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.v6i2.9369

Takaful in Market Reality: A Critical Assessment of Its Distinction from Conventional Insurance

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Article Info:

Submitted:	Revised:	Accepted:	Published:
Feb 12, 2026	Mar 12, 2026	Mar 24, 2026	Mar 29, 2026

Abstract

This paper critically examines the distinction between *takaful* and conventional insurance through the lens of *maqasid al-Shari'ah*. While existing scholarship has often compared the two systems primarily in terms of contractual structures and institutional arrangements, this study argues that contemporary *takaful* practices frequently replicate conventional insurance models, thereby raising concerns regarding their substantive alignment with Islamic principles. Methodologically, the paper adopts a qualitative doctrinal approach using content analysis of academic literature, fatwa positions, and regulatory guidelines. The analysis demonstrates that the fundamental distinction between *takaful* and conventional insurance lies not merely in structural modification, but in the ethical foundations of mutuality, justice, and risk-sharing that *takaful* is intended to uphold. The findings indicate that operational pressures and market realities have weakened these ideals, resulting in persistent challenges related to governance, surplus management, and product design. By incorporating *maqasid* considerations, particularly *hifẓ al-māl* and *ʿadl*, the study reorients the discourse on *takaful* from a narrow

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compliance-based perspective toward a more value-driven framework. The paper concludes that preserving the distinct identity of *takaful* requires moving beyond formal legal compliance to ensure that its operations genuinely reflect the higher objectives of Shari'ah. This study contributes theoretically by enriching the Islamic finance literature through a *maqasid*-centric perspective and offers practical implications for regulators, *takaful* operators, and policymakers seeking to realign industry practice with its original ethical foundations.

Keywords: *Takaful*; Conventional Insurance; *Maqasid al-Shari'ah*; Risk Sharing; Ethical Finance

INTRODUCTION

Takaful has long been heralded as an ethical, Shariah-compliant alternative to conventional insurance. Rooted in principles of mutual cooperation (*ta'awun*) and charitable contribution (*tabarru'*), its emergence is seen by many as a solution to the riba-based, uncertainty-laden (*gharar*) models found in traditional insurance products. This positioning has contributed significantly to the global growth of the Islamic finance industry, particularly in Muslim-majority countries such as Malaysia, Saudi Arabia, and the United Arab Emirates (Htay & Salman, 2013; Arshad & Muda, 2019).

However, despite its conceptual elegance, questions continue to surface regarding the actual implementation of Takaful in contemporary markets. At the heart of these concerns is the uncomfortable reality that many Takaful products particularly those offered by commercial operators appear functionally indistinct from their conventional counterparts. From fee structures to surplus distribution mechanisms, critics argue that what has been marketed as Islamic insurance often replicates the operational logic of conventional models, albeit under a different name (Farooq & El-Gamal, 2020; Kamla & Haque, 2019).

This perceived convergence between Takaful and conventional insurance raises several ethical and jurisprudential dilemmas. Is the difference between the two merely semantic? Does the current structure of Takaful genuinely serve the higher objectives of Shariah (maqasid al-shariah), such as justice ('adl), preservation of wealth (hifz al-mal), and removal of hardship (raf' al-haraj)? Or has the industry fallen into the trap of legal formalism satisfying technical requirements while missing the moral substance?

These are not new questions, but they have become more pressing in light of recent market trends. The growing dominance of hybrid models such as wakalah-mudharabah, the use of pre-determined surplus formulas, and the heavy reliance on agency-based marketing structures have cast doubt on the extent to which Takaful can still claim a distinctive ethical identity (Shamsuddin et al., 2023; Obaidullah, 2021). The involvement of conventional insurers through subsidiary Takaful offerings has further blurred the lines, often raising issues of trust, transparency, and participant empowerment.

Given this backdrop, the present study seeks to offer a critical and comparative assessment of Takaful's current landscape, both in theory and in practice. By drawing upon 25 peer-reviewed journal articles and regulatory insights, this paper aims to evaluate whether the Takaful industry still retains its integrity as a Shariah-based model, or whether it has become an Islamic veneer over conventional insurance logic. The analysis is grounded in both classical jurisprudential sources and contemporary ethical frameworks, with a particular focus on how well Takaful upholds the maqasid al-shariah in real-world applications.

