Takaful operates like Malaysia, Sudan, Egypt etc; conventional insurance has not been replaced nor displaced by Islamic insurance. In similar spirit, in many countries of the world today, (80 or more, according to Yusuf, 2012) there is an atmosphere of welcome and pleasant co-existence of Islamic and conventional insurance; in many cases as full-fledged stand-alone corporate entities or as operating windows within conventional insurance operations.

5. Summary, Conclusions and Recommendations

This paper examines the concept, principles and tenets of Islamic insurance (Takaful); x-rays its introduction in Nigeria as well explores its potential as an additional and an alternative financing for not only individuals but also for corporate entities as well as governments. Building on works like Ashraf, (2008) Yusuf, (2012), Ejiafor, (2013) this paper observes that Takaful not only has a very bright prospect in Nigeria but also the world over. The paper also observes that the philosophical palatability of Islamic injunction - the Sharia- alone will not suffice for the success of Islamic insurance. Rather, solid proof of benefit-for-the-people will be the most important evidence of the value and usefulness of Takaful and any insurance for that matter. After all, Takaful is meant to “dry the tears of the people's eyes”.

Notwithstanding the genuine and concerted fight the world is waging against Islamists to prevent religion from once again pitching people and nations against each other; that there is a rising anti-Islamic sentiments is a fact that the world can no longer deny. That such religious divide is not based on honest religious foundations is not in question but that has not stopped Martyrs and soldiers-of-fortune swelling to each camp of the divide ignorantly, innocently or otherwise as we have seen in recent times with the several radicalized youths including women and girls from Europe, the Americas and Africa heeding the invitation of Al – Quida, ISIS and other Islamist organizations. The researchers opine, therefore, that conspicuously noticeable successful, profitable and mutually beneficial operations of Islamic insurance and in fact the entire spectrum of Islamic finance will be the best way to return Islam to its true creed – peace, and will not only help ease people's financial burdens but also help to bring in a more peaceful and rational approach to spreading the faith.

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