

The Concept and Operation of Life Insurance in the Light of Sharia

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Abstract

Insurance programme is perceived by many Muslims within Ijebu environs and Nigeria to be unislamic and alien to the Shariah. This perhaps makes Muslims in this zone put up luke-warm attitude to its practice. The way many insurance companies practice and operate without given adequate compensations as at when due to the insured victims adds more to the misfortune. It is therefore the focus of this paper to examine the concept and benefits of Life Insurance in the light of Shariah, trace its Islamic historic origin, prove its lawfulness and the necessity of participating in it by all Muslims.

Introduction

Insurance is a broad term which needs to be explained before discussing about life insurance which happens to be a subset under the big discipline called Insurance. Hence, Insurance according to the Advanced Learner's Dictionary Hornby (2005) refers to agreement by contract to pay money especially in case of a misfortune such as illness, death or accident e.g Life or Car Insurance.

To insure is to protect oneself or another against loss of money, life, property etc by Insurance. This concept is in line with Islamic principle which stipulates that one should prepare and save for the future because time changes and does not stay permanently with any individual. An hadith says: "When you pray, pray reverently as if to say that, that will be your last act before death. But when you eat, eat little and preserve much as if to say that you will never die at all". This prophetic saying no doubt teaches making adequate preparation and preservation for the future which Insurance policy is all about.

Similarly, Insurance is a contract by which one party undertakes to indemnify another against loss, damage or liability arising from an unknown or contingent event

Akinyemi (2001).

Meaning of Insurance.

Professor Ivamy (1975, p.3) defines Insurance as "a contract whereby a person called the insurer, agrees in consideration of money paid to him called the premiums by another person called the insured or assured, to indemnify the latter against loss resulting to him on the happening of certain events".

In Islam, contingent events do occur and Muslims are to take such as acts of Allah. The Qur'an says:

"Be sure we shall test you with something of fear and
And hunger, some loss in money, lives and the fruits
(of your toil), but give glad tidings to those who patiently
persevere. Who say, when afflicted with calamity: "To
Allah We belong, and to Him is our return". (Quran 2, Baqarah; 155 & 156).

Muslims need not to panic and worry about contingent events which can include accident, illness, death, fire or other disasters but they are to prepare for such by making solid arrangements which insurance adequately fills the vacuum.

According to Salahuddin, (2006, p 512), “Islamic Insurance (Takaful) is an Arabic Word meaning ‘mutual assurance’ or ‘joint responsibility which comes from the root word ‘kafala’ meaning to support, to guarantee. It is the pooling of resources to help who are in need”.

Literature Review

Opinions are abound as to whether Insurance is acceptable to Islamic faith or not. An x-ray of a few of these views are imminent here. For instance, Shaykh Ibn Baaz (2007) expressed the view that Insurance of one’s life is haraam and not permitted in Islam according to him because it involves gharar (buying / selling where it is not known whether what is being bought / sold will actually be achieved or delivered, or in what specific quantity, thus putting one’s money at undue risk to being lost).

Atif Khatana (2007) is also of the view that no one needs to do insurance because to him Allah is there to take care of all and that even the orphans are the most prosperous ones on earth in spite of the fact that their parents are not in existence and that they were not initially insured in any form.

Reacting to the views above, Khorshid (2004) expresses the view that Insurance does not contradict the single law of the Quran in his book titled Islamic Insurance. Also, examining the Takaful Overview of Malaysia, the Islamic origin of Insurance was traced to the life of Prophet Muhammad (PBOH). In Islam, the essence of Insurance was seen in the system of mutual help in relation to the custom of blood money under the arab tribal custom. Muslim scholars generally accepted that the concept of Insurance does not contradict the Sharia. The principle of compensation and group responsibility was said to have been accepted by Islam and Prophet Muhammad. (Takaful Malaysia 2007).

According to the Muslim jurists, the basis of shared responsibility in the system of ;aqila between the Meccan and the Medinan muslims laid the foundation of mutual insurance.

The essence of religion in Islam is to promote peaceful co-existence, economic well –being, development of the muslims at the individual, family, social, state and ummah levels. Hence, Islam demands for the protection of some basic rights of man which include the following as put by the takaful Malaysia. (2007).

