

Islam and Modern Nationalism in Socio-Political perspective

Dr. Ayaz Muhammad *

Modern states are comprised of different people, cultures, traditions, languages, customs, religions, ideologies and form of governments. The most common instrument in the western political philosophy to nit these heterogeneous people into single whole is nationalism. Nationalism is a two edged sword it is an integrating and disintegrating force at the same time. Nationalism is a doctrine invented in Europe at the beginning of the nineteenth century. It pretends to supplya criterion for the determination of the unit of population proper to enjoy a government exclusively its own, for the legitimate exercise of power in the state, and for the right organization of a society of states. Briefly, the doctrine holds that humanity is naturally divided into nations, that nations are known by certain characteristics, which can be ascertained, and that the only legitimate type of government is national self-government.(1)

It was during the nineteenth century, that nationalism became an ideology and almost a faith, which despite its disadvantages is still a potent factor in the affaires of civilized humanity. Although nationalism has a universal acceptance, its definition has remained more or less elusive. It is more of a feeling than fully structured system. It has the faith and fanaticism of a religion rather than the substance of a rationally organized doctrine. As such it is charged with emotionalism and defies any concrete and scientific explanation. It demands the same sense of loyalty that is received for religion, and has demanded the same sacrifices, perhaps even more than religion has from its followers.(2) Nationalism,

* Assistant Professor, Department of Political Science & International Affairs, Bahauddin Zakariya University, Multan

symbolizing the feeling of belonging to a group distinct from others because of some common racial, linguistic, ethnic and/ or historical ties, and usually identified with a particular territory, has

19. Abdul Mannan, "Islamic Economics: Theory and Practice"
20. Abdul Qadir Al-Razi, "Mukhatr al-Sihah", Mu'assasah Ulum ul-Quran, Beirut p.471.
21. Sarakhsi, "Al-Mabsut", Darul Ma'rifah. Beirut, 1398 H, vol. 13, p. 194.
22. Abdul Razzaq Sanhuri. "Masadir fi al-Ḥaq al-Islami". al-majma al-Arabi Islami, Beirut, vol. III, p.49.
23. Dr. Wahbah al-Zuhailil, "*al-Fiqh al-Islami wa Adillatuhu*", Darul Fikr, Demascus 1984, vol. 4, p.671.
24. Ibid.
25. See: Verse 29, Surah al-Nisa.
26. Nijatuallah Siddiq. "*Insurance in Islamic Economy*", op.cit.p.40-41.
27. Ibid.
28. Mustafa Ahmad Zarqa, "*Nizam al-Tamin*", Lebanon, 1984, pp. 48-49.
29. *Majallah al-Buhuth al-Islamiyyah*, op. Cit. Vol.20, p.46.
30. Ibid, p.33.
31. See verse: 90, Surah al-Maidah.
32. Ibne-e-Abdin, *Raddul Mukhtar*, Dar Sa'adat, Matba'a Usmaniyyah, 1327 H, Vol.4, pp.220-221.
33. Wahbah al-Zuhaili, "*al-Fiqh al-Islami wa Adillatuhu*", Vol.4, p.215.
34. Mufti Mohammed Shafi, *Bima-e-Zindagi*, op.cit.p.22.
35. Ibrahim Kamil, "*Islamic Banks and Strategies of Economic Cooperation*", New Century. London, 1982, p.63-64.
36. Mufti Mohammed Shafi, *Bima-e-Zindagi*, op.cit.
37. Council of Islamic Ideology, "*Report on Islamic Insurance System*", 1992.