Literature Review

Over the past two decades, a significant body of scholarship has emerged around the concept and practice of Takaful. Much of this literature affirms Takaful's theoretical distinction from conventional insurance, rooted in Islamic jurisprudence (*fiqh mu'amalat*) and framed within a cooperative, risk-sharing ethos (Dusuki & Abdullah, 2007; Htay & Salman, 2013). However, as the industry has matured and adapted to global financial structures, many scholars have turned a critical eye to its evolving operational frameworks, raising questions about whether the spirit of Takaful remains intact.

Conceptual Foundations: Takaful as a Shariah-Compliant Alternative

Takaful was initially conceived as a principled departure from the conventional insurance model, which is often characterised by *riba* (interest), *gharar* (excessive uncertainty), and *maysir* (gambling) all of which are deemed impermissible in Islamic law (Billah, 2019; Siddiqi, 2006). The foundational mechanism of *tabarru'* (voluntary donation) repositions risk from a transactional liability to a shared moral commitment, underpinned by mutual assistance (*ta'awun*).

According to Arshad and Muda (2019), this framework ensures that participants do not enter the contract with profit motives, thereby aligning with Islamic ethics. Moreover, the avoidance of contractual ambiguity and exploitation is meant to uphold the core maqasid objectives chiefly, justice ('adl) and protection of wealth (hifz al-mal).

Operational Practices and the Rise of Commercial Models

As Takaful entered mainstream financial systems, the introduction of commercial dynamics became inevitable. Contemporary studies suggest that this commercialisation has brought Takaful increasingly closer in form and function to conventional insurance. Kamla & Haque (2019) and Farooq and El-Gamal (2020) argue that modern Takaful often reflects a form-over-substance approach, where compliance with legal technicalities supersedes ethical and spiritual commitments.

Most operators adopt the wakalah or wakalah-mudharabah model, wherein the company acts as an agent or fund manager, charging fees and retaining surplus shares based on pre-determined formulas. While technically permissible, these models have drawn criticism for incentivising profitability over mutuality (Ismail et al., 2020; Shamsuddin et al., 2023).

Ethical and Maqasid-Based Critiques

An increasingly vocal segment of scholars has begun to apply the lens of *maqasid al-shariah* to the evaluation of Takaful products and institutions. Dusuki and Bouheraoua (2011) emphasise that legal form alone cannot validate a transaction; its ethical and social consequences must also align with the higher objectives of Islam. In this regard, transparency (*bayan*), mutual empowerment, and socioeconomic justice are not optional they are essential.

Kassim (2021) and Obaidullah (2021) point out that many current practices such as unilateral investment decisions by the operator, lack of participant representation, and ambiguous surplus distribution fail to meet these standards. In fact, they warn that the emphasis on compliance without ethical grounding may lead to a crisis of legitimacy in Islamic finance.

Governance and Regulatory Oversight

Governance mechanisms within the Takaful sector are also a frequent subject of critique. Although Shariah Supervisory Boards (SSBs) are a mandatory feature in most jurisdictions, their independence and accountability vary widely. Jamil and Marzuki (2023)

highlight the danger of internal SSBs operating under management influence, leading to selective compliance or weak oversight.

Moreover, the absence of unified standards across markets adds to the inconsistency. While AAOIFI and the IFSB have issued guidelines, enforcement is often left to national regulators. The result is a patchwork of practices that undermine both consumer trust and the cross-border scalability of ethical Takaful models (Mokhtar, 2018).

METHODOLOGY

This study employs a qualitative, critical-comparative methodology that integrates classical Islamic jurisprudence (*fiqh*), contemporary ethical analysis, and structural comparison. Rather than relying on numerical data or consumer surveys, the research takes a principled approach scrutinising the essence, operation, and ethical alignment of Takaful with the higher objectives of Islamic law (*maqasid al-shariah*).

Research Design

The methodological design is primarily conceptual and normative. It follows a three-tiered analytical path:

Textual Analysis: Extracting principles from classical *fiqh* texts, particularly those addressing *ta'awun* (cooperation), *tabarru'* (voluntary contribution), and the ethics of contractual dealings.

Comparative Structural Review: Comparing the operational frameworks of Takaful and conventional insurance in areas such as fund ownership, surplus management, risk-sharing mechanisms, and investment governance.

