

Takaful Protection for Mental Health Illness From the Perspective of Maqasid Shariah

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Abstract

Mental health illness becomes one of the major illnesses in Malaysia aside from heart disease. It was recently reported that 29.2% of Malaysians are suffering from mental health illness which increases threefold from the previous year. Majority of the Malaysians suffering from mental health illness comes from the lowest income group. This shows that the lowest income group has less opportunity to seek treatment due to the cost. Even though other countries have started to offer mental health insurance such as the United States of America, United Kingdom, Australia and recently Singapore, Malaysia is still way behind in offering coverage for mental health illness. Therefore, the objective of this paper is to study the mental health takaful from the perspective of Maqasid shariah. The results from this study show that mental health takaful is able to meet the requirement of Maqasid shariah and preserve the benefits of, and prevent harm to human wellbeing. Furthermore, this study will provide an insight to the takaful industry for developing new products that could help mental health disorder patients.

Keywords: takaful, mental health, Maqasid Shariah, Islamic wealth management

1. Introduction

Takaful industry has been developed for more than a decade in Malaysia. Takaful or Islamic insurance has already existed during the time of early second century of Islamic era when Muslim Arabs expanded their business within Asia (Alhabshi et al., 2009; Yassin & Ramly, 2011). Takaful is a simple mutual risk sharing between two parties that provide protection when mishaps happen (Hussain et al., 2011). Takaful has produced many products that cover almost any possible risk in daily life. Majority of insurance products are available in takaful product. However, as time goes on, there are several risks that are inconsistent and classified as high risk for takaful coverage. One of the major risks identified as high is mental health illness. According to all Malaysian takaful medical health policies, mental health is not covered within the policy.

According to the Ministry of Health Malaysia, mental health disorder is expected to be the second highest form of health problem affecting Malaysians after heart disease by 2020 (Institute Public Health, 2015). Meanwhile, according to the report of ASEAN Mental Health System 2016, mental disorders were 8.6% of the total Disability Adjusted Life Years for Malaysians. This shows that mental disorder is ranked fourth for the leading cause of disease in Malaysia. The rise of mental health illness in Malaysia should not be taken lightly as majority of the mental health illness patients come from lower- and middle-income groups (Lim Su Lin, 2018; Ratod et al., 2017). There is a barrier for low income group to access proper mental health treatment due to the cost. Therefore, the need of takaful coverage for mental health is deemed necessary as takaful is one of the instruments to alleviate poverty and deprivation (Patel, 2004; Omar Fisher, 1999).

Islam is basically a way of life for Muslims in which it addresses the whole aspect of individual and society within this world and the hereafter (Radzi et al., 2018). Therefore, daily affairs are governed by Islamic law or shariah law. The highest objective of the shariah law is briefly explained in Maqasid shariah (Nordin, 2016). Maqasid shariah defines the purpose of every aspect of Muslim's individual, societal, national and global life (Nordin, 2016). According to Aznan Hassan (2011), Maqasid shariah is classified into three categories which are *dharuriyyat* (necessity), *hajiyyat* (needs) and *tahsiniyyat* (complementary). Therefore, to understand the concept of Maqasid shariah, it is important to clarify the necessity of mental health takaful in protecting Muslim needs.

In relation to this, the current study intends to explore the relationship between takaful, mental health illness and Maqasid shariah. The remainder of the paper is organized as follows: Section two reviews the concept of takaful and the need of mental health takaful. Section three discusses mental health in Malaysia. Section four discusses the concept of Maqasid shariah. Section five presents the methodology applied in this research paper and section six thoroughly discusses mental health takaful from the perspective of Maqasid shariah. Finally, the final section concludes the summary of this research paper.

2. Concept of Takaful and the Need of Mental Health Takaful

The word Takaful is derived from its Arabic root word 'kafala' which literally means 'to guarantee (Alhabshi et al, 2011). "Kafala" is defined by Alhabshi (2011), as the agreement by one party to indemnify another for any liability that has been pre-agreed upon. Besides that, AAOIFI (2015, p.678), defined takaful as "a system through which the participants donate a part or all of their contributions to pay claims for damaged suffered by some of the participants. This definitely enlightens the core concept of takaful which is tabarru' (Yassin & Ramli, 2011). Tabarru' means donation, gift or contribution in which each takaful participant who needs protection must have the intention to donate the contributions to the other participants that face difficulty (Yassin & Ramli, 2011). Besides, Alhabshi et al, (2012) summarized the fundamental principles of takaful as cooperative insurance which each participating member is willing to contribute some amount of money to the members who face the same risk or danger. Meanwhile in Takaful Act 1984-part one section two, defined takaful as;