References

1. Mufti Mohammad Shafi, "Bima-e Zindagi(Life Insurance)", Dar- ul-Isha'at Karachi, pp. 18-23.
2. Abul A'la Maududi, Ma'ashiyat-e-Islam, Islamic Publications, Lahore 1988 p.408.
3. Khurhid Ahmad, Studies in Islamic Economics, The Islamic Foundation Leicester, 1981,p.216
4. Mustafa Zaid, "al-Tmin", Majallah al-Buhuth al-Islamiyyah, Idarat al-Buhuth at, Riyadh, Vol.19-20,July.
5. Ibid
6. Ibid
7. Ibid
8. Ahmad Fahmi, "*Al-Tamin*" *I'nd al-Nawazil wa-al-hawa'ji*", paper presented at the First International Conference on Islamic Economics, Makkah, 1976.
9. Hussain Hamid Hassan, "Al-Ta'min wa Mauqif al-Shariah Minhu,
10. Muslihuddin," Insurance and Islamic Law "Islamic Publications Limited, Lahore 1979.
11. Jalal Mustafa, "*Al-Ta'min wa ba'dh al-Shubhat*", paper presented at first International Conference on Islamic Economics, Makkah, 1976.
12. Mustafa Ahmad Zarqa, "*Nizam al-ta'min Mswqif al Shari'ah*" paper presented at First International Conference on Islamic Economics, Makkah, 1976
13. Shaikh Ali al-Khafif, "al-Tamin wa hukmuho ala Mabadi' al-Shari'yyah wa Unuliyah al-a'mmah, paper presented at First International Conference on Islamic Economics, Makkah, 1976.
14. See: Majallah al-Buhuth al-Ismiyyah, op.cit. Vol.19,20.
15. See: Studies in Islamic Economics, op.cit.p.216.
16. Nijatullah Siddiqi, "Insurance in an Islamic Economy", Islamic Foundation U.K. 1985.
17. See: Studies in Islamic Economics, op.cit.
18. Ibid

in the tradition of the Prophet (peace upon him) that “profit goes side by side with the risk”.

The amount accumulated in P.A. is invested in various forms of business strictly in accordance with Islamic techniques of financing and investment. As regards participants special account, this is the same fund which has been designated as *waqf* by the Ulama of Indo-Pakistan. An argument could be raised here that family *takaful* (life insurance) entails an element of *gharar* (uncertainty) and want of knowledge (*Jahl*), and thus why should it be regarded lawful? The answer is that here *gharar* and *Jahl* belong to a contract of donation and not to a contract of exchange (sale etc.) and a contract of donation with *gharar* and *Jahl* is permissible in *Shari'ah*. If, for example, the participant dies or suffers from total disability in the fifth year of participation, he gets his capital and profits along with 5 yearly installments from Participants Special Account i.e. from donation fund, it is permissible and does not form *riba* because it has been paid as donation to him. Muslim Jurists are unanimous on the point that *gharar* invalidates the commutative contracts only (contracts of exchange) and not the contracts of donation.

They say that the donation of stray or unidentified animals or fruit before its benefits are evident or usurped is permissible but their sale is unlawful. *takaful* business contains the element of *gharar* with regard to the time of occurrence of an event, the size and magnitude of the event, the amount of compensation. Yet it remains a valid business because the *gharar* involved in it does not belong to the class of *Uqud al-Mu'awadat* (contracts of exchange). The uncertainty in the contracts of donations does not generate any dispute and discord among the people nor does it amount to the usurpation of others' properties wrongfully. On the contrary, in an ordinary insurance business when a policy holder gets more than what he deposited as premium, he in fact eats up the wealth of others undeservedly without paying for it. This is permissible only when the policy holder with their free and expressed consent voluntarily deposits some amount in a common fund and does not have any claim over it. In this case only, the additional amount paid to him will not create any problem from the *Shari'ah* point of view.

Takaful contribution. The amount of *Takaful* contributions will vary according to the value of priority or asset to be covered under the Scheme. If no claims are made or incurred and after deducting all the operational costs as outline in pare4.4 above the Fund registers a surplus shall be shared between the participants and Sharikat *Takaful* Malaysia. The sharing of such surplus will be at an agreed ratio as expressed in the principle of *al-Mudharabah* such as 6:4, 5:5, etc. Profits attributable to the participants are paid on expiry of their respective General *Takaful* Schemes provided they have not received or incurred claims during the person of participation.

The various types of General *takaful* Scheme for both individual and corporate sectors provided by Sharikat *takaful* Malaysia are shown below:-

- i) Fire *Takaful* Scheme;
- ii) Motor *Takaful* Scheme;
- iii) Accident/Miscellaneous *Takaful* Scheme;
- iv) Marine *Takaful* Scheme;
- v) Engineering *Takaful* Scheme.