Maqasid Evaluation: Applying an ethical lens rooted in maqasid al-shariah to evaluate whether current Takaful practices fulfil higher objectives such as *hifẓ al-mal* (wealth preservation), *'adl* (justice), and *raf' al-haraj* (alleviation of hardship).

This triangulated framework allows the study to assess both jurisprudential legitimacy and ethical substance.

Sources of Data

The study draws from three main categories of sources:

• **Primary Jurisprudential Texts**: Classical references from the Shafi'i and Hanbali schools, including texts by al-Mawardi, Ibn Qudamah, and other authorities on *mu'amalat*, particularly concerning cooperative risk-sharing and contract ethics.

• **Contemporary Scholarly Literature**: Peer-reviewed journal articles, working papers, and books indexed in Google Scholar and Scopus (e.g. Kamla & Haque, 2019; Kassim, 2021; Htay & Salman, 2013; Obaidullah, 2021).

• **Regulatory Guidelines and Fatwas**: Official rulings and standards from key institutions such as AAOIFI, Bank Negara Malaysia, and the Islamic Fiqh Academy. These documents reflect prevailing interpretations and benchmarks for Shariah compliance.

Together, these sources provide both normative and operational insight into how Takaful is theorised and practiced.

Analytical Framework

The analytical framework is adapted from Dusuki and Bouheraoua (2011), who developed a maqasid-based assessment tool for Islamic finance. Key evaluative dimensions include:

• **Justice (*'adl*)**: Does the Takaful model empower participants, promote equity, and avoid exploitation?

• **Transparency (*bayan*)**: Are contractual terms, investment strategies, and surplus allocations clearly disclosed?

• **Wealth Preservation (*hifz al-mal*)**: Does the structure protect participants' contributions, minimise financial harm, and prevent unjust enrichment?

• **Public Welfare (*maslahah 'ammah*)**: Does the model serve social needs and promote financial inclusion?

This lens is particularly effective for assessing Takaful, where surface-level compliance may mask deeper ethical contradictions.

Limitations of Methodology

The study recognises its methodological limits. As a qualitative inquiry, it does not include fieldwork or empirical testing, which may affect the applicability of findings across

jurisdictions. It also leans heavily on normative analysis, which while valuable may underrepresent the practical constraints faced by operators, such as regulatory burdens, capital adequacy standards, and investor expectations.

However, this normative focus is intentional. In an environment where technical compliance often overshadows ethical discourse, there is value in returning to first principles reminding the industry of its original purpose and moral compass.

RESULTS AND DISCUSSION

While the theoretical underpinnings of Takaful rest on noble Islamic principles such as mutual assistance, voluntary contribution, and risk sharing, its actual practice in contemporary markets often presents a stark contrast. This section critically examines the operational realities of Takaful, highlighting functional parallels with conventional insurance, ethical inconsistencies, and structural flaws that may compromise its Shariah legitimacy.

Functional Parallels with Conventional Insurance

At a structural level, many Takaful products resemble conventional insurance in more than just form. Participants make regular, fixed contributions to a central fund managed by an operator, and compensation is paid out in the event of a defined loss. Despite being labelled *tabarru'* (donation), the nature of these contributions especially when made under pre-agreed contracts with claims expectations bears similarity to conventional premiums (Ahmed, 2016; Farooq & El-Gamal, 2020).

Moreover, the surplus distribution mechanism often framed as a Shariah-compliant feature is typically determined by formula-based arrangements that benefit the operator. Performance-based incentives and fixed agency fees further erode the cooperative spirit that Takaful is meant to embody (Kamla & Haque, 2019; Hassan et al., 2020).

Ethical Inconsistencies and the Role of *Hilah*

Several scholars have criticised the use of *hilah* (legal stratagems) in constructing Takaful contracts that formally comply with Shariah but lack substantive ethical difference from conventional models (Obaidullah, 2021; Kassim, 2021). For instance, when the operator assumes both the role of fund manager (*wakil*) and investment decision-maker, the dual agency introduces conflicts of interest. The profit motives embedded in hybrid *wakalah*-

mudharabah contracts blur the lines between stewardship and ownership, contravening principles of *'adl* (justice) and *bayan* (transparency).