"*Takaful*" means a scheme based on brotherhood, solidarity and mutual assistance which provides for mutual financial aid and assistance to the participants in case of need whereby the participants mutually agree to contribute for that purpose;

"*takaful benefits*" includes any benefit, pecuniary or not which is secured by a takaful certificate, and "pay" and other expressions, where used in relation to takaful benefits, shall be construed accordingly;

"*takaful business*" means business of takaful whose aims and operations do not involve any element which is not approved by the Syariah"

It is known that conventional insurance is totally different from Islamic insurance (takaful). Conventional insurance has three elements that contradict takaful. According to Lim, Jacky, Muhammad Fahmi Idris, and Yura Carissa (2010), conventional insurance is prohibited due to the elements of *Riba* (interest), *Gharar* (uncertainty) and *Maisir* (gambling). Malaysia has achieved significant milestones in the development of its takaful industry. With the enactment of the Takaful Act 1984, the first takaful company was established in 1985. Since then, Malaysia's takaful industry has been gaining momentum and increasingly recognised as a significant contributor to Malaysia's overall Islamic financial system (Bank Negara, 2014).

Takaful is one of the protection schemes under Islamic wealth management. The objective of the takaful is to provide protection and assurance against a specific risk that befalls an individual's life or possessions (Aris et al., 2012; Abdullah, 2012; Ahmed, 2013). Besides that, takaful also counters poverty and deprivation (Fisher, 1999; Patel, 2004; Erlbeck, 2010; Bakhtiari, 2013; Hasim, 2014; Sheila et al., 2015). However, majority of takaful operator in Malaysia focuses more on middle and high income group instead of lower income group (Sheila et al., 2015). This happens because the majority of lower income group choose to lapse their policy if there is an increase in their takaful plan (Toh, 2017).

According to the department of statistics Malaysia, majority of Malaysians come from middle and high income group. Therefore, it is relevant for takaful operators to focus on middle and high income group. Despite that, government and private insurers already develop an insurance and takaful scheme for lower income group especially for health insurance (The Star, 2018). This event leads to the increasing opportunity of lower income group subscribing to takaful plan. Moreover, takaful operators may initiate new products suitable for lower income group such as micro takaful (Erlbeck, 2010; Bakhtiari, 2013; Hasim, 2014, Sheila et al., 2015).

Majority of Malaysians subscribe to medical and health takaful as the cost of getting treatment is expensive especially in private hospitals and for critical illnesses. There are 36 critical illness included in medical and health takaful such as heart disease, cancer, stroke and others. However, mental health illness is not even in the critical illness list even though mental health illness is recorded as the second highest health problem after heart disease (Institute Public Health, 2015). Mental health problems among Malaysians are in dire situation as one in three adults suffer from mental health problems (Lim Su Lin, 2018). According to Lim Su Lin (2018), Malaysian mental health problems were dominated by lower income group from year 1995 to 2016. However, there is a continuous rise from

high income earners for mental health illness. There is a significant relationship between income and mental health disorder (Sareen et al., 2011; Bell et al., 2019).

Even though Malaysia still does not provide any takaful and insurance for mental health illness, other countries have already taken a step forward by including mental health illness in medical and health insurance. As for USA, health insurance plans are required to cover mental health and substance use disorder according to the Affordable Care Act, 2010 (Mental Health America, 2013). Meanwhile, AIA Singapore recently launched AIA beyond critical care that provides coverage for mental health conditions. This policy currently covers five mental illnesses which are Major Depressive Disorders (MDD), Schizophrenia, Bipolar Disorder, Obsessive Compulsive Disorder (OCD), and Tourette syndrome (Joanna & Dawn, 2019). Therefore, Malaysian takaful operators need to start developing a takaful plan that caters for mental health conditions as mental health illness is one of the major health problems in Malaysia.

