

INTERNATIONAL **I**SLAMIC **F**INANCE **I**N SURANCE



Management of Shareholder / Stakeholder Conflicts in Takaful Operations

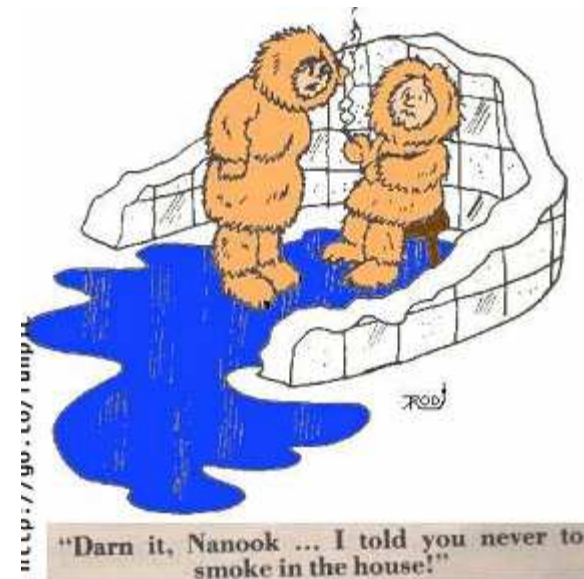
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Conflict

- result of grievance - created by unmet needs
- process of ascertaining those unmet needs
- “the interaction of interdependent people who perceive incompatibility and the possibility of interference from others as a result of this incompatibility”





Stakeholder

- "any group or individual who can affect or is affected by the achievement of the organization's objectives"
- participants and their beneficiaries, shareholders, directors, management, employees, intermediaries, suppliers and the public



Conflict studies in corporations

- private business brings about a lot of conflicts with corporate stakeholders
- law itself unable to settle satisfactorily in the public interest
- bad for business
- successful conflict prevention sound protection of development investment
- engaging - develop products or services to meet those needs.

Productive conflict is feasible

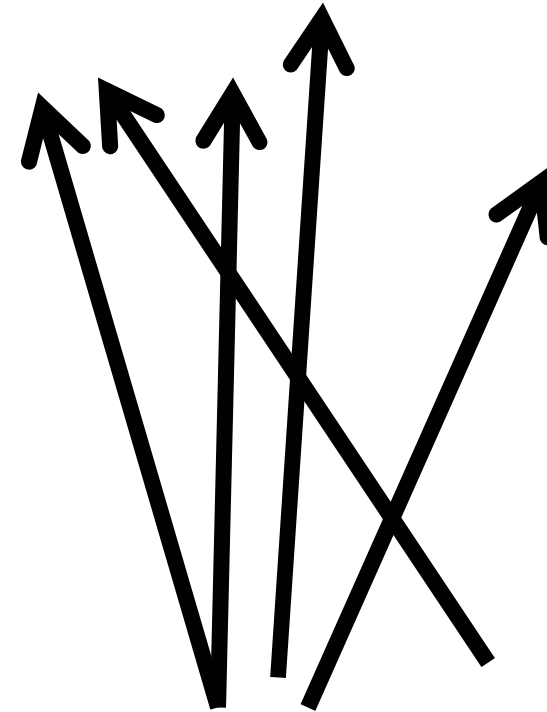
- value incongruence between individuals and the organization
- people have different ideas about what is important, as well as different answers for something that requires resolution
- organizations are unclear about their goals, especially the importance of some of the competing goals above others





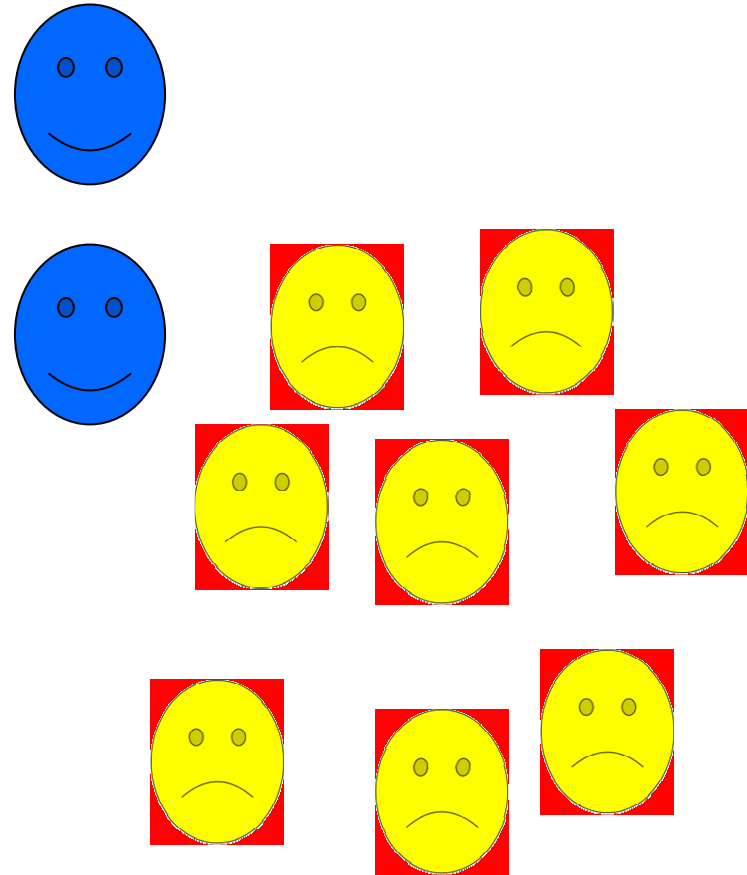
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- misalignment (between ends and means values) and with the mission, strategies and processes of the organization
- misalignment between the diverse interests of managers and shareholders
- values of the people in the organization are not only misaligned but also incompatible with the values of the organization



Shareholder/stakeholders interests

- Direct stakeholders in Takaful
 - shareholders,
 - managers (inc other employees)
 - Intermediaries (inc beneficiaries to a certain extent)
 - participants





Prioritising values

- Important since conflicting values create conflicting strategies
- Prioritize into hierarchical order
- strategy and goals cannot be equal
- explicitly identify and define these values
- connection between values prioritization and reduced conflict



Effective values prioritisation

- Suitable methodology used for identifying values
- Manner in which values have been identified has not been effective
- Review existing values of employees and aligning them with the mission, strategies and processes of the organization.