Risk Sharing and Moral Hazard

Although risk-sharing is a core value in Takaful, its application remains questionable. In many schemes, the operator bears little to no underwriting risk, while participants are fully exposed. Some participants, particularly those from low-risk profiles, may inadvertently subsidise higher-risk groups without mechanisms for redress or adjustment (Arshad & Muda, 2019). This not only introduces adverse selection but also deviates from the ethical concept of balanced mutuality.

Furthermore, information asymmetry between participants and operators can lead to moral hazard, especially in investment decisions and claims handling. Where the operator exercises unilateral control, the potential for manipulation or inefficiency becomes more pronounced (Shafii & Salleh, 2010).

Lack of Transparency and Participant Empowerment

Transparency is frequently cited as a key ethical differentiator of Islamic finance, yet in practice, many Takaful operators provide limited disclosure. Annual reports are often technical, lacking clarity for average participants, and key details such as surplus calculation methods, investment allocations, or claim rejection criteria remain inaccessible (Kassim, 2021).

Additionally, participants rarely have representation in governance structures. Unlike cooperatives, where policyholders may vote or influence decisions, Takaful schemes often place participants in passive roles. This undermines the participatory ethos that Takaful claims to champion.

Evaluation through *Maqasid al-Shariah*

Assessing Takaful through the lens of *maqasid al-shariah* exposes further gaps between ideal and practice:

- **Hifz al-Mal (Wealth Preservation)**: While marketed as wealth-protective, high management fees, poor surplus returns, and limited transparency may erode the financial value participants receive.
- **Rafʿ al-Haraj (Removal of Hardship)**: Takaful products are often priced beyond the reach of low-income groups. Some even replicate exclusionary practices found in

conventional underwriting, such as pre-existing condition clauses or high co-payments (Shamsuddin et al., 2023).

• **'Adl (Justice)**: The power asymmetry between operator and participant manifested in surplus control, claims management, and lack of governance input raises concerns about distributive justice.

The Historical Roots and Evolution of Takaful

The origins of Takaful can be traced back to early Islamic traditions of mutual assistance and collective responsibility. One of the most frequently cited precedents is the concept of 'aqilah, an arrangement practiced by Arab tribes whereby members collectively contributed to compensate for unintentional harm caused by any individual in the group. This communal system, which continued during the time of Prophet Muhammad ﷺ and was later institutionalised within Islamic legal discourse, laid the foundation for modern-day principles of mutual protection and cooperative risk-sharing (Billah, 2019).

Islamic jurisprudence has long supported cooperative financial arrangements grounded in the idea of tabarru' (voluntary donation), especially in matters involving welfare and social solidarity. Contributions made without the expectation of direct returns were seen as ethically superior and legally sound, avoiding elements prohibited in Shariah such as riba (interest), gharar (excessive uncertainty), and maysir (gambling) all of which are central concerns in the conventional insurance model (Siddiqi, 2006).

The institutional form of Takaful as we know it today began in the 1970s, with one of the earliest models launched in Sudan. The Islamic Insurance Company, established in 1979, marked the first official effort to develop a Shariah-compliant insurance alternative. Around the same time, similar models emerged in Saudi Arabia and other Gulf countries (Kwon, 2007). These initial Takaful structures were typically built on waqf (endowment) or mudarabah (profit-sharing) principles, designed to reflect the communal spirit of risk-pooling and participant governance.

However, as Takaful operators expanded into more competitive and regulated financial markets, especially in countries like Malaysia, the need for commercial viability led to significant structural adjustments. The wakalah and wakalah-mudharabah hybrid models

became dominant, allowing operators to charge management fees and share in profits often at the expense of participant empowerment (Meera & Larbani, 2009).

This shift has led to increased scrutiny. Scholars have expressed concern that the ethical foundation of Takaful is being diluted by its commercialisation. Farooq and El-Gamal (2020) warn that the rebranding of conventional practices under Islamic terminology risks undermining the religious and public trust in the industry. The entry of conventional insurance firms into the Takaful market, via subsidiaries or Islamic windows, has further blurred the lines between the two models.

In response to these trends, scholars like Laldin and Furqani (2013) have called for the integration of maqasid al-shariah principles not just into product design, but also into institutional governance. This includes ensuring transparent decision-making, equitable surplus distribution, and meaningful participant involvement. They argue that mere compliance with legal form is insufficient; a truly Islamic system must uphold justice, transparency, and mutual care at all levels.

