YASIN
Jurnal Pendidikan dan Sosial Budaya

p-ISSN: 2808-2346
e-ISSN: 2808-1854

Terindeks: SINTA 5, Copernicus, Dimensions, Scilit, Lens, Crossref, Semantic, Garuda, Google, Base, etc.

https://doi.org/10.58578/yasin.v5i5.6747

SHARIA INSURANCE (TAKAFUL) IN THE VIEW OF CONTEMPORARY MUAMALAH

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Article Info:

Submitted:	Revised:	Accepted:	Published:
Jun 7, 2025	Jul 2, 2025	Jul 14, 2025	Jul 18, 2025

Abstract

Sharia insurance (*takaful*) is a Sharia-compliant financial protection system that operates on the principles of mutual assistance (*ta'āwun*) and the *tabarru'* (donation-based) contract, offering an ethical alternative to conventional insurance. This study was motivated by the growing interest in Sharia insurance among Indonesian Muslims seeking financial solutions aligned with Islamic law. The research aims to explore the concept of Sharia insurance from the perspective of contemporary *muamalah* (Islamic commercial transactions) and to analyze scholarly views regarding its legal permissibility. Utilizing a qualitative library research method, data were sourced from scientific journals, books, and relevant Islamic legal references. The findings indicate that *takaful* is permissible within Islamic jurisprudence when based on social contracts that avoid elements prohibited in Islamic finance, such as *riba* (usury), *maysir* (gambling), and *gharar* (excessive uncertainty). While some differences in scholarly opinion exist, there is broad consensus that *takaful* reflects a non-commercial, cooperative model consistent with Islamic ethical values. The study concludes that Sharia insurance holds strong potential as a legitimate and socially responsible protection system under Islamic law, but its broader acceptance depends on enhanced regulatory frameworks, public education, and the development of more accessible and diverse products.

Keywords: Sharia Insurance (Takaful); Contemporary Scholars; Islamic Finance; Muamalah; Ethical Financial Protection

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INTRODUCTION

The study of Islamic law has a very important role in explaining and providing a deep understanding of various contemporary issues that are developing today (Suaib et al., 2025), (Drobot & Kozachenko, 2024). One issue frequently debated among Islamic scholars is insurance. The development of modernization, which has brought significant changes to various aspects of social and economic life, has also influenced people's perspectives on financial products, including insurance. With technological advances and the increasing need for financial protection, insurance has become an increasingly popular and widely used instrument. However, the existence of insurance within the context of Islamic law raises various questions and debates that require further study (Pusvisasari, 2023).

From a fiqh perspective, insurance is understood as a complex form of transaction requiring further study to determine its precise legal status. Some scholars view conventional insurance as containing prohibited elements, such as *riba* (usury), *gharar* (uncertainty), and *maisir* (gambling), thus giving rise to debate regarding its validity (Irkhami, 2020). Therefore, an in-depth analysis based on sharia principles is necessary to identify whether a particular insurance product is acceptable or needs to be adjusted to comply with Islamic law. This discussion is crucial to provide clear guidance for the Muslim community in selecting financial solutions that align with sharia values.

Insurance in Islam is currently known by the public as sharia insurance, or more commonly known as *al-ta'min*. Sharia insurance has a different philosophical foundation than conventional insurance, which operates on a *tadabulli* basis, a sale and purchase agreement between the customer and the insurance company. In conventional insurance, the relationship between the parties is commercial and solely profit-oriented. In sharia insurance, however, the contract used is *takaful*, a principle of mutual assistance between participants, where one customer helps another customer experiencing difficulties or facing certain risks (Mahmuda & Azizah, 2019).

The basic concept of Islamic insurance is mutual assistance in goodness and piety (*al-birri wat taqwa*). This concept serves as the primary foundation applied in every business transaction agreement in Islamic insurance, and also serves as a concrete manifestation of the *takaful* contract. Under this system, all participants are considered part of an extended family, supporting and supporting each other in the face of risk. This principle emphasizes

not only profit but also prioritizes the values of solidarity, justice, and social responsibility in Islamic insurance practices (Yuhafi et al., 2023).