3. Mental Health in Malaysia

Lately, the mental health disorder is commonly discussed among experts as well as in the media. The increasing workload and stress-induced jobs have increased the mental health cases among workers. The effect of mental health disorder could directly give bad impact to the patients' career and life. Thus, the need of insurance cover to protect the person involved is highly recommended. However, having a mental health problem could cost higher premium as the insurance company thinks the person is more likely to make a claim on the insurance (Bijal et al., 2019). Mental health disorder is classified as pre-existing medical condition. A pre-existing medical condition is any condition you have at the time one applies for insurance. However, not all people have a history of mental health disorder. Thus, the classification of mental health disorder as one of pre-existing medical conditions is invalid. Having a mental health problem could be challenging for getting an insurance. There are several challenges such as insurance companies deemed customers as "high risk", the process of applying is difficult, the premium charged will cost more than normal and it is difficult to get the cover that is supposed to be claimed (Bijal et al., 2019).

The World Health Organizations defined mental health as "a state of well-being in which the individual realizes his or her own abilities, can cope with the normal stresses of life, can work productively and fruitfully and is able to make a contribution to his or her community". In Malaysia, the Ministry of Health defined mental health as "the capacity of the individual, the group and environment to interact with one another to promote subjective well-being and optimal functioning, and the use of cognitive, affective and relational abilities towards the achievement of individual and collective goals consistent with justice". Since Malaysia is a multicultural country, the concepts of mental health disorders can and have been addressed from different perspectives, representing the influence of various races and religious beliefs.

In Malaysia also, mental health is ranked as the second highest illness after cancer (Institute for Public Health, 2015). Furthermore, in National Health Morbidity Survey (NHMS) 2015, shown that mental health problems among adults show an increasing trend from 10.7% in 1996 to 29.2% in 2015. Moreover, the survey reported that females, younger adults, bumiputras and adults from low income families seem to suffer from mental health problems more commonly.

Furthermore, the cost of treatment for mental health disorder is more expensive than physical illness (Haque, 2005). According to the Ministry of Health website 2018, the cost of getting a consultation and treatment for mental health disorder in public hospital is around RM 5 TO RM 30 while in private hospital the cost is around RM 80 to RM 400. Even though the public hospital provides a cheaper and almost free treatment, the number of specialists and experts for mental health is almost none unless it is in big hospitals. According to Lim Su Lin (2018), Sarawak does not have any clinical psychologist to cater for mental health disorder consultation. Specialists and experts for mental health disorder are only available in big hospitals such as Hospital Kuala Lumpur, Hospital Kajang, and so on. According to Lim Su Lin (2018), currently Malaysia face critical shortage of clinical psychologists and only few are based in government mental health services.

Mental Health Services in Malaysia have long been confined to psychiatry whose history in this country dated back as early as 1827 (Jamaiyah, 2000). However, aspects of prevention of mental disorders and promotion of mental health still lag behind. The public health burden of mental health problems and disorders are now at the dire stage because of the increase in today's medical expenses.

Currently, in Malaysia there is no insurance and takaful provider that provide a mental health disorder coverage. All takaful and insurance providers in Malaysia state that medical benefit coverage does not include psychotic, mental or nervous disorder. According to Lim Su Lin (2018), standard health insurance policies do not cover pre-existing conditions including mental illness. Pre-existing condition is any condition in which the patient has already received

medical advice or treatment prior to enrolment in a new medical insurance plan (Hudson et al., 1995). Due to this, people are discouraged to seek treatment as they feel mental disorder is severe illness that should not be known to others (Lim Su Lin, 2018). Thus, there is a need for a more comprehensive outlook of mental health services especially the role of takaful in the country to address this issue.

4. Concept of Maqasid Shariah

The word Maqasid is derived from the plural of “*Maqсад*” and comes from “*Qasada*” (Khairil et al., 2017). *Qasada* or *Al-Qasd* has a variety of meanings from the language perspective and one of them is to intend (Sadatmoosavi et al., 2015). Meanwhile, shariah is coming from the word *shara’a* which is defined as introduce, organize and assign (Khairil et al., 2017). Besides that, shariah is also defined as a path to water hole and may be briefly explained as the law of God as revealed to the Prophet (Khairil et al., 2017; Sadatmoosavi et al., 2015). Thus, the meaning of Maqasid shariah is objective of Islamic law (Nordin, 2016; Nadhirah Nordin et al., 2017 & Qoyum, 2018).

