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Social Takaful and Qard ul-Hassanah Banking Convergences (A Functional Approach)

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ABSTRACT

Background: Social Takaful consists of two sections. The first one is "Public Takaful" (Takaful Aamm). It is based on the responsibility of individuals in the society to be concerned about the other's needs and to fulfill their needs in a viable way. The other category of social Takaful is Zeman Ealah (Sustenance Guarantee). That is government is responsible to provide the minimum living subsistence of the whole people of the society. **Objective:** In this paper, in addition to examining the necessity of social Takaful based on Quran verses, we study the effective role of Takaful in the social empowerment and economic growth. Different models based on various Islamic financing methods are presented. Ultimately, a Takaful-based model is proposed to complete the Qard ul-Hassanah financing. **Results:** The mechanism of social Takaful can be defined under the duty of Qard ul-Hassanah Banks. **Conclusion:** This beneficial procedure requires specific operational mechanism in addition to automatic financing sources. This paper proposes a social Takaful solution in overall framework of Qard ul-Hassanah banking.

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INTRODUCTION

Social Takaful is based upon two principles, namely, the unity and risk sharing principles. This Islamic approach can act for financial protection of citizens and is to somehow similar to usual insurances. Social Takaful has become increasingly popular in Islamic as well as non-Islamic countries during the past three decades. It should be claimed that the various methods of social Takaful, which currently consists of the youngest and most dynamic insurance markets around the world, refers back to nearly 14 centuries ago(Bidabad, 2010).

There are many definitions for Takaful, but all of them are the similar in their essences. Alwan describes: "In social Takaful, every individual of the society is willing to support and guarantee other members, individually or collectively". This generally performed through affirmative (such as supporting orphans) or privative strategies (such as prohibition of usury). Such behaviors are inspired by the conscience and are derived from Islamic beliefs(Bidabad, 2012). As a result, every person can live under the protection and support of the rest of the society, and the society would help him/her whenever needed. In this procedure, every individual will take part in accomplishing the task. Finally, a transcendent society could be established and any damage or harm incurred by the people be quenched (Alwan, 1988)". It can be said that Takaful is a two-ways mutual relationship. In fact, it reflects the responsibilities of the society members, which should be ended up to collaboration and cooperation between citizens. Takaful is employed to offer a solution and relief for personal and social issues and troubles (Zahedi Asl, 1992). Moreover, it is of high importance to note that social Takaful is not merely a simple practice to supply the three basic needs (residence, food, and clothing) but a comprehensible religious concept. In addition, it involves every other physical and spiritual need (Alsabayei, 1998).

Social Takaful is divided primarily to two parts. Public Takaful indicates that everyone in a society is mutually responsible for the vital needs of the others until these needs are sufficiently satisfied. The *Zeman Ealah* (Sustenance Guarantee) is a pledge of government to provide subsistence living conditions for all individuals in the society by supplying the required possibilities through economic activities or direct protection if necessary.

Qard ul-Hassanah:

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The interpreted concepts about Qard ul-Hassanah from Quran verses are different from its prevailing concept used nowadays. One of the usury-free banking operations is to provide Qard ul-Hassanah loans. Usury-free banking regulations of Iran state, "Qard ul-Hassanah is a transaction in which, the lender delivers a specific amount of his/her property to borrower and borrower will reimburse the lender with the same property or its price". Literally, "*Qard*" means cutting, breaking off, or severing. In Fiqh, it means cutting off a segment of one's property. Jurisprudents consider Qard ul-Hassanah to be valid when the original property is returned to the owner, even though this definition is the same as the "loan" definition in the civil law. Unfortunately, in today's society, the loans accompanied with a surplus have become significantly prevailing and as a result, the usury-free loan has been named Qard ul-Hassanah.