- Right to protect one’s religion.
- Right to protect one’s life
- Right to protection of dignity and honour.
- Right to protection of property.
- Right to protection of mind.

The protection of the above rights is the focus of Insurance. Reports show that the establishment of Insurance was in the early second century of Islamic era. This was prompted due to the fact that muslims incurred big losses due to long journeys undertaken during the period. This made them to initiate mutual help and co-operative scheme whereby money was contributed into a pool with the intention of using it to settle any one among them who incurred losses in one way or the other. According to Khorshid (2004) the Europeans were said to have copied this practice which came to be known as marine insurance.

Following the above, the Muslims jurists agreed that there is real need for insurance cover. And they based their Islamic system of insurance on the elements of shared responsibility, joint indemnity, common interest, solidarity etc. In this case, the policyholders would cooperate among themselves for their common good, every policyholder would pay his subscription in order to assist those of them who need assistance etc.Zevnik (2004).

It is the generally accepted view of the Muslim jurists that the operation of the conventional insurance as an exchange transaction under a buy and sell agreement is not in line with the Shariah because of the following reasons:

Al – Gharar

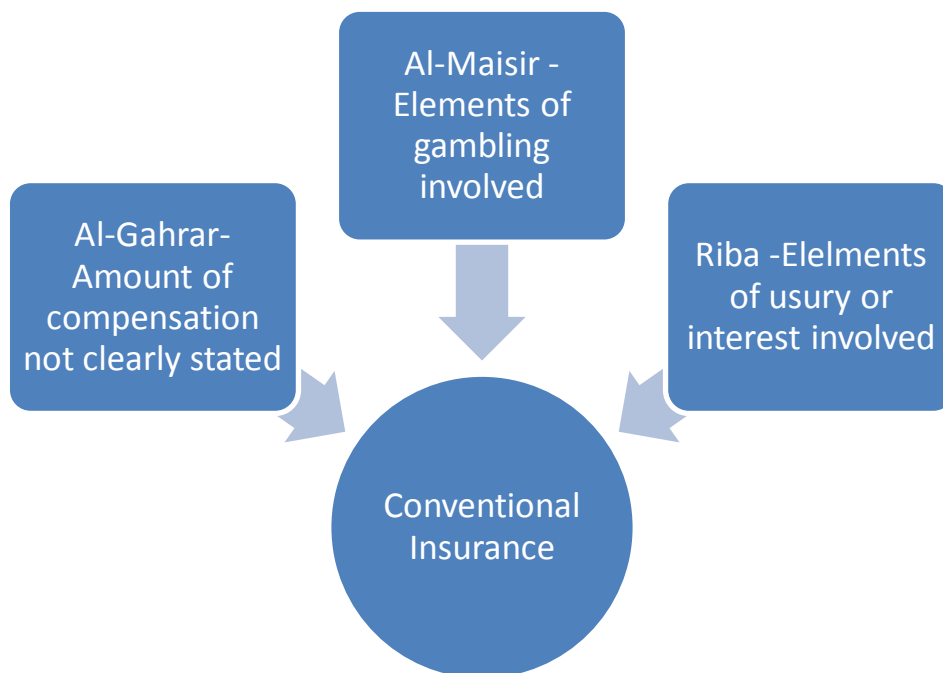
This is a situation where the premium to be paid is probably clearly stated but there is no clear cut amount of what will be paid as compensation and the source where such compensation would come from whether from halal source or not. Shakh Ibn Baaz (2007)

Al- Maisir.

This is a situation where there is element of gambling in the sense that if the insured person dies early, compensations to be paid to the descendants will be at the volition of the Insurance company without the prior knowledge of the insured person. Two, source of money for the compensation would not be known to the insured one.