In short, the Takaful industry has undergone significant evolution from its historical roots in communal support, to modern adaptations within commercial frameworks. However, it now faces a critical question: will it continue to converge with conventional insurance in practice, or will it reform itself by returning to its original ethical and jurisprudential foundations?

Structural Comparison Between Takaful and Conventional Insurance

The theoretical claim that Takaful stands as a distinct, Shariah-compliant alternative to conventional insurance is well-documented in literature. However, a structural analysis of how both systems operate in reality reveals converging features that complicate this distinction.

Contractual Foundations and Philosophical Assumptions

Conventional insurance is based on a bilateral contract of risk transfer from the insured to the insurer. This model entails uncertainty in terms of payout conditions (gharar), interest in investments (riba), and speculative gain (maysir) all prohibited in Islamic jurisprudence.

Takaful, in contrast, is framed on multilateral cooperation. Participants agree to donate (tabarruʿ) to a shared risk fund, managed by a Takaful operator. The operator acts either as wakil (agent) or mudharib (entrepreneur), theoretically removing risk transfer from the equation (Ismail et al., 2020). However, many current Takaful contracts resemble insurance policies in form and function, particularly when contributions and benefits are fixed.

Fund Ownership and Surplus Distribution

One of the most touted differences is in the ownership of funds. In conventional insurance, the insurer owns the fund and any surplus is retained as profit. In Takaful, the fund belongs to the participants, and any surplus (after legitimate claims and expenses) should be redistributed among them.

Yet, in reality, wakalah-based models often employ pre-agreed surplus distribution formulas that favour the operator, sometimes mimicking the insurer-profit model under a different label (Kamla & Haque, 2019; Kassim, 2021).

Risk Management and Investment Practices

Conventional insurers typically invest in interest-based instruments or speculative markets. Takaful operators are required to invest in Shariah-compliant assets only. However, limited Shariah-compliant instruments and competitive pressure often result in investment strategies that mirror conventional tools, albeit restructured to meet formal Islamic requirements (Obaidullah, 2021).

This form-over-substance concern is one of the most persistent critiques from maqasid-based scholars.

Transparency, Claims Handling, and Governance

In both systems, claims approval lies with the operator. However, while Takaful promotes transparency, several studies show opaque financial reporting, delayed claim processing, and limited participant representation in dispute resolution mechanisms (Hassan et al., 2020; Kassim, 2021).

Participants in Takaful rarely have influence over how their pooled funds are managed, undermining the spirit of mutual cooperation.

Table 1. Structural Comparison Between Takaful and Conventional Insurance

Feature	Conventional Insurance	Takaful (Ideal Theory)	Takaful (Observed Practice)
Contract Type	Risk transfer (bilateral)	Risk sharing via tabarru' (multilateral)	Risk pooled, but with fixed contracts
Fund Ownership	Insurer	Participants	Operator-dominated
Surplus Distribution	Retained by insurer	Shared among participants	Pre-agreed, often operator-favoured
Operator's Role	Insurer and fund owner	Agent or mudharib	Fee-taker with investment control
Investment Activity	No restrictions	Shariah-compliant only	Sometimes mimic conventional tools
Claims Governance	Centralised by insurer	Ethical and participant-governed	Limited participant input
Transparency Level	Varies (regulated)	High expected	Often inadequate

Diagram: Operational Flow of Takaful vs. Conventional Insurance

I recommend the following flowchart for inclusion in the article (can be designed in PowerPoint or Word later):