By studying Quran verses, it is realized that Qard ul-Hassanah is an ex gratia payment. In other words, Qard ul-Hassanah in Quran mostly covers the similar subjects as Takaful, and interest-free loan is less concerned in this case. Qard ul-Hassanah has been mentioned in different verses of Quran and all of them come right after the verses that emphasizing on *Infaq*, *Zakat*, *Sadaqah*, or *Qital*. Therefore, we can genuinely interpret that Qard ul-Hassanah is an ex gratia payment from one's property and when considering the literal meaning of "*Qarz*" (loan), it means forfeiting one's body in the path of God, which is inherently good or "Hassan". In the verses of 244 of Surah of Al-Baqarah He says: "who is he that will loan to allah a beautiful loan, which allah will double unto his credit and multiply many times? it is allah that giveth (you) want or plenty, and to him shall be your return." In verse 12 of Surah of Al-Ma'idah, it is said that: "I am with you if you perform As-Salat (Iqamat-as-Salat), and give Zakat, and believe in my messengers, and honor and assist them, and lend Allah a good loan (Qard)". In verses 10-11 of Surah of Al-Hadid, it is stated that: "And what is the matter with you that you do not spend in the cause of Allah? While to Allah belongs the heritage of the heavens and the earth. Not equal among you are those who spent and fought before the conquest (of Makkah) (and those among you who did so later). They are greater in degree than those who spent and fought afterwards. But to all, Allah has promised the best (reward). And Allah is all-aware of what you do. Who is he that would lend to Allah a goodly loan, then (Allah) will increase it manifold to his credit (in repaying), and he will have a good reward". In verse 18 of the same Surah, it is said that: "Indeed, those who give Sadaqat (i.e. Zakat and alms, etc.), men and women, and lend to Allah a goodly loan, it shall be increased manifold (to their credit), and theirs shall be an honorable good reward."

According to the above-mentioned facts, it can be expressed that Qard ul-Hassanah can be interpreted as devotion of property and life and it does not necessarily reflect the meaning of "loan". Maybe, using the word "Good Loan" will have less impact on the religious basis of Qard ul-Hassanah as Quran states.

Social Takaful, Qard ul-Hassanah, and Insurance:

Allocation and equipping of resources in social Takaful is different from prevailing Qard ul-Hassanah and social security. Usury-free banking regulations in Iran explain that a Qard ul-Hassanah loan satisfies specific requirements of individuals, including marriage, dowry provision, treatment expenses, house repairs, education subsidies, and subsidies for construction of houses in rural regions. It should be stressed that even in this framework; the concept of Qard ul-Hassanah is more compatible with Takaful rather than loan.

When compared to common Qard ul-Hassanah (good loan), in Takaful, the entire resources and services are provided free of charge and as an ex gratia payment and they do not require any collateral. In fact, in Qard ul-Hassanah, exactly the same resources as that loaned must be returned; thus, it does need collateral. In contrast, in social security, an individual plans to invest for receiving resources in future, and in other words, the person him/herself acts as both the supplier and consumer of resources.

Social Takaful in Islam:

Bidabad (2003) summarizes all aspects of Islamic Takaful as the following items:

1- The "Sustenance Guarantee", which is mainly used for financial needs of individuals, can be considered as a duty of Islamic government according to verse 58 of Surah of Taubah: "And among them are some who accuse you (O' Muhammad!) regarding the distribution of the alms. If they are given a part, they approve, but if they are not given, they become angry!" And this can be happened when you pay the alms (*Sadaqah*) to the needy. Various verses about Qard ul-Hassanah basically refer to obligation of government such as *Ibahah* or *Istihbab* of those who grant Qard ul-Hassanah.

2- Regarding the government's responsibility to provide housing, Imam Ali states in his order to Malik Ashtar: "I command you and every other governor that before spending the collected taxes, specify a portion for development and construction. Firstly, prepare the land and then, begin to sow and harvest. Firstly, construct a house and then, reside in there. I would like your territory to be developed and civilized. I like the hovels of the poor and cottages of farmers to be lit with wealth and happiness."

3- Regarding the support for marriage, we can mention the story of a young poor masturbative man, who was brought to Ali. He told Imam Ali that nobody gives me his daughter to get married and I am also jobless. Ali spoke to the attending people: "Who would give his daughter to this young man?" A man responded positively.

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Again Imam Ali said: "Who would give him a job?" And again another stated that he would provide that. Then, Ali chastised the young man and after that, he sent the man to get married and employed

4- The aforesaid story can be taken into consideration as the responsibility of every Islamic government to provide job for every individual of the society.

5- Moreover, regarding the need for education, consultation, and training, Ali stated to his governor, Malik Ashtar: "A governor is like a patriarch (chief) of the family, who must observe the faults and dysfunctions of the family as his own."

