

Islamic Insurance(Takaful) System in Somalia and Pakistan: A Comparative Study



(Thesis submitted in partial fulfilment for the Award of LLM degree in Corporate Law)

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بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ

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Dedication

**This work is dedicated to our beloved Prophet Muhammad
(SAW)**

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Abstract

Islamic Insurance (Takaful) System in Somalia and Pakistan: A Comparative Study

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Islamic insurance (Takaful) is followed in both Somalia and Pakistan; however, the models, regulatory framework, and market penetration appear to be diverse in some aspects and similar in others; hence, this research aims to highlight these ambivalent spaces for potential Takaful growth in both countries by learning from each other's legal challenges and solutions.

Islamic insurance is an alternative approach to conventional insurance that emphasizes risk sharing and has been in existence for an extended period. This study focuses on the Islamic insurance (Takaful) systems in both Somalia and Pakistan and It suggests that Somalia's absence of conventional insurance necessitates a concerted effort to implement Islamic insurance. To achieve this, it is necessary to develop various aspects, including political stability, economic conditions, and the transition of traditional tribal insurance to formal insurance. This study also demonstrates the Islamic insurance system in Pakistan and the simultaneous regulation of the market by both Islamic and conventional insurance. Additionally, it suggests that Takaful may prove to be a viable option in the future. The research also compares the Islamic insurance system between Pakistan and Somalia by examining the Takaful framework, emphasizing its potential societal benefits in both countries. It also demonstrates that an understanding of the differences and similarities between these two contexts sheds light on the growth and potential of Islamic insurance in different socio-economic settings. Given that both countries are predominantly Muslim, there is a need for widespread comprehension and adoption of Islamic insurance. The study concludes with policy recommendations to make use of developmental opportunities and improve Takaful.

LIST OF ABBREVIATIONS

GCC	Gulf Cooperation Council
MESA	Middle East and North Africa
SEA	South Asia and Africa
PIC	Pakistan Insurance Corporation
SECP	Security Exchange Commission of Pakistan
AAOIFI	Accounting and Auditing Organization of Islamic Financial Institutions
PTF	Participant Takaful Fund
PIF	Participant Investment Fund
IFSB	International Financial Services Board
PIFR	Pakistan Islamic Finance Report
TIA	Takaful Insurance Africa
NIA	National Insurance Authority
FISO	First Somali Takaful and Re-takaful

Chapter 1

Introduction, Significance, and Scope of the Study

1.1. Thesis Statement

Islamic insurance (Takaful) is followed in both Somalia and Pakistan; however, the models, regulatory framework, and market penetration appear to be diverse in some aspects and similar in others; hence, this research aims to highlight these ambivalent spaces for potential Takaful growth in both countries by learning from each other challenges and solutions.

1.2. Introduction

Islamic insurance, also known as Takaful, has been available to consumers worldwide for close to 45 years. Sudan established the first Islamic insurance company in 1979. As an additional point of interest, Muslim nations have developed insurance companies in both Muslim and non-Muslim areas. However, the global recognition of Takaful insurance remains limited due to several factors. It is a violation of Sharia law, even though it has been met with difficulties and misunderstandings, particularly in the case of life insurance. The awareness of the challenges of conventional insurance and the growing influence of the Muslim Ummah, estimated to number 1.8 billion worldwide, may explain its rapid growth. Among the countries that lead the Takaful market are Malaysia and various Middle Eastern nations like Saudi Arabia, Qatar, Bahrain, Oman, Kuwait, and the United Arab Emirates. These nations host the majority of businesses; however, additional Muslim nations like Pakistan, Indonesia, Nigeria, and certain other regions of North Africa are gradually expanding their Islamic insurance sectors over time. Because of the large number of Muslims who live in the United States of America, the United Kingdom, and Europe, the market penetration of Takaful has been rapidly increasing in those regions. If it continues to expand awareness, not only Muslims in Europe, the United Kingdom, and the

