



Fatwa No. 18047

Q: The Takaful Islamic Insurance Company affiliated with Dar Al-Mal Al-Islami (DMI) submitted a proposal to the employees of the Muslim World League. Some Muslim brothers in the league refrained from subscribing lest this should be invalid and requested to know your Eminence's opinion on the permissibility of this

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subscription in light of the text stated in the company's proposal. The Islamic Arab Insurance Company (IAIC) has also submitted a proposal for car accident insurance. We hope that your Eminence would be kind enough to clarify the Shari`ah's (Islamic law) viewpoint on participation in the offer of the first company (copy of the offer attached) and the participation in the second offer (copy of this offer also attached), in light of the detailed description of both offers.

A: The insurance offer mentioned in the attached data with the letter of his Excellency the Secretary General is a commercial insurance that is prohibited by Shari`ah (Islamic Law). Unlike cooperative insurance, it does not aim at realizing profit; rather it is intended to remove harm from others, but this form is not the type mentioned in this offer. For additional benefit, we bring forward the text of the two decrees issued by the Council of Senior Scholars regarding commercial and cooperative insurance:

Decree No. 55 dated 04/04/1397 A.H

Praise be to Allah, Alone. Peace and blessings be upon the Last Prophet, his family, and Companions, and whoever follows his path till the Day of Judgment. In the light of the letter of His Majesty King Faysal ibn `Abdul-Aziz

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Al Sa`ud (may Allah be merciful with him) no. 22310, dated 4/11/91 A.H addressed to his Honor Chairman of the Departments of Scholarly Research and Ifta', requesting that the Council of Senior Scholars study the insurance issue. Accordingly, it was decided to include it in the agenda of the fourth session. The Permanent Committee for Scholarly Research and Ifta' researched the issue which includes two points:

First: Insurance defined, basic principles and types, basic structure and description, forms of documents, and similar prerequisites upon which legal decisions - permission or prohibition - are based.

Second: Citing the different views of scholars on its ruling, their arguments, and the counter-evidence raised.

In the sixth session of the Council of Senior Scholars held in Riyadh from 4/2/95 A.H., the following documentation was presented:

1- A copy of the decree issued by his Eminence Shaykh Muhammad ibn Ibrahim Al Al-Shaykh the General Mufti (Islamic scholar qualified to issue legal opinions) of the Kingdom of Saudi Arabia, and the Chief Justice (may Allah have mercy on him) no: 2/575 dated 18/8/1388 A.H. regarding the judgment issued from Jeddah Court on the subject of insurance between (American life) company and Badawy Husayn Salim and the objection brief presented to Sheikh `Ali Al-Khafif, member

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of the Islamic Research Academy in Egypt for the cited ruling.

2- The research prepared by the Permanent Committee for Scholarly Research and Ifta'.

3- A statement issued by the advisors of the board of Ministers: Doctor Zhafir Al-Rifa`y and Ibrahim Al-Sa`id no: 449, dated 26/11/1390 A.H.

4- The briefed research issued by the Islamic Research Academy in Cairo on 1392 A.H. prepared by his Eminence Sheikh Muhammad Ahmad Faraj Al-Sanhury, member of the Islamic Research Academy in Egypt, that includes a declaration of the research phases on all insurance types, and a statement of the opinions of many jurists, economists, and social experts in the Islamic nation.

5- The material presented by Mustafa Ahmad Al-Zarqa' and `Eissa `Abduh regarding this subject. The council summoned them according to the tenth article of workflow regulations of the Council of Senior Scholars, and the permanent committee affiliated thereto under the Royal Decree no 1/137 dated 8/7/1391 A.H.

After reviewing all the documents stated, the Council discussed the evidence

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of advocates of its permissibility and those in opposition, along with those holding views which detail certain stipulations under specific conditions who permitted some types of commercial insurance and prohibited others. After discussion and mutual exchange of views, the predominant majority decided that commercial insurance is forbidden based on the following legal interpretations:

First: The contract of commercial insurance is one of the potential financial commutative contracts that includes excessive Gharar (uncertainty), for the insured person would not be able to recognize what they will give or take at the time of signing the contract. They may pay one or two premiums, then a disaster occurs resulting in their entitlement to have what the insurer has committed to pay. On the other hand, the disaster may not occur, in which case the insured pays the premiums in full without taking anything, and the insurer will not be able to identify the portion to be given or taken regarding every individual contract. Therefore, it is mentioned in the Sahih (authentic) Hadith that([The Prophet \(peace be upon him\) forbade Bay` Al-Gharar \(uncertain sale\)](#)).