6- In addition, with regard to the need for health and treatment services, all the aforesaid in this section can reflect the responsibility of the government to satisfy such needs. God is the healer, and his Caliph (substitute) on the earth is as well. On the other hand, the rule of obligations and binding promises can verify this issue.

7- Based upon the order of Ali to Malik Ashtar, it is of the Islamic governor's responsibility to satisfy the need for caring of the needy people: "Beware of the heartbroken poor and needy, with grim luck; the ones that son of Abutalib (me Ali) is always thinking of and concerned about them. God has entrusted them to you, O' governor and sovereign!. Woe if you ever forget their agony or woe if you ever are deprived from the maintaining celestial throne of God."

8- With respect to the requirements for assisting in the times of danger and urgency, Ali states to Malik: "If an event occurs to ruin the life of Egyptian farmers, for example, if it does not rain any longer, or if Nile no longer have its beneficent floods, or if the farms are dried and abandoned, and if farmers become poor and needy; it will be the responsibility of the governor to order his tax and financial authorities to decrease taxes from the public and ranchmen. You may wonder that if it depletes the treasury of Egypt and shall harm your administration, but I know the interests of the Islamic state better than anyone does. I have to repeat: "my state with all of its assets is determined to develop the country and I must emphasize even more clearly that Ali is totally bounded to provide welfare for Islamic nation."

9- In order to provide the need for food and nutrition, it is said in verse 184 of Surah Al-Baqarah: "And for those who can fast but with difficulty (e.g. old people, etc.), they have (a choice either to fast or) to feed a miskin (poor person) (for each fasting day)." In other words, taxes that must be directly paid to *Bayt-al-mal* (treasury) can be used for feeding poor people. *Kafarat* can be also paid by feeding poor people as stated by Surah of Ma'idah, verse 95: "or by way of atonement, the feeding of the indigent; or its equivalent in fasts: that he may taste of the penalty of his deed".

10- The responsibility of Islamic government to recognize the right of protest and the right of wronged to stand against the aggressor is mentioned in the verse "to those against whom war is made, permission is given (to fight), because they are wronged;- and verily, allah is most powerful for their aid". This permission can actually satisfy the existing demand in the society. It should be mentioned that if the Islamic government fails to provide it, it will be the duty of every citizen to provide such a service.

11- Regarding the duty of government to support people for obtaining their rights and exacting justice, Imam Ali states to Malik Ashtar: "O' son of Harith! Do not deem that God is neglectful, as he is always observing for the succeeders, listens carefully to the screams of his servants, and does not relinquish the slightest injustice from the greatest people. Do you know what the most popular attribute is for a ruler on all circumstances? That (is) for him to be always moderate and mild, and his justice to be like a cloud of mercy casts its shadow across the country, and makes the best effort to content his subordinates." Therefore, the task of Islamic government would be to assist in exacting justice, as the verse states (Surah of Nisa, Verse 59): "O' you who have believed! Obey Allah, and obey the messenger and those of you who are in authority; and if you have a dispute concerning any matter, refer it to Allah and the messenger"

12- The responsibility of the Islamic government in supporting the minor without a guardian is cleared by the verse (Surah of Zoha, verse: 9): "Therefore, as for the orphan, do not oppress (him)"; Also as narrated from the Prophet: "I am the guardian of every Muslim. If someone leaves a heritage, it should be his heirs'. But if he leaves a debt or an orphan behind him, it will be my responsibility."

13- Regarding the pension of the retired, elderlies and disabled people, we can refer to the important duty of fidelity, compassion, and religious mercy. Moreover, there is a story about Ali that follows: Ali saw a beggar and asked: who is he? They said: He is a Christian. He said: When he was young, you made him work, and now that he is old and feeble, you ignore him. Pay him from the *Bayt-ul-mal* funds.

14- For supporting those who require support, Ali states: "Woe that every of you see one of his relatives in need and do not try to assist him." Surely, this is also true with the Islamic government. In the letter to Malik Ashtar, he states: "O' Malik! Be kind and look at your citizens with compassion and talk to them with a heart full of mercy."

15- For providing relief for problems, Ali states to Malik "Do solve the problems of your citizens".