United States of America, but even non-Muslims are ready to adopt Takaful as an alternative to conventional insurance.¹

In 2017, projections indicated that the total assets of Takaful stood at 46 billion, with 324 Takaful operators. The number of general Takaful operators was 112, while the number of life Takaful operators was 76. A total of 113 Takaful operators and 21 Re-takaful operators are also active.²

General takaful includes property insurance, engineering insurance, motorcycle accidents, and marine insurance. Based on estimations, the market share of general takaful is approximately (83%), with a range of USD 12.3 billion and a growth rate of approximately (17%). Family takaful includes plans for education, marriage, holy pilgrimage (Haji and Umrah), and savings. The anticipated market share is somewhere around (17%), with a range of 2.6 billion dollars and a growth rate of (1%).³

There is an exciting future ahead of it, even though it has been steadily developing. An increasing number of non-Muslims are gaining an understanding of the differences between conventional insurance and Islamic insurance. Conventional insurance is founded on commercial purposes, whereas Islamic insurance relies on concepts of mutual and risk-sharing within the marketplace. In the years to come, these differences will continue to push the growth of Takaful forward as quickly as possible. Additionally, the size of the market, the increase in its share, the existing opportunities, and the estimate all indicate that the Takaful Global Market is expected to experience significant growth between 2023 and 2032. In 2023, the amount of Takaful was 33.6 billion USD. Furthermore, the IMRC group projected that the significant amount of Takaful would double by 2032, reaching 74 billion USD, implying an annual growth rate of 8.9%. Several variables will contribute to the expansion of the Takaful market between the years 2024 and 2032. These aspects include the growing Muslim population, the economic growth of

¹ Hamze Dalha. "Takaful: Growth Opportunities in a Dynamic Market." Academia.edu. January 6, 2020. https://www.academia.edu/41535504/Takaful_Growth_Opportunities_in_A_dynamic_market. (Last date Accessed on December 30, 2024).

²Comec Coordination Office, Standing Committee for Economic and Commercial Cooperation of the Organization of Islamic Cooperation (COMCEC) "Improving the Takaful Sector in Islamic Countries." n.d. https://www.sbb.gov.tr/wp-content/uploads/2019/10/Improving-the-Takaful-Sector-In-Islamic-Countries_2019_October.pdf (October 2019) 40-41.

³ Mohd M. Billah, Ezzedine GhلامAllah, and Christos Alexakis. "Understanding the Pillars of Takaful." *Encyclopedia of Islamic Insurance, Takaful and Retakaful* <https://doi.org/10.4337/9781788115834.00011>: (2019) 1–51.

Muslim nations, the progress of knowledge in Islamic finance, the rise of consumers, and technical advancements. According to the report that was published by the Islamic Financial Service Board in 2023, the general Takaful sector achieved the most substantial coverage, with an approximate coverage of (86.6%), while family Takaful registered a share of (17.4%).

The report also reveals that the regions with the highest contributions in 2022 were the Gulf Cooperation Council (GCC), the Middle East and North Africa (MESA), Southeast Asia (SEA), and Africa, with respective rates of 16.6%, 5.9%, 6.8%, and 0.8%. Generally speaking, the findings of the investigation suggest that Takaful will experience tremendous growth and have bright future possibilities.⁴

In terms of Islamic insurance, this study compares Pakistan with Somalia. Takaful is practiced in both countries. In both countries, takaful operators adhere to Sharia. Every aspect adheres to the principles of Islamic insurance. The models used and the regulatory bodies in charge of ensuring effectiveness are the primary causes of the variations in takaful operations. The size of the Takaful business market varies in each country as well. In conclusion, Pakistan's Islamic insurance (Takaful) system is more reliable, well-equipped, and has a brighter future. Somalia's takaful industry is still in its infancy, and the country needs to learn more from Pakistan's industry.