The General *takaful* business is different from Family *takaful*, as all the payments are credited to only Tabor account, and not divided into two separate accounts. If this account shows some surplus (or profit) after deducting all administrative coos and claims, it is distributed among the policyholders as well. The problem here is that if the payment was given as *tabarru*, it should not bring any profit, and if it is considered as a loan then the element of Riba will be included in the contract.

Shari'ah Appraisal of *Takaful* Business

The *Takaful* business of Malaysia is satisfactory from the Shari'ah point of view It is constructed on the Islamic concepts of *mudharabah* and *tabarru*. It is void of *riba* also. The participant or the policy holder does not get a fixed return on Participants Account. Instead, he gets a varied income, since his capital is subjected to the principle of profit and loss sharing as enunciated

Based on the same example, should the Participant be hospitalised for a person of 5 days the *takaful* benefit will be made from Group Family *takaful* Account as follows:

30 x 5 days

RM 150.00

The operation of Family *Takaful* and Group *Takaful* Business are outlined in appendices I and II respectively

General Takaful Business

General *Takaful* Schemes are basically contracts of joint guarantee, on a short-term basis, based on the principle of *mudarabas*, between a group of participants to provide mutual compensation in the event of a defined loss. The schemes are designed to meet the needs for protection of both individuals and corporate bodies in relation to material loss or damage consequent upon a catastrophe or disaster inflicted upon properties, assets or other belongings of its participants.

In consideration for participating in the various schemes, participants agree or undertake to pay *takaful* contributions as *tabarru'* for the purpose of creating a defined asset as illustrated in the 'General *Takaful* Fund'. It is from this fund that mutual compensation would be paid to any participant who suffers a defined loss or damage arising from a catastrophe or disaster affecting his property or belonging.

As the *Mudarib, Shrikat Takaful* Malaysia will invest the Fund. All returns on the investment will be pooled back to the Fund, in line with the virtues of mutual help,

Shared responsibility, and joint guarantee as embodied in the concept of *takaful*, compensation or indemnity will be paid to any participant who suffers a defined loss or damage consequent upon the occurrence of a catastrophe or a disaster. Other operation costs to manage the General *Takaful* Business such as the cost for arranging the *takaful* programme and setting-up of reserve shall also be deduct from the Fund. A participant who wishes to participate in a General *Takaful* Scheme such as Motor *Takaful* to cover his motor vehicle, Fire *Takaful* to cover his house from loss or damage against or from Public Liability *Takaful* to cover against his third party liability shall pay a certain sum of money called

during the same period. RM 1,800.00

- ii. From Participants Special Accounts, surplus,
if any as determined by *Sharikat Takaful*. RM XXXX

Total Takaful Benefit = RM11,580.00+ surplus as
determined by *Sharikat Takaful*.

3. In the event of untimely death of participant due to
accident:

Based on the above example, should the participant suffer
death due to accident, then the total *takaful* benefits payable will be
as follows:

- a) If the participant dies in the fifth year of participator, the
payment of the benefit will be in the following order:-

i) From his Participant's Account RM 4,890.00

RM978 x 5, and profit from investment,

If any, accumulated in the

Account during the same period, say RM 400.00

ii) From Participants Special Accounts RM 5,000.00

RM 1000 x 5 (i.e. outstanding or balance

of *takaful* installments to be paid by the

participant should be survived until maturity.

iii) From Group Family Takaful Account RM 15,000.00

Total *Takaful* Benefit RM 25,290.00

- b) If the participant suffered bodily injury as a result of an
accident, such as loss of arm or leg (rates of benefit fixed
according to scale of disability or injury), then the amount
of *takaful* benefits payable will be made from Group
Family *takaful* Account only, as follow:

50% x 15,000.00 RM 7,500.00

4. In the event that the Participant is hospitalized:

Upon the occurrence of certain events the company will arrange that the *takaful* benefit be paid to the rightful claimant as follows:

1. In the event of

i) Untimely death of the participant

ii) Permanent and total disability suffered by the participant.

