RESEARCH PROJECT

ANALYSIS OF CONVENTIONAL INSURANCE IN LIGHT OF ISLAMIC TEACHINGS AND IMPLEMENTATION OF TAKAFUL IN PAKISTAN

SUBMITTED BY

Usama Zubair

01-177181-052

SUBMITTED TO

Madam Maryam Sultan

SCHOOL OF LAW

BAHRIA UNIVERSITY ISLAMABAD

Undertaking/ Declaration of Ethical Conduct in Thesis

I, Usama Zubair (01-177181-052), student of Law Department, Bahria University, hereby solemnly declare that I have completed this work with honesty following the ethics of research.

_____

Signature of Student

Approval of Supervisor

I certify that I have read this final year research project and that, in my opinion, it is fully adequate in scope and quality as a research project of the degree of LLB.

_____

MARYAM SULTAN

ACKNOWLEDGEMENT

I would like to acknowledge my teachers who taught me during the five years of my degree. I would like to acknowledge my supervisor for her guidance. Finally, I would like to acknowledge all the scholars from whose work I have benefit from.

Dedicated to my parents, teachers and friends. Without whom this thesis would not be possible.

CONTENTS

ABSTRACT 8

TITLE 9

RESEARCH STATEMENT 9

INTRODUCTION 10

LITERATURE REVIEW 12

RESEARCH OBJECTIVES 13

RESEARCH QUESTIONS 13

RESEARCH METHODOLOGY 13

CHAPTER 1: INTRODUCTION TO INSURANCE LAW 14

1.1 INTRODUCTION 14

1.2 DESCRIPTION OF INSURANCE 14

1.3 COMPENSATION OF INSURANCE 15

1.4 RESPONSIBILITY OF THE LOSS 15

1.5 COVERAGE OF INSURANCE 16

1.6 LIFE-INSURANCE 16

1.7 GENERAL INSURANCE 16

1.8 TECHNOLOGICAL ADVANCEMENTS 17

1.9 CONCLUSION 17

CHAPTER 2: *TAKAFUL*, ISLAMIC INSURANCE 18

2.1 INTRODUCTION 18

2.2 BASIC CONCEPT OF TAKAFUL 18

2.3 BASIC CONCEPT OF GHARAR 19

2.4 BASIC CONCEPT OF MASI'AH 19

2.5 BASIC CONCEPT OF RIBA 20

2.6 ISLAMIC INHERITENCE AND LIFE INSURANCE 21

2.7 NECESSITY OF RE-INTERPRETATION 21

2.8 PRACTICE OF TAKAFUL 21

2.9 CONCLUSION 22

CHAPTER 3: DIFFERENCE BETWEEN ISLAMIC & CONVENTIONAL INSURANCE 23

3.1 INTRODUCTION 23

3.2 COMPARING CONVENTIONAL INSURANCE 23

3.3 DIFFERENCE IN CONCEPTUAL FRAMEWORK 23

3.4 CONCEPT OF TA'AWUN 24
3.5 SHARED RESPONSIBILITY 24
3.6 AAQILAH 24
3.7 RISK DISTRIBUTION 25
3.8 FUND INVESTMENT 25
3.9 RIGHT TO KNOW INVESTMENT 26
3.10 CONCLUSION 26
CHAPTER 4: PAKISTANI LAW AND RECOMMENDATIONS 27
4.1 INTRODUCTION 27
4.2 INSURANCE ORDINANCE, 2000 27
4.3 REASON FOR ADOPTING ISLAMIC INSURANCE 28
4.4 EDUCATION AND AWAIRNESS 29
4.5 RIBA IN GENERAL 29
4.6 THE MODEL OF THE CIIP 30
4.7 AUTOMATIC INSURANCE 30
4.8 TRANSPARENCY 31
4.9 THE ROLE OF SOCIAL MEDIA 31
4.10 CONCLUSION 31
CONCLUSION 33
BIBLOGRAPHY 35

ABSTRACT

Pakistan is an Islamic country which has made a commitment through its constitution to formulate no laws that go against the spirit of Islam. It is with this spirit that the laws of Insurance should also be viewed. The chief legislation of Pakistan in relation to insurance is the Insurance Ordinance of 2000. There is a need to conceive of the Islamic alternative to insurance which is called *takaful*. Conventional insurance is viewed as a form of contract where the risk is shifted from the person who has paid consideration, known as premium, to another party. The person paying the premium is the policy holder or the insured while the person who takes on the risk is the policy provider or the insurer. The conventional concept of insurance is riddled with problems of *riba* (Interest), *mai'sara* (gambling), and *gharrar* (indeterminate contract). The Islamic concept of *takaful* is on the other hand conceived as a maintenance of a fund known as the *tabaru* fund by the collective contributions of the indemnified members. In this concept there is no one who assumes the risk but rather all the people agree to make whole the person who has suffered a misfortune and this is based on the concept of *aaqilah* which existed in Arab tribes at the time of the Prophet (PBUH). The *tabaru* fund is also invested as forming part of a *mudarabah* investment and any surplus in the fund is distributed accordingly. For the implementation of the *takaful* form of insurance in Pakistan there is a need to overcome certain obstacles such as a lack of education and willingness of the people along with problems of corruption and transparency in the country.

TITLE

Analysis of Conventional Insurance in Light of Islamic Teachings and Implementation of Takaful in Pakistan.

RESEARCH STATEMENT

Insurance companies are regulated in Pakistan through The Insurance Ordinance 2000 and Insurance Companies Act 1972 which are in conformity with international laws and provide the framework for regulation and supervision of insurance industry in Pakistan, including the protection of policy holders, licensing of insurance companies and intermediaries but it is highly needed to educate people about the difference between conventional insurance and Takaful and amend the existing laws according to the Islamic insurance policies.