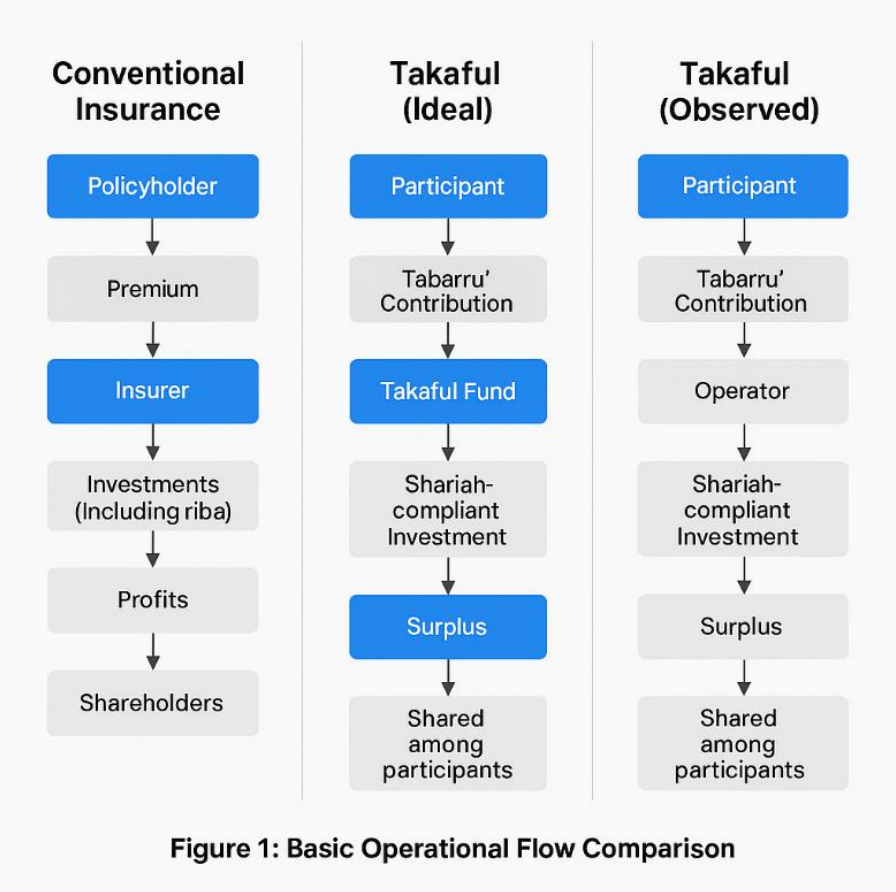


Figure 1: Operational flow comparison between conventional insurance, ideal Takaful, and observed Takaful practice. While ideal Takaful emphasizes mutuality and

Shariah compliance, actual practice often mirrors conventional structures in operator control and profit orientation.

- In conventional insurance, the insurer collects premiums, controls investments (often interest-based), and profits are returned to shareholders not policyholders.
- In ideal Takaful, participants contribute on a tabarru' (donation) basis into a shared fund, which is used for claims and invested in Shariah-compliant assets. Any surplus is shared among participants.
- However, in observed practice, the Takaful operator often holds significant control over investment decisions, surplus allocation, and claims processing closely resembling a conventional insurer in structure, even if under Islamic branding.

This raises concerns about ethical integrity, participant empowerment, and the true realization of Takaful's Shariah-based objectives.

Summary of Section

Although Takaful is often distinguished from conventional insurance on the basis of Shariah principles, the structural realities reveal substantial overlaps. The risk pooling model of Takaful, when operated under commercial pressures and agency-driven models, often leads to quasi-insurance outcomes raising concerns about authenticity, transparency, and ethical consistency.

True reform must begin with revisiting the fundamentals not just legally, but operationally and ethically.

Policy Implications and Future Directions

The blurred boundaries between Takaful and conventional insurance models have significant policy implications that must be addressed to preserve the ethical integrity and sustainability of the Islamic finance industry. While regulatory authorities have succeeded in facilitating market growth, they have not always prioritised the spirit of Shariah compliance in practice. Without careful realignment, the future of Takaful risks becoming a mere replication of the very system it was meant to reform.

Revisiting the Commercial Model of Takaful

A major challenge stems from the dominance of for-profit commercial operators in the Takaful landscape. While they have contributed to product innovation and market outreach, their inherent profit-maximising incentives often lead to compromises on mutuality, transparency, and surplus redistribution (Farooq & El-Gamal, 2020). This tension is especially evident in wakalah models where operators charge fees regardless of fund performance.

Policymakers should explore the potential for mutual or cooperative models, particularly in areas like health and education protection, where social solidarity and affordability are paramount.

Strengthening Shariah Governance

The legitimacy of Takaful hinges on strong Shariah oversight. Yet many Shariah boards operate internally, often under the influence of the operator. Independent Shariah audits, transparent fatwa disclosures, and regulatory enforcement are essential to ensure not just legal compliance, but ethical clarity (Kassim, 2021; Jamil & Marzuki, 2023).