Should the Participant die or suffer Permanent and Total Disability in the fifth year of participation, *takaful* benefit will be paid in the following manner:-

i. From Participants Account = RM 4,890.00
 RM978 x 5 (i.e. installments paid by the Participant

In to his Participants Account from the date of entry up to the date of death or suffering of PTD) together with profit if any, which have been earned from

Investment for during the same period, say RM 400.00

ii. From Participants Special Accounts RM 5,000.00

=RM 1000 x 5 yearly payment (i.e. outstanding amount of *takaful* installment that would have been paid should the participant survive).

Total *takaful* Benefit Payable RM 10,290.00

For the PTD cover *takaful* benefit shall be paid in ten equal installments annually.

2. If the participant is still alive at maturity:

Should the participant survive until the maturity of his FTP, payment of *takaful* benefit will be made to him as follows:-

i. From his Participant's Account = RM 9,780.00
 RM978 x 10 (i.e. total amount installments

Credited into his Participant's Account from date of entry to the maturity) together with the profit from investment if any, accumulated

ratio, e.g. 30-70. The participants' shares are calculated according to their individual share in the PA, and credited into their respective accounts, the PA and the PSA. For example if a participant is paying RM 1000 to the *Sharikat* as his installment the use of the amount could be shown with the help of the following chart.

Family *takaful* fund RM1000

Participants Special Account MR 22.00	Participants Account RM978.00
--	----------------------------------

All Family *Takaful* fund RM1000

Investment Profit (Example: RM70)	
70%	30%
Participant (RM49.00) (example)	Company (example) (RM21.00)

Participants Special Account RM 22.00	Participants Account RM978.00
--	----------------------------------

RM 1.08

RM

47.92

RM 23.08

RM 1025.92

In case of occurrence of some unfortunate event like death or disability, the *Sharikat* makes payment to the policy holder or his heirs. The amount deposited in the PA alongwith the profits plus some amount from the PSA according to a formula is paid by the company. This scheme is explained as under by considering some cases.

Under the Family *Takaful* Business, *Sharikat Takaful* Malaysia provides various types of Family *Takaful* plan, which generally, are long-term *al-muharabah* contracts. Basically, a Family Plan provides cover of mutual aid among its members or participants expressed in the form of financial benefits paid from a defined fund should any of its members be inflicted by a tragedy.

For the General *takaful* Business, *Sharikat Takaful* Malaysia manages various types of General *Takaful* Scheme, usually on a short-term basis. The schemes provide protection in the form of mutual financial help to compensate its members or participants for any material loss, damage or destruction suffered out of any catastrophe, disaster or misfortune that falls a member's property or belongings.

WORKING OF THE TAKAFUL BUSINESS

Takaful Business is based on the concepts of *al-mudharabah* and *tabarru*. Involvement of these two Islamic forms of business eliminates the elements of *riba* and *gharar* from the insurance contract. The operational details of different *Takaful* Businesses are as follows

Family *Takaful*

Any individual between the age of 18 to 55 years can participate in the Family *Takaful* business. Participants are required to pay *Sharikat Takaful* Malaysia regularly. The *takaful* installments are then credited into a defined fund known as the Family *Takaful* fund. Each *Takaful* installment is divided and credited into two separate Accounts namely, the Participant's Account (PA) and the Participants Special Account (PSA). A substantial proportion of the installments is credited into PA solely for the purpose of savings and investment. The balance of the installments is credited into the PSA as *tabarru* for *Sharikat Takaful* Malaysia to pay the *Takaful* Plan. The amount accumulated in the PA is invested in various business according to Islamic financing techniques, and the resultant profits are divided between the *Sharikat* and the participants according to an agreed

4. SHARIKAT TAKAFUL MALAYSIA SENDIRIAN BERHAD

In Malaysia the operation of *takaful* is licensed and regulated by the *takaful* Act 1984. The Act was specially promulgated and passed by the Malaysian Parliament with a view to ensuring that *takaful* as a sector within the Islamic financial system would grow in an orderly manner. Although the insurance industry in Malaysia is regulated by the Insurance Act 1963, the latter however, cannot be applied to *takaful* as it contains provisions, which are not in line with the requirements of *Shariah*. At present, the supervisory authority vested under the Act is the Central Bank of Malaysia (Band Negara Malaysia) whereby the Governor of the Bank is also the Director General of *takaful*.

