A Critical Shariah Review of Takaful Structures

Abstract

Conventional (commercial) insurance involves an intolerable magnitude of gharar (uncertainty), and hence its prohibition in Shariah. In order to Islamize insurance, it needs to be reconstructed on different basis so that the inherent uncertainty associated with the concept of insurance will not invalidate its contracts. This is thought to be doable only if the commutative nature (mu’awada) of insurance is converted into donation (tabarru’); deeming the contributions of the policy holders as mutual donations, with the Takaful company being only responsible for the administration of the Takaful fund as well as the Takaful operations. Nevertheless, the existing Takaful structures, which supposedly adopt the said methodology, still have unresolved Fiqh issues. These issues pertain to the underlying concept of Takaful being genuinely of donation nature, and also to the applications and practices of Takaful being capable of substantially ascertaining their differences from those of the conventional insurance. The paper comes to scrutinize the existing Takaful structures and highlight their shortcomings in an attempt to outline a new sound model, with a special emphasis on its practicalities and applications.

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