The study of Maqasid shariah is important to fulfil the objective of Islamic law and to indirectly accomplish *maslahah* (benefit) and to uphold justice for human beings (Nadhirah Nordin et al., 2017). There are so many scholars who discussed the concept of Maqasid shariah such as Al-Ghazali, Abu Ishaq al-Shatibi, al-'Izz ibn 'Abd al-Salam, Ibn Qayyim al-Jawiziyah, Ibn Ashur and Ahmad Al-Raisuni. Among them, Al-Ghazali defined Maqasid shariah as:

“The objective of the sharia is to promote the welfare of human beings, which lies in safeguarding their faith, their life, their intellect, their posterity, and their wealth. Whatever ensures the safeguard of these five fundamentals serves public interest and is desirable”

(As cited in Qoyum, 2018).

Apart from that, Al-Ghazali, classified Maqasid shariah into three which are *darurriyyah* (necessity), *hajiyyah* (needs) and *tahsiniyyah* (complementary). *Darurriyyah* refers to the basic necessity that needs to be accomplished for the welfare of human being (Ahmed, 2013). There are five primary objectives under *darurriyyah* that cover the necessity of human being. These objectives are:

- a. Protection of the religion (Ad-din)
- b. Protection of life (An-Nafs)
- c. Protection of intellect (Al-A’ql)
- d. Protection of progeny (An-Nasl)
- e. Protection of property (Al-Mal)

Meanwhile, Al-Shatibi (1999), deemed these five protections as *darurriyyah* (necessity) to accomplish the welfare of human beings. There are two possible ways according to Al-Shatibi to achieve the five protections mentioned before:

- a. Necessities required for bringing into and maintaining the very existence of the above-mentioned elements, namely: *din*, *nafs*, *nasi*, *mal*, and *'aql*.
- b. Necessities required for protecting these elements from their destruction. The worships (*'ibadah*) for example, aim at maintaining the very existence of faith.

The necessities to maintain and protect the five objectives of Maqasid shariah must be achieved in order to accomplish welfare for human beings. For example, the necessities for maintaining the protection of religion are prayer, hajj, zakat and fasting (Abdul Aziz, 2013). Therefore, any activities that lead to the protecting and maintaining the five objectives of Maqasid shariah are deemed as important for human beings. Thus, it is important for takaful operators to provide an alternative to protect and maintain Maqasid shariah for the sake of welfare.

5. Methodology

This research adopted a qualitative research approach to meet the research objective. According to Gephart (2004), qualitative research is commonly used in the field of management. Furthermore, qualitative research provides in depth understanding on particular issues (Hoepfl, 1997). Besides that, this study is deemed as qualitative according to the literature review that has been gathered through library research. This study basically used secondary data collected from various sources namely; journal, conference journal, classical books, library, authoritative documents, research reports, data statistics and any official report related to takaful protection for mental health.

6. Mental Health Takaful From the Perspective of Maqasid Shariah

This section briefly discusses the relationship between mental health takaful and Maqasid shariah. The discussion focuses on the five basic elements that exist in the concept of *maslahah (darurriyyah)* namely protection of the religion, life, intellect, progeny and property (Azhari, 2010). Brief discussion for the five basic elements in maintaining and protecting Maqasid shariah is as follows:

6.1 Protection of Religion

Takaful is another option for Muslims to choose *riba-free* insurance for protection against any risk that befalls on an individual or a group. In this case, mental health takaful provides an early assistance for mental health patients to seek help from the specialists. According to Jasser Auda (2008), maintaining and protecting the physical and mental health is one of the important aspects in protection of religion. Good physical and mental health contribute to the good ibadah. Besides that, without mental health takaful, the deterioration of mental health will cause a Muslim to be unable to perform ibadah. According to Sekandari (2017), obsessive compulsive disorder could hinder a Muslim to perform prayers as the patients tend to be repetitive in certain behaviours. Good mental health has a significant relationship with good ability to perform and focus on ibadah (Sayeed et al., 2013). Therefore, initiating mental health takaful could directly and indirectly help a Muslim in maintaining and protecting the religion.

6.2 Protection of Life

Islam is a way of life and one of the many morals in Islam is helping others. Allah swt ordered mankind to work and help each other and inhibit unlawful things. Allah S.W.T said in Surah Al-Maidah verse 2:

وَتَعَاوَنُوا عَلَى الْبِرِّ وَالتَّقْوَىٰ وَلَا تَعَاوَنُوا عَلَى الْإِثْمِ وَالْعُدْوَانِ وَاتَّقُوا اللَّهَ إِنَّ اللَّهَ شَدِيدُ الْعِقَابِ (٢)

(Al-Maidah 5:2)

Translation: "And cooperate in righteousness and piety, but do not cooperate in sin and aggression. And fear Allah; indeed, Allah is severe in penalty."