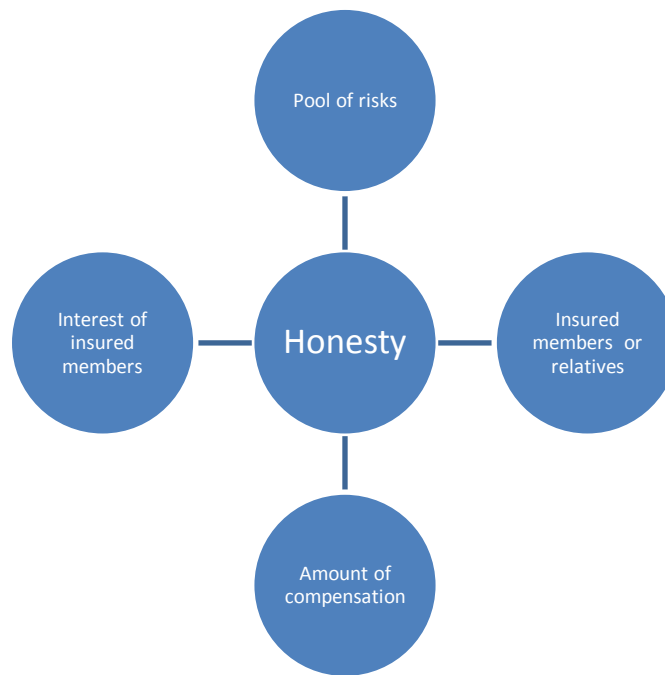
Al- Riba.

This is the practice of the interest and other related matters in the investment of activities of the conventional insurance companies which is against the rules and provisions of the Shariah. (Takaful Malaysia 2007).

***Principles of Insurance***

There are certain principles guiding the operation of Insurance, where these principles are lacking, Insurance operation cannot succeed. These principles include:

- (a) **Pool of Risks:** This is a fund from which money would be drawn to pay losers. Insurance provides that there must be a steady fund where money is readily available to pay losers. This fund is generated through the premiums paid by all the insured persons for a specific period of time. This is accumulated contributions of all parties participating in the scheme.
- (b) **Insurance Interest:** Interest of all members who participate in the Insurance Scheme is catered for and given high consideration. Interest here refers to attention of all the insured persons who subscribe promptly and duly to the Insurance fund.
- (c) **Honesty** is a strong of virtue in Insurance scheme.
- (d) The price of compensation is determined likewise the premium to be paid including the specified period covered by the scheme. All these are to be clearly stated in an unambiguous term and must be clearly explained to all participants.
- (e) **Proximate cause:** This includes those covered in the insurance policy. This can be insured person himself or his dependants as it must have been clearly stated in the policy. The policy is the document which contains the terms of contract.



These principles are intermingling and the absence of any one of them could result into failure of insurance practices. Examining these principles from the Shariah view point, it is discovered that all the principles are Islamic and in line with the Shariah. They are like the five cardinal principles of Islam. Of course, there must be a fund where members or participants contribute to or for future compensation. Quran says, “hold fast the cord of Allah and do not be disunited”.(Quran 2, Baqarah 258). Without this fund, it will be difficult to get anything to pay as compensation. Islam supports that members involved be compensated from the scheme or from profits realized from the money generated in the fund. Members are as well to share from any losses where such occur.

It will of course be an aberration in Islam to give compensation to anybody who does not participate in the scheme or whom the policy does not cover. Honesty and transparency are the watchwords of Islam and these are equally cherished in Insurance. According to Rand Sami (2007), amongst the guidelines of Insurance are the determination of premiums, worth of compensations and years covered in the scheme. This gives rooms for clear-cut operation, unambiguous dealings and equal benefits in addition to equal distribution of profits and losses which Islam clamors for.

Types of Insurance

Insurance types vary and cover all spheres of life. According to Ahukannah, (1991, p.161), they could be listed as:

- (a) Marine insurance which deals with accidents or losses on sea
- (b) Fire accidents and other accidents
- (c) Export credit, fidelity, agricultural and life types of insurance.

Amersafraz (2007) puts Insurance into two main groups namely Product / Object/ Material Insurance and Life Insurance of humans.

Product Insurance

This involves insuring individual’s or company’s owned products such as car, house, or goods against theft, fire, accident etc. with any insurance company. If any harm is inflicted on the product, the insurance company bears the cost to the tune it is insured. The only snag is that if there is no harm to the product insured the premium paid on the product will not be returned and this what Islam frowns at.

Life Insurance

In life insurance, a person keeps on paying certain amount of money for a period of years between a minimum of 20 years and above.