Given the predominantly Muslim population in Indonesia and the widespread application of sharia principles in various aspects of life, sharia insurance emerged, which subsequently developed and competed with conventional insurance. There are no specific studies on sharia insurance in classical Islamic jurisprudence literature or the Qur'an (Nurrahimah et al., 2023). However, to build an Islamic economy or sharia economics in the modern era, many contemporary scholars have conducted studies related to aspects of Islamic economics, including sharia insurance. These studies on sharia insurance are the result of the thinking of contemporary scholars, such as Ibn Abidin, Muhammad Nejatullah al-Siddiqi, Muhammad Muslehuddin, Fazlur Rahman, Mannan, Yusuf al-Qardhawi, and Mohd. Ma'shum Billah (Aeni, 2025).

A literature review on sharia insurance shows that this industry is experiencing significant growth in Indonesia, supported by supportive government regulations and increasing public awareness of sharia principles in finance (Mutmainnah & Yuwana, 2024). Sharia insurance uses a *takaful* contract based on the principle of mutual assistance (ta'awun) and *tabarru'* funds, which is different from conventional insurance which is commercial in nature and is often questioned because it contains elements of *riba*, *gharar*, and *maisir* (Asyura, 2022). Various studies confirm that even though it still faces challenges such as low public understanding and the need for innovative product development, sharia insurance has advantages in terms of financial performance and risk management compared to conventional insurance (Wulandari et al., 2025). Contemporary scholars also play an important role in developing the legal foundations and operational principles of Islamic insurance to comply with Islamic law and the needs of modern society (Mardani et al., 2025). Therefore, strengthening regulations, public education, and product innovation are the main keys to supporting the growth and widespread acceptance of Islamic insurance in the Indonesian market (Arsela et al., 2025).

METHODS

The researchers used a descriptive qualitative method with a library research approach. Data were obtained through a literature review from various reliable sources, such

as scientific journals, academic books, and recent and relevant scientific articles as the primary references in this study (Rosidah et al., 2023).

The types of data that are the data sources used in this research are: First, primary data, namely data obtained from the results of analysis of the results of research statements by several experts or research that is related to the research. Second, secondary data, namely data that is already available or already exists so that researchers seek and collect written data obtained from articles, scientific journals up to applicable legislation in accordance with the reasons studied by the study (Rukin, 2019).

The required data collection techniques are: First, library research. This research was conducted by gathering and collecting data based on a theoretical basis by studying scientific articles, scientific journals, scientific books, and other sources closely related to the research being conducted. Second, a legislative approach. This approach was carried out by identifying existing regulations and several regulations related to the completion of the research (Kusumastuti & Khoiron, 2021). The data analysis techniques used in this study encompass comprehensive literature sources. During the research process, primary and secondary data were analyzed qualitatively and then presented descriptively. Issues related to the topic of insurance are clearly outlined, explained, and depicted in the form of a scientific research journal (Suwendra, 2018).

RESULTS

The Concept of Islamic Insurance (*Takaful*)

Referring to the *aqilah* system implemented in pre-Islamic and early Islamic Arab societies, the concept of insurance can be considered in accordance with Islamic teachings. The *aqilah* system is a compensation mechanism borne collectively by a group or tribe as a form of social responsibility for an incident, especially in cases of death or murder. This tradition demonstrates the principle of solidarity and mutual risk-bearing, where group members are obliged to assist the victim's family by providing compensation or *diyat* (divine gift). This practice has been going on since before the time of the Prophet Muhammad (peace be upon him) and was later adopted in Islamic law as part of the accepted and regulated transactions through the hadith and religious traditions (Aasii, 2023).