Inclusion of participant voices in Shariah review mechanisms could help realign Takaful with its cooperative foundations.

Enhancing Transparency and Consumer Empowerment

Transparency remains a persistent concern. Participants rarely have access to detailed financial statements, surplus calculations, or claims approval criteria. The absence of democratic governance mechanisms, such as participant advisory boards or dispute resolution panels, further weakens accountability.

Mandatory disclosures on investment portfolios, claims ratios, and surplus treatment should be institutionalised. Empowering participants through financial literacy programmes and feedback platforms can also increase pressure for reform from within.

Standardisation and Ethical Benchmarks

Global inconsistency in contractual models and regulatory standards continues to hinder ethical harmonisation across Takaful markets. Institutions like AAOIFI and IFSB must expand their focus beyond legal permissibility and enforce standards rooted in maqasid al-shariah. These standards should prioritise:

- Justice (‘adl)
- Risk-sharing
- Transparency
- Equitable surplus sharing
- Financial inclusion

Contracts that mimic conventional offerings too closely whether in terminology, risk profiles, or fund structures should be critically reassessed and reformed.

Incorporating Maqasid-Based Performance Metrics

A maqasid-oriented framework calls for evaluating Takaful not just by Shariah compliance in form, but by outcomes that serve public benefit (maslahah). Operators and regulators should adopt performance metrics such as:

- Surplus distribution ratios
- Inclusion of low-income policyholders
- Participant satisfaction levels
- Ethical grievance resolution rates
- Educational impact of products

These metrics would shift the industry's focus from profit-driven growth to ethical sustainability and social equity.

Summary of Section

Takaful’s future depends on whether it can reclaim its ethical foundations without compromising commercial viability. The solutions lie in policy reform, governance transparency, and shifting stakeholder incentives from profit maximisation to mutual empowerment.

Limitations and Recommendations for Future Research

This study offers a critical reflection on the current state of the Takaful industry, particularly regarding its structural convergence with conventional insurance and the erosion of its ethical identity. However, several limitations must be acknowledged to contextualise the findings and pave the way for future inquiry.

Methodological Scope

The present research adopts a qualitative, doctrinal, and policy-based approach, drawing on classical jurisprudence and contemporary academic literature. While this method allows for an in-depth normative critique, it does not capture the voices of practitioners, participants, or consumers within the Takaful ecosystem. Their lived experiences, perceptions of fairness, and trust in the system remain underexplored.

Future research would benefit from a mixed-methods design integrating interviews, ethnographic fieldwork, or large-scale surveys to assess how Takaful is experienced in practice. This could help validate or challenge the theoretical assumptions raised in this study.

Jurisdictional Limitations

The paper primarily focuses on Malaysia and, to a lesser extent, Gulf Cooperation Council (GCC) jurisdictions, where the Takaful industry is relatively advanced. However, the diversity of implementation in other contexts such as Indonesia, Pakistan, Sub-Saharan Africa, or Muslim-minority countries was not examined.

As Takaful expands into new regions, especially through micro-Takaful and digital platforms, comparative studies across legal systems, cultural norms, and consumer protection regimes would offer richer insights into its adaptability and integrity.

Operational and Legal Nuance

While the critique highlights structural and ethical shortcomings particularly in surplus distribution, agency conflicts, and transparency it does not delve deeply into the actuarial, regulatory, or contractual design complexities that operators face. The tension between commercial viability and Shariah integrity is not always a matter of intention but of institutional constraint.

Further interdisciplinary work is needed to bridge Islamic legal theory, financial engineering, and regulatory economics to devise practical models that meet both ethical and technical demands.

Participant Education and Literacy

One of the most overlooked factors in Takaful performance is the level of financial and religious literacy among its participants. Many contributors do not fully understand the principles of tabarru‘, the nature of surplus rights, or the ethical differences between Takaful and insurance.

Research into participant empowerment strategies, Islamic financial education curricula, and their effect on informed decision-making and complaint behaviour could offer valuable policy guidance for building a more participatory system.

Summary and Forward Outlook

In essence, while this study provides a foundation for critically appraising the Takaful industry's ethical alignment, it is only one part of a much larger discourse. Reform cannot proceed solely through theoretical critique; it requires engagement with practitioners, collaboration across disciplines, and active involvement from participants themselves.