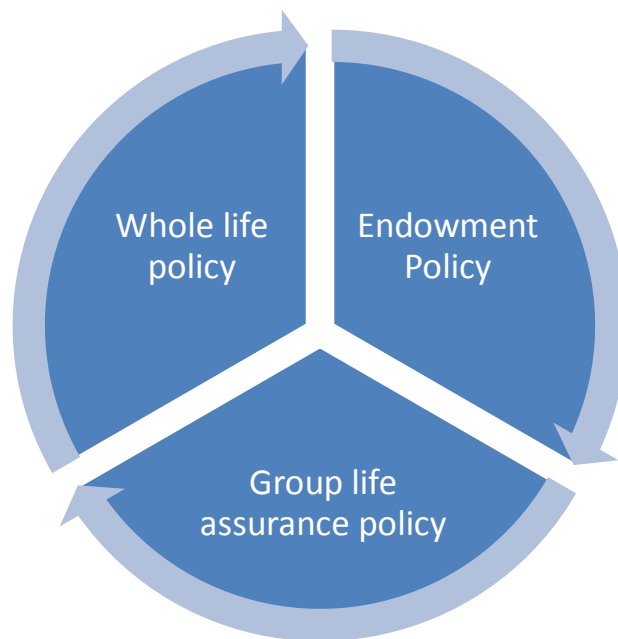
This covers paying the families of the beneficiaries a handsome some of money if the insured dies before 20 years, or paying him fantastic profits from the money he paid into the insurance scheme if he does not die after 20 years, and paying his medical bills if he should fall ill within those period of 20 years agreement. Amersafraz (2007).

All these are forms of calamities or disasters which Muslims are exposed to and so, Islam supports that adequate financial preparations be made for such in case of any eventualities.

However, the area of focus in this paper is on life insurance in the light of Shariah. Life assurance as it is so called involves insuring death which is bound to happen. The Qur'an says "All souls shall taste death". The only clear thing is that it is not known when it will happen. Life insurance is a policy that will pay money to a named beneficiary upon one's death. Life Assurance has the following types of policies.

- (i) **Whole Life Policy:** In this case, payment for compensation is effected after death, but premium is paid throughout life or up to a certain age. Under this policy, the insured person does not have the opportunity of enjoying his benefit, but the dependants enjoy the compensation.
- (ii) **Endowment Policy:** Under this policy, the sum assured is paid after a specified number of years, or at the death of the assured, whichever ever comes first. In this regards, the insured person has the advantage of enjoying his compensation by him or herself if the number of specified period comes first. On the other hand, the dependants of the assured enjoy compensation if the insured person dies before the number of years specified in the policy, but compensation shall be paid when the specified period matures.
- (iii) **Group Life Assurance:** This policy enables the employers to provide for payments to the dependants of employees who die in service or directly to employers who suffer temporary or permanent disability. Under this policy a lump sum payments are often made in addition to paying or refunding all hospital bills. The advantage of this policy over the first two is that it is not only at the instance of death that one can enjoy compensation but also at the point of physical disability.

The three types of Life Assurance policies could be illustrated thus:



Examining these policies under Life Assurance critically along Islamic law, one observes that the three policies are Islamic and in fact not strange or alien to the teachings of Islam.

For instance, the whole life policy which guarantees payments for the dependants of the deceased agrees with the concept of inheritance in Islam where Allah stipulates that one's dependants or relations are entitled to his wealth after one's death. Qur'an 4: verse 789 says:

From what is left by parents
And those nearest related
There is a share for men
And a share for women,
Whether the property be small
Or large; a determinate share.
Let those (disposing the estate)
have the same fear in their minds
as they would have for their own
if they had left a helpless family
behind. Let them fear Allah, and speak
appropriate words.

Furthermore, fractions or shares to be taken are even allocated in the Qur'an 4, verses 11-12. Insurance constitutes one of such assets to be shared. Salahuddin (2006).

Qur'an further classifies the dependants into three categories namely the Quranic heirs, agnatic and distant kinsmen in preference to the order of closeness and proximate relationship.

Islam dictates that a Muslim should strive and work hard to be able to leave an asset for his dependants so that such dependants are not subjected to sufferings and abject poverty after the latter's death. This is why it stipulates that if one were to will his property before death, he should not will over 1/3 of his property to outsiders without considering the dependants (Awar A Qadr, 1986).