During the time of the Prophet Muhammad (peace be upon him), the *aqilah* system was strengthened and became one of the foundations reflecting the principles of social

protection and justice in Muslim society. A hadith concerning a dispute between women from the tribe of Huzail demonstrates the practical application of the *aqilah* system, where the family of the murderer is responsible for paying compensation to the victim's family. This practice closely resembles the concept of modern insurance, which emphasizes the principles of shared responsibility and mutual assistance (ta'awun). Therefore, *aqilah* is often considered the precursor to Islamic insurance (*takaful*), which emphasizes the *tabarru'* (gift) contract and solidarity among participants (Mukhsinun & Fursotun, 2019).

The development of formal Islamic insurance began in the 20th century with the emergence of the first Islamic insurance companies in Sudan and Saudi Arabia in 1979. From there, the concept spread and was adopted in various countries, including Indonesia, where in the early 1990s a special team was formed to develop *takaful* insurance as a Sharia-compliant financial solution. The historical foundation of the *aqilah* system is a crucial foundation in building the legal and operational framework of modern Islamic insurance, capable of accommodating the needs of the Muslim community for financial protection without violating Islamic principles such as the prohibition of *riba*, *gharar*, and *maisir*. Thus, *aqilah* is not only an ancient practice, but also a relevant philosophical and legal basis for the development of Islamic insurance today (Dani, 2024).

From this, it is clear that believers should not abandon or neglect fellow sufferers by refusing to pay ransom or compensation fairly and justly. In Arabic, insurance is called at-*ta'min*, while the insurer is called *musta'min*. The word *at-ta'min* comes from the word *amana*, which means protection, tranquility, a sense of security, and freedom from fear. Etymologically, this term means providing security or mutual support. In Islamic jurisprudence, insurance is considered equivalent to *takaful*, so Islamic insurance is also known as *takaful* insurance. *Takaful* means sharing risks among fellow participants, where one party helps another party face those risks. This principle is carried out based on mutual assistance in goodness, with each participant voluntarily contributing funds (called *tabarru'*) which are used to overcome shared risks (Firmansyah et al., 2024).

Contracts (*Akad*) in Sharia Insurance

Literally, *akad* means *al-ribthu*, or a bond that unites two parties. The bond referred to here can be *hissi*, a tangible bond that can be felt and observed directly, or *ma'nawi*, meaning a meaningful or conceptual bond without the need for a visible physical form. In other

words, *akad* encompasses not only the physically visible relationship, but also relationships that occur spiritually or based on mutual agreement between the parties (Hikmah, 2024). This shows that *akad* is an important foundation in various interactions, especially in social and economic contexts, because it binds both parties to fulfill their respective rights and obligations.

The terminology of a contract is divided into two main categories: *'amm* (general) and *khash* (specific). The meaning of *'amm* is broader and closer to the linguistic meaning, namely everything that is desired by a person to perform an act, both personally and in a specific context, such as *waqf*, divorce, and various other transactions. It shows that a contract in the general sense encompasses various forms of actions or agreements made by a person. Meanwhile, the understanding of a contract in *khash*, as stated by al-Syanhuri and quoted by Wahbah al-Zuhaili, is more specific, namely "an agreement between two wills to establish an obligation, transfer an obligation, or by terminating an obligation." This definition emphasizes that a contract is the legal basis that regulates the rights and obligations between the parties involved, thus having a direct impact on the implementation of the agreement and the responsibilities that must be carried out (Ramadhon, 2021).

The contracts associated with transactions in Sharia insurance are those with a *khash* (special) meaning. In Sharia insurance practice, there are two main types of contracts: *tabarru'* and *mudharabah*. First, the *tabarru'* contract in the context of Sharia insurance aims to provide charitable funds with sincere intentions, namely the intention to help each other among participants if one of them experiences a disaster. Claim funds provided to participants who suffer a disaster are taken from the *tabarru'* fund account, which has been intended by all participants since they first joined Sharia insurance. These funds are used solely for the benefit of the charitable fund or mutual assistance fund between participants (Fadilah & Makhrus, 2019).