Second: The commercial insurance contract is a form of gambling, for the risk included in financial commutation, experiencing unjustifiable loss for no reason, realizing profit for no return, or for an unsuitable return. The insured may pay a premium then

an accident occurs resulting in the insurer paying the whole amount of the insurance premium. The accident also may not take place at all, and yet the insurer will still have the premiums for no return. Taking for granted this contract includes Jahalah (lack of knowledge) which is also considered a form of gambling that falls under the general prohibition of gambling mentioned in His Statement (may He be Exalted): ﴿ O you who believe! Intoxicants (all kinds of alcoholic drinks), and gambling, and Al-Ansâb, and Al-Azlâm (arrows for seeking luck or decision) are an abomination of Shaitân's (Satan) handiwork. So avoid (strictly all) that (abomination) in order that you may be successful. ﴾ and the other related Ayah.

Third: The commercial insurance contract comprises both forms of Riba: Riba Al-Fadl (usury of excess, selling an item for another of the same type, on the spot, but in excess) and Riba Al-Nasi'ah (usury of delay, conditional excess for delay of payment), for if the company pays the insured, their heirs or due payee more than what was paid by the insured, this is Riba Al-Fadl. Similarly, as the insurer pays the insured sometime after signing the contract, this represents Riba Al-Nasi'ah. However, if the company pays the insured as much as they pay, this represents Riba Al-Nasi'ah only and both forms are prohibited by (Qur'anic) Text and Ijma` (Consensus).

Fourth: The commercial insurance contract is a form of prohibited bet, for both (forms) include Jahalah, Gharar and gambling. The Shari`ah (Islamic Law) only permits the bet that backs the cause of Islam and proves useful to its victory. The Prophet - peace be upon him - restricted the lawful bet in three matters

in his statement (peace be upon him): ﴿ Bets are only allowed on camels, horses, or spear throwing. ﴾ However, insurance is neither a form of these nor similar to them. Therefore, it is prohibited.

Fifth: The Commercial Insurance contract involves taking others' money for no return which is prohibited in commercial commutative contracts, as it falls under the general prohibition stated in His

Statement (may He be Exalted): ﴿ O you who believe! Consume not your property among yourselves unjustly except through trade amongst you, by mutual consent. ﴾

Sixth: The Commercial Insurance contract includes unjustified commitment not prescribed by Shari`ah. The insurer is not the cause of danger occurring, rather, they only contract with the insured to guarantee any possible danger in return for a sum paid by the insured to them, without any work done by the insurer and this is Haram (prohibited).

As to the arguments of the advocates of absolute permissibility or just some types of commercial insurance contracts, the following is a reply to them:

a- Raising Istislah (considerations of public Interest) is invalid, for the legal interests in Shari`ah are three categories:

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- The interests that are legally considered, then they form a legal proof.
- The interest that has no legal evidence either to support or refute, thus they are Maslahah i.e. indefinite or uncertain. This category is an object of Ijtihad (juristic effort to infer expert legal rulings).
- The interest rejected by Islamic law. Since commercial insurance contracts entail Jahalah, gharar, gambling, and Riba, they are nullified by Shari`ah, for the prevalence of evil over benefit achieved.

b- The basic rule of permissibility is not acceptable evidence here, for the legal evidence of Qur'an and Sunnah rejects commercial insurance contracts. However, acting in accordance with the basic rule of permissibility by the non-existence of counter-evidence is nullified because legal proof is available.

c- Likewise, the rule that "Necessities make prohibitions permissible" may not be used as a legal indication here because the permissible means of lawful earnings prescribed by Allah are more than the prohibited ones, since there is no recognized necessity that can force on the application of the insurance rendered to be prohibited by Shari`ah.

d- It is invalid to use `Urf (custom) as a legal indication, for `Urf is not of the sources of legislation. It represents a basis for applying them and understanding the aim of

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the wordings of texts, people's oaths, news, litigation and things needed to identify the intention of words and deeds. Therefore, it (`Urf) does not influence the legal proofs clearly indicating the prohibition of insurance; thus, it (`Urf) is not taken into account if they exist.

e- Arguing that commercial insurance contracts are a type of speculation contracts and the like is invalid. The speculation capital is kept in the possession of the owner, on the other hand, what the insured pays exchanges possession from the owner to the company, according to the insurance system applied. Moreover, the capital of speculation is bequeathed to the heirs of the speculator after death, contrary to the insurance system where the heirs have the right to the insurance sum even if

their insured only paid one premium. In other cases, they do not have any entitlement if the beneficiary is another person other than the insured or their heirs. The returns of speculation are divided amongst the two partners according to a percentage unlike the case with insurance where the profit and loss on the capital return to the company, and the insured person only has the insurance sum or an indefinite sum.

g- Comparing insurance contracts (in permissibility) to Wala' Al-Muwalah (a contract that used to be issued between the manumitter and the slave during Jahililyah (pre-Islamic time of ignorance) and the beginning of Islam by which they agree to support and inherit from each other) according to the opinion of the advocates is