Therefore, at this trying time when it is extremely difficult to own a property or make savings for the future because of meager incomes of people coupled with enormous responsibilities they have to carry out, the only option and appropriate measure to guarantee one's dependants' livelihood is the involvement in an insurance programme.

Secondly, the Endowment Policy of life assurance programme has double advantages for the fact that it guarantees payments for one's dependants and at the same time caters for the old age of the insured person. Establishment of the first part of this policy as being Islamic has been shown in the previous discussions. But to show how Islamic the second part of it is, I quote an hadith of the Prophet that says,

“When you witness the morning,
do not expect evening, and when you
witness the evening, do not expect the morning,
use the period of your sound health
to prepare for your time of weakness,
and use the time of your young age and
strength to prepare for your old age”.

The Endowment Policy of life insurance here takes care of this in the sense that the insured person if not died early can benefit from the payment which of course will be useful for him at his old age when he can no longer carry out any work.

This guarantees his source of livelihood at an old age and this Islam enjoins Muslims to prepare for instead of turning to begging because of lack of adequate preparation for the future or instead of being expectant of any assistance from anybody.

In fact, with this approach, he will still be able to give out instead of taking from people and this will earn him more blessings even at his old age because the Prophet has said “the hand on top is blessed than the one below” meaning there is more blessing in giving out than in requesting from people.

Thirdly, the Group Life Assurance is an Insurance policy that provides for the payments to the dependants of employees who die in service and for employees who suffer temporary or permanent physical disability. This policy is equally Islamic as explanations and justifications put forward for the first two life insurance policies are adequate for this third group.

However, an hadith of the Prophet says, “There is blessing in congregation”. This hadith further justifies that this Group Life Insurance is Islamic in the sense that it involves more people coming together and jointly participating in a programme that will benefit everybody within the group. It equally regulates the relationship between the employers and the employees which Islam teaches that should be based on trust, mutual understanding and maintenance of harmonious existence.

Looking at the importance of life Insurance as outlined by Akinyemi (2001) further juxtaposes the fact that life insurance is Islamic, it is in line with the Shariah and it is a venture which every Muslim must obligatory participate in.

- (i) It is a useful way of providing for the welfare of the assured dependants after his death. Islam makes it obligatory for a Muslim to make adequate preparation for his dependants after death. This is even exhibited during Hajj, when a Muslim is to make adequate provision for his dependants before proceeding on Hajj.
- (ii) It is a useful way of providing for funeral and death expenses. Under the Islamic law of inheritance, funeral and death expenses should first be borne from the decease’s property before sharing the remaining property among his dependants. Insurance also caters for the education of one’s children after death.
- (iii) Life Insurance Policy can be used as collateral for obtaining loans needed to set up a business or expand on existing one. It as well safeguards numerous risks to which the capital is exposed and guarantees safety in terms of compensation in case there is any loss. Islam supports requisition for loans although on interest free basis and use of collaterals to prove one’s trust and guarantees amanat. Insurance provides ones security to venture into uncertain areas.
- (iv) Life insurance policy provides for the repayment of capital and debts at the point of death. Islam stipulates that a person’s debts and mortgages be removed before the asset is shared. And in case the decease did not have an asset to pay debts and mortgage, the responsibility of payment falls on the dependants. Insurance frees the dependents from this burden.
- (v) Life insurance is a good source of capital for investment. Part or whole of the premiums collected are invested in business to generate profits and create employment opportunities. Islam supports this approach except that lawful Islamic businesses are to be invested in. Islam does not support that the premiums be kept in banks to generate interests or that whole money be kept in abeyance whereby it is consumed by the payment of Zakat, it has to be invested on lawful business for more profits.
- (vi) It will lessen the burden of periodic levies and donations off relatives and dependants when accidents or disasters occur to individuals.

The only area of note where Islam disagrees with the practice of Conventional type of Life Insurance Policy is where the policy does not cover the so called uninsured risks like lack of foresight in buying and selling which lead to trading losses, inefficient management, business failure arising from stiff competition and changes in fashion to mention a few. Conventional Insurance in this regard is always expecting profits but has forgotten the elements of limitations in man who are to carry out the business.