Tabarru' contracts are collected in a social fund account, the primary purpose of which is to provide mutual support (*takaful*) for insurance participants who experience disaster or loss. Furthermore, there is the mudharabah contract, which is a contract that occurs when funds collected by an insurance company are invested in a business that is expected to generate profit. Because the primary basis of the *mudharabah* contract is the principle of profit and loss sharing, if the investment experiences a loss (loss or negative return), the loss is shared by the insurance participant and the company (Sarifudin, 2023).

Differences between Sharia and Conventional Insurance

The vision and mission of Islamic insurance encompass aspects of *aqiqah* (religious observance), worship (*ta'awun*), economics, and community empowerment. Meanwhile, conventional insurance focuses more on economic and social aspects. In terms of oversight, Islamic insurance has a dedicated supervisory board, while conventional insurance does not. Furthermore, the contract or agreement in Islamic insurance is based on the principle of mutual assistance, while conventional insurance is based on the principle of buying and selling.

Sharia insurance fund investments are conducted in accordance with Islamic law and principles, meaning they are free from elements of *riba*, *gharar*, and *maisir* (unlawful gambling), and are not conducted in places or investment objects prohibited by religion. Conversely, conventional insurance fund investments can be conducted freely within the limits of applicable law, without restrictions on investment objects based on whether they are *halal* or *haram* or on the investment system used.

Sharia insurance fund investments are conducted in accordance with Islamic law and principles, which require freedom from *riba*, *gharar*, and *maisir* (unlawful gambling), and avoidance of prohibited investment venues. Conventional insurance fund investments, on the other hand, can be conducted freely within the limits of applicable law, without limiting investment objects based on halal or haram status or the investment system used. Sharia insurance funds are owned by participants through contributions (*tabarru'*), which are collectively owned by the participants, while the company is solely responsible for managing the funds. Conversely, conventional insurance funds collected from participants belong to the company and can be used freely by the company.

In fund management, Islamic insurance applies a separation between *tabarru'* (charity) funds and participant funds, so there is no such thing as forfeited funds, except for a small portion allocated for *tabarru'*. In contrast, fund management in conventional insurance does not separate funds, and for certain products, funds can be forfeited according to applicable regulations.

Sharia insurance funds are owned by participants in the form of *tabarru'*, which is jointly owned by the participants, while the company only acts as the fund manager. Conversely, in conventional insurance, funds collected from participants become the property of the company, allowing the company to freely use these funds. Sharia insurance

funds are managed by separating *tabarru'* (charity) funds from participant funds, so the concept of forfeited funds does not apply, except for a small portion of funds allocated as *tabarru'*. In conventional insurance, however, fund management is not separated, and in certain products, participant funds can be forfeited according to applicable regulations.

The risk underwriter in Islamic insurance uses the principle of risk sharing, meaning that the participants share responsibility. Meanwhile, conventional insurance applies the principle of risk transfer, where the risk is transferred from the insured (customer) to the insurer (company). Claim payments in Islamic insurance are derived from *tabarru'* funds, allowing participants to share in the losses. In conventional insurance, however, claim payments are sourced from company funds, funded by customer contributions as a transfer of risk (Suhardin, 2018).

DISCUSSION

Sharia Insurance (Takaful) in the View of Contemporary *Muamalah*

The opinions of the majority of scholars regarding the legal validity of *takaful* vary. Generally, the debate regarding this issue is divided into two groups: 1) those who forbid *takaful*, and 2) those who permit it. Both groups have their own legal basis and provide reasons to support their views. In these differing views, they emphasize that permissible *takaful* practices are those that use the *tabarru'* contract, while the majority of scholars who prohibit it believe that *takaful* with a *tijarah* contract or business and commercial elements are inconsistent with sharia principles (Nurwahidah & Hakim, 2024).

Masjfuk Zuhdi's distinction between the two groups of scholars above clearly illustrates who forbids takaful and who permits it. In his book, *Masail Fiqhiyah*, Masjfuk explains that among the scholars who prohibit insurance are: Sayid Sabiq (author of Fiqh al-Sunnah), Abdullah al-Qalqili (Mufti of Jordan), Muhammad Yusuf al-Qardhawi (author of *Al-Halal wa al-Haram fi al-Islam*), Mahdi Hasan (Mufti of Deoband Saharapur, India), and Mahmud Ali (Mufti al-'Ulum Cawnpur, India). According to Masjfuk, the main reason for prohibiting insurance is that the premiums paid by policyholders are considered to contain elements of usury. In other words, insurance contracts are a type of contract that contains elements of *tijarah* (profit), which is not in accordance with sharia principles.