1.3. Significance of Research

This research indicates that considerable research on Islamic insurance has been conducted in both countries and globally. Still, the finding of this research is that there was no research on the comparison between Somalia and Pakistan, especially. So, this opportunity was given to research this. The other reason is that both Somalia and Pakistan are Muslim countries, so it is better to understand and learn the experiences of both. Some similarities and contrasts allow us to recognize where each country excels in Islamic insurance and where it might develop by experimenting with the other side. The models that are used in both countries are different; in Somalia, it's followed by the Wakalah model, while in Pakistan hybrid model like the Wakalah

⁴Yusuf Dinc, and S M Rashed JAHANGİR. "Differences in Perspectives between Islamic and Conventional Insurance: An Argumentative Analysis Based on Risk-Sharing and Risk-Transfer Concept." ADAM AKADEMİ Sosyal Bilimler Dergisi 10.31679/adamakademi.1015089 <https://doi.org/10.31679/adamakademi.1015089> (March, 2023) 52

waqf model or Modaraba model. Finally, there is no research conducted on this area of comparing both countries, and that's why this research is going to be interesting and seems to have a new dimension.

1.4. Research Questions

- 1- What is meant by Takaful, and what is the philosophy behind it?
- 2- What is Pakistan's legal framework for regulating takaful, or Islamic insurance?
- 3- What is the Legal Framework for the regulation of Islamic Insurance in Somalia?
- 4- How comparable are Pakistan and Somalia in terms of Takaful?

1.5. Research Objectives

- 1) To explore the philosophy and concept of Islamic insurance (Takaful).
- 2) To identify Pakistan's legal framework for regulating takaful, or Islamic insurance
- 3) To evaluate the comparability of Somalia and Pakistan in the context of Islamic insurance (Takaful).
- 4) To assess the Legal framework for regulating the Islamic Insurance market in Somalia.

1.6. Literature Review

This article discusses the expansion of the Islamic finance sector into new sectors, such as Islamic insurance, in newly emerging regions. Additionally, it suggests that consumer satisfaction with takaful services and legal frameworks remains low and requires further improvement. Lastly, it suggests that the financial performance of the past is subpar and that society requires only a high-quality legal framework to facilitate takaful services. Additionally, it demonstrates that market sentiment regarding Islamic insurance in Pakistan is highly favorable.⁵

⁵ Muhammad Hanif, and Abdullah M. Iqbal. "An Evaluation of Takaful Insurance: Case of Pakistan." *Journal of Islamic Economics Banking and Finance* 13 (1): 121–46. <https://doi.org/10.12816/0051159> (January 1, 2017).

Additionally, other articles suggest that they were influenced by various factors to shift their societal orientation toward Islamic insurance, as opposed to conventional insurance, which was the predominant practice in Pakistan. However, this time, the focus is on Islamic insurance, which is significant for both religious and non-religious reasons, including its ability to reduce the inefficiencies of conventional insurance, which has been a burden on society. The study also recommends that banks enhance their understanding of Islamic insurance and expand their trust services to benefit society, given its growing popularity.⁶

Furthermore, the study revealed consumers' selection of Islamic insurance and the factors that influence their decision to choose it over conventional insurance. Therefore, the establishment of a robust legal framework and the implementation of Takaful insurance market campaigns in Pakistan are necessary. This study collected data from various rural areas of Pakistan, revealing that a significant portion of the population lacked a fundamental understanding of Islamic insurance, regardless of its classification as an investment or otherwise. Lastly, the research recommends that Islamic insurance organizations concentrate on awareness campaigns regarding Islamic insurance to educate the public on the concept of takaful.⁷

There was a separate survey to compare the awareness and comprehension of takaful consumers in Pakistan with conventional insurance. The primary objectives of Islamic insurance are cooperation and donation. The primary and secondary data collected investigate the current state of Islamic insurance in Pakistan. The data indicates that nearly 60% of the population is oblivious to Takaful compliance under Islamic Shariah, while others are unaware of the concept. Ultimately, this survey demonstrates that there is still a dearth of awareness regarding Takaful, necessitating the implementation of an awareness campaign.⁸