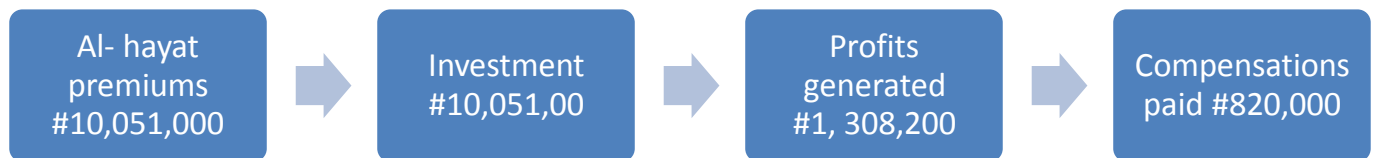
To this, Islam frowns and stipulates that where there are profits, participants, the insurers and the insured should benefit proportionately and where there are losses all the parties involved should bear the brunt in the like manner proportion.

However, a glance at the Takaful (Insurance) reports of Al-Hayat Relief Foundation, a non-governmental organisation in Nigeria show that if Insurance fund is well invested and carefully managed, premiums paid by participants could be a source of economic empowerment for the people and lots of profits could be generated from the fund. This organisation made a five year plan and it was observed that all the idemnities paid so far were taken only from the profits.

The foundation manages a Group Life Insurance Programme for members for initial five years. Members pay a premium of #1000 per year and on eventual death of a member, the foundation gives a compensation of between #20,000 and #60,000 to the relatives of the deceased depending on the number of years for which the member had paid premiums to the foundation. As at 31st March 2012, total premiums paid by members to takaful fund was #10,051,000.00.

Part of this money was invested on Murabahah business and other business projects which generated a profit #1,308,200.00. Indemnity paid so far to the relatives of deceased members was #820,000. With this, it was observed that the main takaful fund remains intact. (Al-Hayat Takaful account 2012).

The chart below using Al-Hayat Relief Foundation records show that Insurance fund is a good source of investment if judiciously invested and carefully managed.



The total premiums paid by members were not affected. The beauty of this is that participants are sure of getting back their premiums in addition to profits at the expiration of the five year plan.

Recommendations

Insurance can be seen as a form of Ibadah which all muslims must practice in earnest to cater for unavoidable contingent events which are beyond man's control, knowledge and understanding. A Muslim will be doing himself a lot of goodness by getting involved in life Insurance with the aim and feeling that he is making future provisions for the survival of his dependants for he may later come to realize and discover that he has made provisions for himself through the life insurance scheme.

The life Insurance policy is seen and established to be Islamic and one hereby suggests the establishment of Islamic or Muslim oriented Insurance companies that can judiciously manage insurance the way Allah stipulates. The existing Islamic Cooperative Societies can as well take up the life insurance policy as a challenge and make it as a scheme among other schemes they carry out. They should also invest Money from Insurance into lawful loadable businesses to generate profits in order to expand the scope of Insurance fund. Part of this fund could be invested on capital projects so as to prepare for periods when losses could be incurred on businesses. Adequate records of subscribers should be kept and clear intention is to be made as to paying back the Money of the insured person and the profits that accrued from the Money.

In the words of Professor Bidmos (2008), Islamic Education is to be utilized for the development of any nation building. This, Islamic Insurance is capable of doing, hence these Muslim bodies or organisations should attempt to initiate Insurance schemes that will cover other aspects of life like businesses, houses, vehicles and other property. Moreso, they should endeavour to join hands together rather than operating individually because the larger the number the merrier it is for Insurance practice.

By this, Muslims will be showing a lot of mercies to their co-muslim brothers and sisters. An hadith says: "Show mercy to yourselves in this world and Allah will show mercies to you from heaven".

Conclusion

The best way to sum up the importance of Insurance to the Muslims is by describing it as an act of Ibadah and in the words of Khorshid (2004) in his book *Islamic Insurance*, he describes insurance as an act of worship which can guarantee one's eternal life. In his words, "Insurance is however something that the Muslim participates in five times a day; what is prayer if not a form of insurance premium in the hope of a divine dividend at the end of life? Faith itself is insurance, and the Quran states many examples of how worldly insurance is as sensible and as beneficial to community as is faith". Khorshid (2004, pxi).

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