Sharikat Takaful Malaysia Sendirian Berhad, the first Takaful operator to be established in Malaysia, as well as in the region, was incorporated on 29 November 1984, with an authorized capital of RM 100 million and a paid-up capital of RM 10 million. It officially commenced business operation on 1 August 1985. Sharikat Takaful Malaysia is a subsidiary of the Malaysian Islamic Bank, Bank Islam Malaysia Berhad with 87.15% of its equity held by the Bank. Other shareholders are State Islamic Councils and Bait-ul-mals of various states in Malaysia.

TYPES OF TAKAFUL BUSINESS

The commercial activity of *takaful* is reflected in two basic types of business that it undertakes. Depending on the legal structure and statutory provision, both types of business may either be transacted under a common entity (composite basis) or one entity for each type of business. As a composite company, *Sharikat Takaful* Malaysia for example, as prescribed in the *Takaful* Act 1984, transacts both types of *Takaful* business. The types of business are as follows:

- 1 Family *Takaful* Business (Islamic life insurance)
- 2 General *Takaful* Business (Islamic general insurance)

The fundamental objective and basic working operation differ between these two types of business.

of the contract would receive whatever remains to him from this account and its profits. However, the participant whose heirs have received *takaful* payments, the participant who withdraws or is considered to have withdrawn will be deemed to have donated whatever may be to his credit to support the *takaful* fund referred to as per the declarations and donations stated in the application form duly signed by him.

As in the case of Islamic Insurance Company, Sudan, there is a Religious Supervisory Board, which is the same as the Religious Supervisory Board of Dar Al-Maal Al-Islami Trust. The company has to abide by "the ruling of Glorious Islamic *Shari'ah*", the interpretation of which is the responsibility of the Religious Supervisory Board.

Out of the income (profit) received from the investment of the installments paid, one-fifth be paid to the Manager, i.e. the Mudaraba company and four-fifth will be reinvested "for the benefit of all participants as Assets of the Mudaraba or the *Takaful* Fund", in the case of the latter.

As far as Marine Insurance is concerned, unlike life Insurance, no portion of the premium is meant for *mudaraba*. However, the fluid intention of donating a part of the profit or the whole of it is present in such contracts also. The relevant clause reads, "Each participant has accepted in goodwill and consent to its recipients in this type of *takaful*. The Participant has also donated if such profit is insufficient, part or all of the amount specified in this paragraph to the *takaful* fund, if necessary". Another important clause is clause 11(c), which reads:

Should a surplus result in the *takaful* account, the Manager shall distribute half of such surplus only to participants, who have revived their consignments and to whom no *takaful*. The participant has also donated the remaining surplus to support the *takaful* account, as per their declarations and donations stated in their applications for participation.

9. If policy holders fund incurs a loss, it shall be met out of their special reserves and in case the same is not available or is insufficient, such deficit shall then be met through a loan from the shareholders fund, repayable from future surpluses.

Islamic 'Takaful' Company, Bahrain.

In this company the idea of *modarabah* has been combined with that of insurance. The company acts as the '*modarib*' of the policy holders. The contract form has the heading "*ISLAMIC MODARABAH*" and reads, "This contract is a *modarabah* or *qirad* contract constituted pursuant to the rulings of Islamic *Shariah* among subscribers to *modarabah Saak* (certificates) as beneficial owners of *Modarabah Assets* (Participants) on the one hand and *Sharakat Al-Islamia Baharain* as *Modarib* (the Manager) on the other hand".

The objectives of the *mudarabah* are:

- a) collective investment of private savings
- b) systematic savings over a long term and
- c) '*takaful*' benefit for the participants in case of death of a participant before the end of the participation period. This means that they have combined the ideas of *mudarabah* and Insurance

2 The installment appearing on the face of the *mudaraba Saak* of each participant is divided into the following two portions:

- a) An amount allocated for the purchase of investment units for the account of the participant. No *takaful* benefits are deducted from this amount or the profits generated therefrom.
- b) An amount specified in the contract is paid for the purpose of investment in the *takaful* fund. Each participant has accepted in goodwill and consents to relinquish a portion or all of profits of this amount for payment of *takaful* benefits to its recipients in similar types of *takaful*, the insufficient part or all of the amount specified in this paragraph to *takaful* Account, if necessary. The participant who continues until maturity

- 3 The company is exempted from the operation of many laws such, as a number of labour laws, the law governing insurance, etc.