16- For preparing desirable social norms and traditions, Ali said to Malik: "O' Malik! Do not refuse the traditions left by the predecessors of Islam and never prevent the citizens from following their own admirable and accepted norms and habits."

17- For supplying apparel, we only mention this narration that "Clothing is necessary for every human".

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According to the verses and narrations expressed with respect to social Takaful, we now continue to consider the mobilization and allocation of resources:

Mobilizing the Resources in Social Takaful:

Mobilization of resources is to utilize any necessary tool by the Islamic society in order to wipe out the poverty and inequality and to relieve social disturbances and establish a developed society. Mobilization of resources in Takaful is considered as a duty of government, while the motivation of an individual in participating in task is merely out of kindness. The tools used in this section are provided in the following (Bidabad, Mohammadi 2011):

The government, philanthropists, charity organizations, welfare and security organizations, relief foundations must protect needy peoples through the targeted subsidies, *Kaffarah*, *Zakat*, *Khums*, *Infaq*, endowments, wills, property of the deceased people, blood money for the deceased people, spoils of war, charitable dedications, sacrifices, tributes, inheritance without the heir, *Jazyah*, anonymous property, *Infal* and *Rakaz*, *Berr* and *Ihsan*, financial penalty of the convicts, illegitimate confiscation, smuggled and usury assets.

Allocation of Resources in Social Takaful:

Allocation of social Takaful resources refers to consumption of assets, which is resulted from this system. They are mainly used to supply the minimum subsistence through social Takaful insurances. It should be mentioned that in this system, the entire services are provided free of charge and as ex gratia payments and there would be no need for collateral. These insurances include the following 17 categories (Bidabad, 2003, 2010, 2012, 2014):

1- Financial Insurance: Financing needy people including bankrupts.
2- Housing Insurance: No person shall live without a shelter. The housing insurance shall provide the minimum housing requirements for the public. It should also provide the financial capability for repairing houses.
3- Marriage Insurance: Providing suitable conditions for marriage and removing the existing obstacles for marriage.
4- Occupation Insurance: Any person has the right to have a job and thus, this insurance is obliged to provide them with one. In contrary to unemployment insurance, which pays monetary amounts, this insurance offers the individual a job.
5- Education Insurance: Every individual in the society must have the means and teachers to advance to any degrees of education that s/he may desire.
6- Treatment Insurance: All individuals in the society when becoming ill are insured and hygienic conditions are provided for them.
7- Caring and Nursing Insurance: Any disabled or incapable individual in the society is liable to receive adequate care and nursing when needed.
8- Accidents Insurance: Any person, who is subjected to natural or unnatural accidents, shall receive the supports from this insurance.
9- Food Insurance: Covers the nutrition needs of the individuals in the society. Hence, no person shall remain hungry. Based on this insurance, the minimum food requirements must be easily accessible.
10- Self-Defense Insurance: Any person has the full right to protest and stand against the aggressors. At the present time, prosecution institutes and judicial courts are the definitions of this insurance.
11- Attorney Insurance: Assisting any individual in demanding justice is of the obligations of this insurance.
12- Orphans Insurance: Providing orphans as well as little children without guardian with living conditions and supporting their rights can be done by this insurance.
13- Retirement and Disability Insurance: The people who have become incapable because of their age, disability, or disease, and cannot temporarily or permanently function in their job are hereby insured.
14- Guardianship Insurance: Taking the guardianship of all unattended individuals, widows, old people, mentally unstable or incapable persons, and such are covered by this insurance.
15- Relief Insurance: Providing the solutions for disabled people in all their social affairs is amongst the obligations of this insurance.
16- Cultural Insurance: Assisting the individuals, failing to uphold their socially accepted norms and traditions are upon this insurance.
17- Clothing Insurance: No person shall live without appropriate clothing. Supplying the minimum clothing is of the responsibilities of this insurance.

To clarify more in detail, the main users of social Takaful insurances include all susceptible or deprived classes of the society as follows (Bidabad, 2010, 2012, 2014):

The needy, homeless, poor, distressed, bankrupt, indignant, diseased, blind, disabled, prostrated, bedridden, vagrant, captive, prisoner, wonderer, orphan, unattended infant, old, indebted, damaged, unintentional criminal (who should pay the penalty or blood money), and those who entitled to receive alimony but they do not.