The path forward is not merely about improving contracts or fatwas it is about reconstructing institutional cultures, reviving the spirit of mutuality, and reimagining Islamic finance as a tool of justice, not just compliance.

CONCLUSION

Takaful, in its ideal conception, offers a powerful alternative to conventional insurance—one rooted in shared responsibility, ethical commitment, and spiritual accountability. Built upon the Islamic principles of *ta'awun* (mutual assistance) and *tabarru'* (voluntary donation), it aspires to embody not just legal permissibility (*halal*), but also ethical excellence (*ihsan*).

However, this study has shown that the reality on the ground is far more complex. Through a detailed analysis of literature, structure, governance, and ethical implementation, we find that the Takaful industry, especially in Malaysia and the Gulf region, is at risk of drifting too close to the very model it seeks to replace. Despite maintaining a Shariah-compliant form, many Takaful operators have adopted business practices and organisational structures that mirror conventional insurance blurring the lines between ethical distinctiveness and market pragmatism.

Our maqasid-based analysis grounded in the objectives of hifz al-mal (protection of wealth), 'adl (justice), and raf' al-haraj (removal of hardship) raises serious concerns. The recurring issues of limited transparency, pre-determined surplus sharing, agency conflicts, and participant disempowerment all point to a form-over-substance dilemma that Islamic finance must confront more honestly. Without significant recalibration, there is a real danger

that Takaful becomes a symbolic construct, masking conventional functions with religious terminology.

Yet, this should not be a reason for cynicism. Rather, it should be a call to action. Regulators, scholars, industry practitioners, and participants each have a role to play in restoring the soul of Takaful by aligning products with maqasid, reforming institutional cultures, and empowering the very people it was designed to protect. Shariah compliance must go beyond contracts and audit checklists; it must reflect ethical consistency, social equity, and spiritual sincerity.

In conclusion, Takaful's future depends not on cosmetic changes but on ethical courage. It must either reclaim its roots in mutual solidarity and trust or risk becoming another financial product, indistinguishable from the rest, except in name.

Theoretical Contribution

This study contributes theoretically by expanding the discourse on the distinction between takaful and conventional insurance beyond structural and operational comparisons. Previous studies have often limited their analysis to the contractual forms or institutional frameworks, while this paper situates the discussion within the broader maqasid al-Shari'ah framework. By aligning the critique of market practices with principles such as *hifẓ al-māl*, justice (*ʿadl*), and the removal of hardship (*rafʿ al-ḥaraj*), this research demonstrates how Islamic finance theory should not only focus on Shariah compliance at the structural level but also on substantive outcomes that reflect maqasid values. This theoretical lens adds depth to the literature by showing that the real differentiation between takaful and conventional insurance rests on ethical imperatives and social objectives, not merely on the substitution of contractual terminologies. The article therefore provides a conceptual foundation for scholars seeking to reframe Islamic finance research from a maqasid-centric perspective.

Practical Contribution

On the practical side, this paper offers insights that are highly relevant to policymakers, regulators, and industry practitioners. For regulatory authorities such as Bank Negara Malaysia or the Accounting and Auditing Organization for Islamic Financial Institutions (AAOIFI), the study highlights the urgency of ensuring that the spirit of mutuality and risk-sharing in takaful is not compromised by commercial pressures that replicate conventional models. For takaful operators, the analysis underscores the

importance of embedding maqasid-driven governance practices, particularly in underwriting, surplus distribution, and claims management, so that the products genuinely reflect the values of cooperation and solidarity. For the wider Muslim community, the findings provide a practical reminder that participation in takaful should be evaluated not only on pricing or benefits, but also on its alignment with the objectives of Shari'ah. Thus, the study bridges the gap between theoretical ideals and operational realities, offering a roadmap for industry stakeholders to reposition takaful as a truly distinctive and socially empowering alternative to conventional insurance.

Acknowledgment

The authors would like to express their heartfelt appreciation to the Faculty of Islamic Studies, Universiti Islam Antarabangsa Tuanku Syed Sirajuddin (UniSIRAJ), for providing a conducive environment and institutional support for this research. Gratitude is also extended to colleagues and peer reviewers whose critical insights have significantly strengthened the clarity and rigour of this paper. Any remaining shortcomings are solely the responsibility of the authors.

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