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TITLE:

**INSURANCE VS TAKAFUL : A COMPARATIVE
ANALYSIS OF FIQH OPINION**

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Abstract

This study discusses the differences between takaful products and conventional insurance products, especially general and insurance takaful, in terms of contract terms and conditions, market comparison, performance, market needs and distribution methods, major issues and challenges of each product in the selected country. Finally, the article offers suggestions for amending takaful contracts that can increase the popularity of the target product in the market. To achieve this goal, the study examines the different legal documents of takaful insurance contracts and conventional insurance contracts.

1.0 INTRODUCTION

Historically, Takaful is not a new concept as it was practised by the Muhajirin of Makkah and the Ansar of Medina after the hijra of the Prophet (SAW) more than 1,400 years ago. Takaful is a concept of insurance in Shari'ah whereby a group of participants agree to insure each other against a specified loss or damage that may occur to any of them by contributing in the form of *tabarru'* or donation to a takaful fund. It emphasises unity and cooperation among participants. The source of support for Takaful comes from the Holy Quran and Sunnah. Since the takaful contract has an element of mutual cooperation, the contract is binding on both the operator and the participants according to the law of contract and Shariah.

Takaful is the inclusion of a group of individuals in a scheme that allows them to cooperate in to bear any harm that happens to one of the participants by paying a compensatory member of the participants by paying a reasonable compensation to the afflicted member through money contributed by the participants, paid in instalments. Insurance also means a form of risk management especially for guarantees against the risk of possible financial losses. Insurance is defined as the transfer of risk from one entity to another. It is carried out through the exchange of fees or sales to obtain care and guarantees to avoid a large loss that the client wants to avoid and protect. The transfer of risk is done between an individual to an organisation (Insurance Company where the insurance management organisation will receive the individual's fee and if the individual suffers a loss covered under the protection, then compensation or indemnity will be paid (Abdou et al., 2014).

Allah SWT precisely explains in the Quran that human beings should help each other when they need help. And there are a lot of verses in the Quran that encourage human beings to help each other, these verses are, Surah Al Maidah (5): 3. Islam is not opposed to the very concept of insurance but against certain means and methods currently used in conventional insurance. Islam welcomes Takaful, because Islam is a very clear religion and it speaks about many different aspects of life. Therefore, for Islam to accept Takaful, it must be free of any prohibited elements, such as the elements *Riba* (benefit), *Maysir* (gambling) and *Gharar* (uncertainty), although elements of *Gharar* can be forgiven depending on the circumstances. Meanwhile, conventional insurance is not allowed in Islam because it contains three elements that are contrary to Islamic Shariah.