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Strategies for Support and Custodianship:

Currently, social security plans have three major strategies:

A) Insurance Strategy: These strategies are mostly based upon the occupation of individual in the society; and include social insurance, emergency fund and employer's liability. This strategy leads the insurance system to cover those who are employed. The insurance system has two sections in this part: Traditional insurance and Takaful insurance.

In traditional or common insurances, insurance is an approach to transfer the risk, based on which an organization trades the uncertainly and ambiguity for conclusiveness and assurance. One party agrees to pay a predetermined amount as premium and in return the insurance company is obliged to compensate any damage/loss occurred if it meets the scope of policy criteria.

Some jurisprudents have objections to this characteristic of insurance, in which a determined loss is traded for an undetermined loss and consider it as a case of "*Gharar*", which is impermissible in *Fiqh*.

In order to solve this problem, Takaful insurances do not bear any risk transfer between in insurer and the insured. Instead, risks are distributed based on mutual collateral (guarantee) of the participants. In this plan, the agent (insurer) is obliged to collect the premium from the participants and if any damage/loss is incurred to the any of the members, it should compensate him/her with an appropriate replacement.

During recent years, various companies have been established in Islamic and non-Islamic countries based on Takaful, which have signed many Takaful contracts with agent or insurer based on Takaful models.

Takaful contract can be considered as the most important difference between Takaful insurance and common insurances. Being ambiguous and indeterminate is the nature of risk. Any transaction in *Fiqh* will be considered null and void if the subject of transaction is ambiguous. Therefore, Takaful contract cannot be considered as a simple "sales contract". Ambiguity should be eliminated from any part of a Takaful contract. These parts include the price, method, quantity, and the due date for payment, contract terms, and similar issues.

In general, there is no single operational model for Takaful companies. In fact, any country has its own suggested model. The most important models in this field are *Mudharabah* (trade participation), *Wakalah* (agency), and the combined models (Khan, 2008):

Mudharabah Contract (trade participation):

An agreement between a provider of capital (rabb*ul m*al), who provides the capital for a business and entrepreneur (*mudharib*), who manages the business and brings his expertise and experience. Under this contract, the final profit should be shared between the parties according to a pre-agreed ratio, while any loss should be solely beared on capital provider. In Takaful contracts based on *Mudharabah*, the insured party provides the capital to the agent of Takaful (insurer). This model is mostly employed in the Southeast Asian countries (e.g. Malaysia, Indonesia, etc.).

Wakalah (Agency) Contract:

A contract for appointment of an agent, in which a person appoints another one to act on his behalf. This appointment of agency can be for a determined business or performed on a general basis. The agent can demand a specific amount in compensation of the services rendered (which is called premium in common insurances). This model is generally appropriate for Takaful insurance of products.

The Combined Model:

This mode is a combination of *Wakalah* and *Mudharabah* models and is widely used in the members of Cooperation Council for Arab States of the Persian Gulf.

B) Supporting Strategy: These strategies are based on the citizenship or residency and are public. They include social assistance and services. This system is mostly dependent on the government subsidies and credits (public budget) and encompasses susceptible classes of the society.

C) Relief Strategy: These strategies, including public, governmental, and sometimes international reliefs, are mainly related to natural disasters such as flood, earthquake, widespread fires, as well as unnatural disasters such as war, chemical explosion, and housing problems of refugees (Panahi, 1999).

The supporting system covers vulnerable classes of the society (classified as aforesaid), who are unable to provide living conditions for themselves or for their family due to a variety of reasons. Currently in Iran, the State Welfare Organization and Imam Khomeini Relief Foundation bear the major responsibility towards supporting vulnerable classes of the society. Responsibilities and tasks of these organizations are to mobilize and allocate resources for social Takaful.

Convergence of Qard ul-Hassanah Banks and Supporting Organizations in Social Takaful:

Qard ul-Hassanah is amongst the binding possessory transactions and it literally means to cut off. A person who cuts off a part of his/her property in order to lend it to another is called "*Moqred*" or the lender, and the one who accepts this property is called "*Moqtared*" or the borrower. According to Article 648 of the civil law, *Qard*

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is a transaction in which one of the parties grants a determined amount of his/her property to the other party and the other party shall return the exact amount at the same quality to the first party and if failing to do so, shall reimburse its money equivalent at the time of loaning. Therefore, the sums deposited in banks as Qard ul-Hassanah are actually considered as the bank's own capital and the obligation of bank regarding its customers as *Moqtared* is to return the exact property. In fact, banks must return these sums as soon as the customer requires them.