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invalid. These differences between them, amongst which is that insurance companies aim at realizing financial profit that is mixed with Gharar, gambling, and clear Jahalah is unlike Wala' Al-Muwalah contract because the primary aim of this contract is to promote brotherhood in Islam, cooperation, and support for better or worse in any situation; thus, any profit realized is coincidental.

h- Comparing a commercial insurance contract to a binding promise according to those who permit it is also invalid, due to the differences between them. For example, the promise to lend or bear loss is an act of sheer goodness, thus fulfilling it is either obligatory or considered noble. This is clearly unlike insurance contracts, for they are commercial commutations motivated by profit. Therefore, the excuses for Jahalah and Gharar in donations do not apply.

i- Comparing the contracts of commercial insurance to the guarantee of unknown and expected things in future is invalid, due to the differences between them. For example, the guarantee is a form of donation meant as a favorable gesture unlike the insurance of a commercial exchange meant to realize profit whose results, if good, would not be

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a result intended. Legal judgments, however, shall be based on the original intention, not the result expected, so long as the result is not initially intended.

j- Comparing commercial insurance contracts to the road-risk guarantee is invalid, for the differences mentioned in the previous evidence.

k- Comparing commercial insurance contracts to the retirement system is invalid, due to the differences between them. The payment given at retirement is a right that the ruler has pledged to give his subjects out of his responsibility for them. He also considers the accomplishments of the employee in serving the nation, and establishing a system for them taking into consideration the benefit of those close to the employee. Since there is a need for them, therefore the pension system is not considered a financial commutation between the government and its employees. Accordingly, there is no similarity between it and the insurance that is considered a commutative, commercial, financial contract intended to exploit the insured and realize illegal profit from them. The pension is a right the responsible governments commit themselves to fulfill and pay their dutiful citizens, as a reward for their accomplishments. Also it is a manner of cooperation

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in return for their physical and intellectual contribution, and the expenditure of much of their time for the sake of raising the Ummah.

l- Comparing the commercial insurance system and its contracts to the rules of 'Aqilah (the family of the killer) is invalid, due to the differences between them. For example, the `Aqilah only assumes the Diah (blood money) in case of involuntary manslaughter and quasi-deliberate homicide between it and the perpetrator by way of kinship, support, interconnection, cooperation and good will, even if it is done for no return. However, commercial insurance contracts are for business profits that are based on direct financial commutations, that have nothing to do with service, or good will.

m- Comparing commercial insurance contracts to the protection contracts is invalid, due the differences between them. Security is not the object of contract in both cases, but for the insurance contract, the premiums and the insurance sum are the object of the contract; whereas wages and guards' work are the object of the contract in guarding, and security. It is an objective and a result, or else guards would not deserve their wages in case of the loss of guarded items.

n- Comparing insurance to a deposit is invalid due to the differences between them. In the case of a deposit, the charges paid represent a return for the entrusted person to keep the deposit in their trust for protection. This is unlike insurance because what the insured person pays

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to the insurer is not a return for a task or assignment that entails a benefit to the insured; rather it is a guarantee for safety and security, and the commutation condition is invalid, as it nullifies the contract. If the insurance sum is made in return for the premiums, it becomes a commercial commutation in which the insurance sum or term is not known, thus it differs from the wage-based lease contract.

o- Comparing insurance to what is known in the case of cotton traders and weavers is invalid, due the difference between them. The origin is a cooperative insurance, which is a clear cooperative agreement; whereas the case here is commercial insurance, or a commercial commutation. Therefore, the analogy is invalid in this case. However, the decree has been postponed by the majority till the alternative for commercial insurance is examined. In the tenth session of the Council of senior Scholars, the council will have read what has been prepared by some experts regarding the alternative to commercial insurance, and those who agree on the prohibition of commercial insurance have decided to issue the decree, as the board has decided - except for His Honor Sheikh [`Abdullah Ibn Mani`](#) - to issue a decree regarding the permissibility of cooperative insurance as a substitute for commercial insurance. May Allah grant us success! May peace and blessings be upon our Prophet Muhammad, his family, and Companions!

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Council of Senior Scholars

The chairman of the tenth session

[`Abdul-Razzaq `Afify](#)

`Abdul-`Aziz ibn `Abdullah ibn Baz	`Abdullah ibn Muhammad ibn Humayd	`Abdullah Khayyat
Muhammad Al-Harkan	`Abdul-Majid Hasan	`Abdul-`Aziz ibn Salih

Salih Ibn Ghusun	Ibrahim ibn Muhammad Al Al-Shaykh	Sulayman ibn `Ubayd
Muhammad ibn Jubayr	`Abdullah ibn Ghudayyan	Rashd Ibn Khunayn
`Abdullah ibn Qa`ud	Salih Al-Luhaydan	