Cont

- Alignment btw private (profit-oriented) enterprise with that of the public interest
- Necessary step for justification of private business and maximization of profits
- Involves corporate ethics
- contribution to the public interest
- corporations should juggle multiple goals





Purposes of the corporation

- Debate reignited following the stock market convulsions and corporate scandals of 2001 and 2002
- company could achieve satisfaction and a balance in stakeholders' conflicting expectations
- model whose needs comprise satisfaction, moral intelligence/ethics, empowerment, communication, and quality corporate governance/leadership



Cont

- Organizational structure change
 - incorporates the values driven premise
 - if no clear goal is outlined, everyone will have their own agenda
 - none of the goals will be adequately satisfied or supported
 - members of the organization not knowing how to address the many critical issues and each side will think its approach is the correct one

The Manager...

- agents of the shareholders, and more broadly, stakeholders
- gain the most as they have their own self-interest which may be reflected in the choices they make regarding effort, risk exposure, and time horizons
- negative impact on shareholder wealth although shareholder value maximization preferred objective



Shareholder value maximization?

- every organization, takaful included, is at risk from abuse by top managers intent on self-aggrandizement at shareholder expense
- entrench themselves by working to redefine the appropriate organizational performance metric
- raise their value to shareholders relative to other managers in the labor market making them nonsubstitutable





Suggestions...

- tying pay to performance
- empirical results of research investigating the efficacy of such plans have been mixed
- strong relationship between CEO pay and the pay levels of directors



Weaknesses

- susceptible to managerial manipulation
- Managers tempted to employ some accounting manipulation to ensure their bonus at shareholder expense.
- too many forces beyond a manager's control
- only focuses on monetary outcomes but say little about the appropriate means to achieve those ends



Outside Directors???

- "the ambiguity of the standards of fairness, the difficulty in ascertaining and weighing the relevant facts, the psychological and social pressures on independent directors, and the limited incentives and weak sanctions available suggest that to elicit disapproval from outside directors"

Other proposals

- Stakeholders protect themselves through contract
- Stakeholders may be protected by fiduciary obligations
- Stakeholders may protect themselves by exit
- Stakeholders may be protected by legislation

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Guidelines For Managing Conflict in Takaful

- “If your Lord had so willed, He would have made mankind one people, but they will not cease to differ, except those on whom Your Lord and Sustainer has bestowed His mercy, and for this did He create them.” (11:118-119)



Cont

- “Do not then follow your own desires, lest you swerve from Justice.” (4:135)
- “If the Truth were in accord with their own desires, the heavens and the earth would surely have fallen into ruin, and all that lives in them.” (23:71)



Equity Principle Application

- “Give full measure and full weight, in justice. We task not any soul beyond its scope. And if ye give your word, do justice thereunto, even though it be (against) a kinsman; and fulfil the covenant of Allah. This He commandeth you that haply ye may remember.”
(6:152)



Cont

- “And unto Midian (We sent) their brother, Shueyb. ... so give full measure and full weight and wrong not mankind in their goods, and work not confusion in the earth after the fair ordering thereof. That will be better for you, if ye are believers.” (7:85)
- “O my people! Give full measure and full weight in justice, and wrong not people in respect of their goods. And do not evil in the earth, causing corruption.” (83:1-3)



Islamic perspective on Principles in conflicting interests

- Putting precedence of the *indispensables* over the *necessities* and also the *needs*.
- Putting precedence of the *necessities* over the *needs*.
- Putting precedence of the certain *benefit* over the uncertain *benefit*.



Cont

- Putting precedence of the big *benefit* over the small one.
- Putting precedence of the *benefit* of the group over the individual *benefit*.
- Putting precedence of the *benefit* of the many over the *benefit* of the few.
- Putting precedence of the lasting *benefit* over the temporary or intermittent *benefit*
- Putting precedence of the fundamental and basic *benefit* over the marginal and subsidiary *benefit*



Cont

- Putting precedence of the potent future *benefit* over the immediate weak *benefit*.
- Priority of the lasting action over the temporary action
- Priority of the action that brings long term benefits over short term ones
- Priority of the fundamentals over the peripherals; and
- Priority of the rights of the group over the rights of the individual



Case of takaful

- Rights of each of the directly participating stakeholders are quite clear in most circumstances except in the case of the manager
 - Quran and the Sunnah,
 - OIC Fiqh Academy,
 - IFS & AAOIFI
 - respective authorities



Additional Options

- appointing shariah advisors as members of the Board
- shariah managers involved in technical aspects
- legal infrastructure
 - Muslim countries -> enact legislation for single juristic opinion
 - Non Muslim countries -> special legislation wrt Muslim family law e.g AMLA, Muslim Wakf Bill, AMUAT, Shariat Act 1937, DMMA



Conclusion

- Incorporate
 - Objectives of the shariah
 - proposals and suggestions forwarded by conflict scholars
 - fairly comprehensive legal infrastructure

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Thank You

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