On the other hand, Warkum Sumitro responded to the group that forbids *takaful* by putting forward six arguments, namely: a) Takaful containing elements of gambling is prohibited in Islam, b) Insurance contains elements of uncertainty, c) Insurance contains elements of usury which are prohibited in Islam, d) Insurance involves buying, selling, and exchanging currency without using cash, e) Commercial insurance depends on the life and death of a person, so it is considered to precede the destiny of Allah SWT, and f) Insurance contains elements of oppressive exploitation. These arguments are the basis for some scholars who reject the validity of *takaful* in certain practices (Nasir & Hasan, 2023).

Mahdi Hasan forbade the practice of insurance for several reasons, namely: a) Insurance is nothing but usury, because it does not reflect equality between the two parties involved, even though this equality is very necessary, b) Insurance is also a game of chance (*maisir*), because ownership depends on the occurrence of uncertain risks, c) Insurance is considered as a helper against sin, because insurance companies, even though they are state-owned, still carry out transactions that contain usury, d) In addition, in life insurance there is a risk of corruption (*risywah*), because the compensation provided is something that is difficult or cannot be assessed with certainty (Al-Mohammad, 2012). This argument became the basis for Mahdi Hasan to forbid the practice of insurance in his view.

According to Abu Zahrah, social takaful is permitted because it uses the tabarru' contract. Meanwhile, Masjfuk commented on Abu Zahrah's view by stating that the reasons for the scholars permitting social *takaful* and prohibiting commercial *takaful* are as follows: in general, social *takaful* is in line with the reasons put forward by the second group who permit it, while the reasons for prohibiting commercial insurance are generally the same as the reasons put forward by the first group who prohibit it.

Muslehuddin presents comprehensive information regarding the arguments used by scholars who prohibit insurance, which are then challenged by scholars who legalize it. This rejection of modern insurance contracts is in line with the views of Masjfuk, who stated that *takaful* is considered a gambling contract, merely a gamble, contains uncertainty, is a tool for humans to try to change God's will, and the amount of life insurance premiums is uncertain because the insured does not know the amount to be paid until death. As an alternative, these scholars offer a middle ground in the form of a solution that accommodates the arguments of both parties. According to Mustafa Ahmad az-Zarqa', insurance in any form is permissible as long as it is free from *riba*, *maisir*, and *gharar*. They agree that insurance coverage is

prohibited if it still contains elements of usury that can be harmful, so this collective thinking of scholars forms the basis for legal assessments of insurance practices in Islam (Hasanudin, 2018).

Takaful is prohibited as long as there is an element of usury that can harm it. The alternative above is in line with the word of Allah SWT. In QS. al-Taghabun verse: 11, "No calamity befalls (a person), except with Allah's permission. Whoever believes in Allah, surely He will guide his heart. Allah is All-Knowing of everything" (Kementerian Agama RI, 2013).

CONCLUSION

Sharia Insurance (*Takaful*) is a form of insurance based on sharia principles, namely *tabarru'* and *mudharabah* contracts, which emphasize the principle of mutual assistance (*ta'awun*) and are free from elements of *riba*, *gharar*, and *maisir* as in conventional insurance. The advantages of sharia insurance include upholding social solidarity through *tabarru'* funds, the separation of participant and company funds, and supervision by the Sharia Supervisory Board. While its disadvantages include differences of opinion among scholars regarding the validity of commercial *takaful* contracts, the still low public understanding, and the need for improved fund and investment management. For future development, education and outreach, product innovation, and the development of more comprehensive regulations and practice guidelines are needed to increase trust and competitiveness in the sharia insurance industry.

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