One of the principals of takaful is helping other participants by contributing to pool fund for any risk happening to the participants. Therefore, mental health takaful could provide a good support for mental health patient recovering from the illness. The concept of takaful which is helping each other in risk or catastrophe indeed fulfils Maqasid shariah.

Besides that, mental health illness could lead to harm life such as suicide (Appleby et al., 1999 & Sveen et al., 2008). A Muslim is supposed to maintain good physical and mental health before the appointed time of death arrives. Besides that, good health is one of the necessities for a human being which needs to be accomplished under Maqasid shariah. An early treatment for mental health illness is one of the ways of preservation and maintenance of good health. Thus, mental health takaful could prolong the life, increase quality of life for the patients of mental illness, and fulfil the protection of life.

6.3 Protection of Intellect

Major objective to initiate mental health takaful is to preserve and prolong the mental health of patients. One of the problems for mental health patient is in decision making process (Duncan et al., 2010 & Schauer et al., 2007). The ability to make a decision with sound mind is a basic necessity for human being. Inability to make a sound decision will lead to destructive lifestyle. Patients with a mental health condition will face difficulty in thinking process. Early intervention by psychiatrists could help protect the intellect of patients. Once again, mental health takaful could help mental health patients receive early treatment for the preservation of patient's intellectuality and cognitive skill.

6.4 Protection of Progeny

From the perspective of mental health, a patient of mental health has limited social life. Due to the mental health condition, people are aware and distance themselves from the patients. There is still a taboo for people to talk about mental health and to admit having mental health illness. Good social life will increase the health of mental and reduce the possibility of depression and stress (Thoits, 2011). Besides that, mental health problem could affect anyone from children to adolescents (Ford, 2003 & O'Neil et al., 2014). Mental health problem could even affect an offspring through parents (O'Neil et al., 2014). Early prevention of mental health problems could lead to quality life and better future for our children as well as our community (Min and Lee, 2013). The lack of early treatment and intervention leads to severe mental health problem. Thus, providing a coverage for mental health illness could be one of the acts of early intervention for mental health patients. Therefore, mental health takaful could enhance the chance of child and adolescent mental health patients to recover and function as healthy community members. Moreover,

initiating a mental health takaful will increase protection of the next generation which leads to protection of progeny.

6.5 Protection of Property

Basically, a human being needs to survive by getting a job to acquire wealth. However, for mental health patients, getting a job or even maintaining a job is a big obstacle. Most employers believe that a mental health patient is a risk to their company. According to the Ministry of Health Malaysia, at some point Malaysia will have to face a mood disorder and anxiety disorder such as depression and bipolar disorder. A lot of companies are skeptical about the ability of mental health patients to fulfil their work responsibility. Majority of mental health patients are facing serious discrimination on landing a job. Moreover, severe mental health patients are unlikely to sign a contract for any property purchasing due to unstable mental condition. In Malaysia also, patients of mental health are not allowed to subscribe any takaful plan due to mental health illness. This is because mental health illness is considered as a pre-existing condition in takaful policies (Lim Su Lin, 20018). Therefore, Malaysia is really in need of any takaful plan that provides a coverage for mental health. From the perspective of Maqasid shariah, takaful operators need to initiate a mental health takaful to provide an opportunity for mental health patients to survive as well as to protect their wealth.

7. Conclusion

It is hoped that this study could enlighten government, takaful industry and Malaysians as a whole on the dire situation of mental health takaful. Moreover, the government and takaful companies could consider an appropriate assessment for initiating mental health takaful from this study. According to Nora'inan Bahari (2015), masalah needs to fulfil the purpose of syara' and Maqasid syariah will not be fulfilled until it completes the purpose of masalah and avoid mafsadah. Basically, mental health takaful could preserve and protect the objective of Maqasid shariah. Mental health takaful fulfils the purposes of masalah which are the protection of religion, life, intellect, progeny and property. Initiating a mental health takaful will open a wide opportunity to takaful market as well as an option for takaful participants. Majority of Malaysian mental health patients come from lower and middle income group. The availability of mental health takaful could help many less fortunate citizens in receiving treatment for mental health. Lastly, it is hoped that through this study, there will be more research exploring the prospect of mental health takaful as in present, none of the research available on mental health takaful.

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