Qard ul-Hassanah banks and institutes have been specialized in financing the needy in the society and this is one kind of Takaful and social assistance. On the other hand, the activities of supporting organizations such as State Welfare Organization and Imam Khomeini Relief Foundation are of the same orientation. Therefore, in this part, in order to converge Qard ul-Hassanah banks and institutes and support the organization in social Takaful, we have offered a model to facilitate social Takaful, as illustrated by Figure (1):

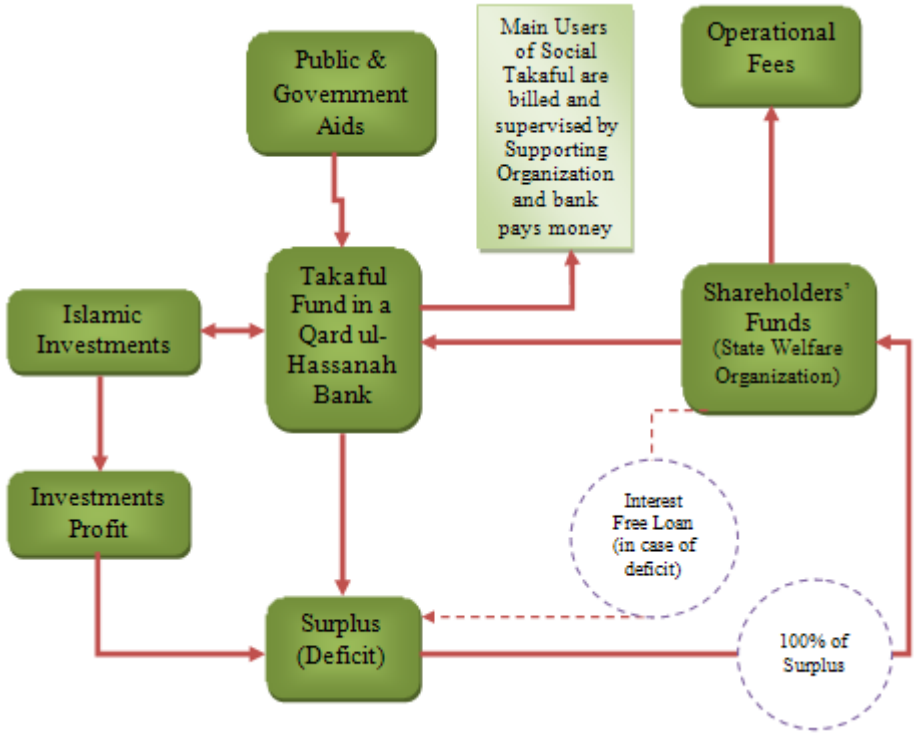

Fig. 1: The Proposed Model.

Conclusion:

According to this model, public and governmental aids and other funds that have been deposited in the account of supporting organizations are collected as funds, which are called "Takaful fund" by the Qard ul-Hassanah banks. Further, Qard ul-Hassanah banks also receive sums from customers and apply their agent supporting organizations in authorized bank transactions. Therefore, the legal relationship between the bank and customer is established based on the transaction and agency. In fact, bank utilizes the deposited investments as agents of their customer in transactions and grants of financial bank facilities. Therefore, if any profit is made, the profit resulting from the transaction after deducting the fee of the agent will belong to the shareholder's fund (State Welfare Organization or similar funds). Considering the aforesaid, in this system, the bank acts as trustee of customer and it is necessary to observe the interests and benefits of its principals in granting loans and transactions. In this system, because input and output money transfers are made for social Takaful through Qard ul-Hassanah bank and are billed by supporting organizations (State Welfare Organization, etc.), therefore the productivity and performance of organizations will be considerably increased and administrative corruption will be significantly reduced due to separation of welfare organization who bills and bank who pays money to the needy. A supreme supervisor governmental committee also checks the whole circulations of money payments and bills.

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