The company has a *Shariah* supervisory Board consisting of five religious scholars, including Al-Siddique Mohammad Al-Amin Dharir.

This is a stock company with an approved capital of 10 million Sudanese Pound, of which one-fourth has been paid up. Faisal Islamic Bank is the major shareholder. In this company also there is a provision for maintaining and administering two funds; the policy holders fund and the shareholders fund. For the sake of clarity some of the provisions are reproduced below:

4 **Assets of Policy Holders Fund shall consist of;**

- a) Insurance premiums received
 - b) Claims received from re-insurers
 - c) Such proportion of the Investment profits generated by the investment of funds and other reserves attributable to policy holders as may be allocated to them by the General Assembly on the recommendation of the Board of Directors of the Company
- 5 All the claims payable to the policy holders, reinsurance costs, traditional technical reserves and other reserves and administrative expenses of the Insurance company, excluding expenses of the Investment Department, shall be met out of the policy holders fund.
- 6 Balance outstanding to the credit of policy holders fund at the end of the year would represent their surplus.
- 7 The General Assembly may on the recommendation of the Board allocate whole or part of surplus to policy holders special reserves or other reserves as may be deemed necessary for their interests.
8. In case all the surplus is not allocated to reserves, the balance will be distributed amongst the policy holders in proportion to the insurance premium paid by each of them during the year.

1. Islamic Insurance and Reinsurance Cojaddah and Manama (Bahrain)

This is a limited joint stock company with an approved capital of U.S. dollar fifty million, 50 percent of which has been paid up. The company has been allowed by its religious board to provide reinsurance facilities and to do business on reciprocal and nonreciprocal basis with such insurance companies, which do business on lines, approved by Islam, subject to certain conditions. The company is not allowed to realize insurance commission from commercial insurance or reinsurance companies.

It is envisaged that there will be two separate funds: the shareholders fund and the policy holders fund. The latter will consist of:

- a) Insurance premiums
- b) Claims paid and
- c) Such portion of the surplus, as may be determined by the Board of Directors.

There is also a provision that if all the surplus is not transferred to the Reserve fund, the balance will be returned to the policy holders in proportion to the premiums paid by them during the year. If the policy holders fund shows a loss in any particular year the deficit will be made up from the reserves. If that too is insufficient, the deficit will be made up by taking a loan from the shareholders fund.

2. Islamic Insurance company, Sudan

This company enjoys many privileges given to it under the Faysal Islamic Bank Act. The more important of these are:

1. Its assets and profits are exempt from all taxes:
2. Salaries, allowances, gratuities and pension of its employees, its Chairman; members of the Board of Directors and members of the *Shari'ah* Supervisory Board are exempted from income tax.

expiry of the contract if the individual desires to continue the membership then he has to sign a new contract with trustee of the fund and pay the contribution.

Under general *takaful* if the participant has met with specific financial loss during this period, help will be provided to him or his heirs, maximum up to a certain proposed limit keeping in view the nature of loss. If the participant does not face the specific loss during the period of the contract then the amount of contribution shall not be repaid to him. Under special *takaful* scheme the individual's contribution will be divided into two portions by the management of the fund. One portion will be invested in some project on the basis of Islamic financing techniques. The other portion will be considered to be a donation in *waqf* fund from the participant. If during the period of the contract the participant dies, or suffers from specific loss, the total amount invested on his behalf along with the profit earned on this amount will be paid to him or his heirs and another amount will be paid from the *waqf* fund according to the need but up to a certain limit. If he does not face the specific loss during the period of the contract then only the portion one will be repaid to him along with the profit earned on this amount.

The government shall not operate this fund for earning profit. However the administrative expenses can be met out of this fund, but it should not exceed an agreed percentage of the total profits. In this *Takaful* Fund the participants and the shareholders should be of the same group, such that all benefits go to them only.⁽³⁷⁾

SECTION III

Some Practical Experiences of Islamic Insurance (I)

In this section we will review some experiences of Islamic Insurance (*takaful*) being run successfully in some Muslim countries, The Malsysian experience will be discussed in more detail.