Furthermore, another study looked into how conventional banks in the developed world provide a solution for recovering losses in the event of a loss of life, property, or income. However, these

⁶ Nida khan, and Danish Ahmed Siddiqui. "Islamic Insurance (Takaful) and Factors Affecting Its Purchase Intention in Karachi, Pakistan." Papers.ssrn.com. Rochester, NY.
https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3381546 (2017).

⁷ Areeba Khan, Hafiz Abdur Rashid, Rana Muhammad Shahid Yaqub, and Saba Abbas. "Determinants of Customer Perception about Adoption of Islamic Insurance (Takaful) in Pakistan." *Journal of Business and Social Review in Emerging Economies* 6 (4): 1505–16. <https://doi.org/10.26710/jbsee.v6i4.1485> (2020).

⁸ Aziz ur Rehman, Rehana Sher Muhammad, Muhammad Aslam, Anam Iqbal, and Malik Shahzad Shabbir. n.d. "Consumer Awareness and Knowledge about Takaful (Islamic Insurance): A Survey of Pakistan." *Journal of Namibian Studies* (Accessed August 10, 2023).

insurance policies primarily link to interest or other benefits. Islamic insurance fundamentally differs from conventional insurance, relying on the principle of mutual assistance or donations. In this context, Pakistan is a Muslim nation that implements both types of insurance.⁹

A research thesis contrasts the Marine Takaful Act 2018 with Takaful. Established decades ago, the primary objective of marine insurance is to provide coverage for losses arising from marine weather catastrophes. Furthermore, Pakistan was devoid of marine insurance after its separation from India. The Pakistani Parliament enacted the Maritime Insurance Act in 2018, outlining the terms of maritime insurance. The research thesis also discusses Takaful, providing a definition and distinguishing it from traditional insurance. In addition, it presents a comparison between the Marine Insurance Act 2018 and Takaful, emphasizing the primary distinctions and the strategies employed to guarantee Shariah compliance in marine insurance. This research also offers prospective researchers the chance to acquire information about marine insurance in Pakistan.¹⁰

There is research that discusses Islamic insurance acceptance in Somalia depending on knowledge, attitude, perception, and awareness, especially among residents in the capital Mogadishu, also conducted sampling. Finally, they found out that perception and understanding are the main reasons to adopt or accept Takaful.¹¹

While other articles discussed that conventional insurance is unacceptable in Somalia due to Muslim countries, Somalia now has 9 different Takaful companies which were first started in 2014 after the civil war. Somalis are a culturally family-dependent society which is they help each other families and notable for many years, especially after the collapse of the Central government in 1991. Finally, Somalia has great opportunity and growth towards Takaful shortly because conventional insurance is yet to be passed by the government and not allowed by society because of a fast Muslim country.¹²

⁹ Muhammad Nouman Shafique, Naveed Ahmad, and Hussain Ahmad. "A Comparative Study of the Efficiency of Takaful and Conventional Insurance in Pakistan." *International Journal of Accounting Research* 2 (5): 1–7. <https://doi.org/10.12816/0014605> (2015).

¹⁰ Amir Sohail Ahmed. "Marine Insurance Act, 2018 & Takaful: A Comparative Study." LLMITL Thesis International Islamic University Islamabad (June 20, 2019).

¹¹ Yassin, Ali, and Ahmed Khadar. "Determinants of Islamic Insurance Acceptance: Empirical Evidence from Somalia." *European Journal of Business and Management* 8 (15): 102–8 (2016).

¹² Jibril Adan Mohamed. "LinkedIn." LinkedIn.com. 2024. <https://www.linkedin.com/pulse/progress-challenges-somalias-takaful-industry-adan-mohamed-cams-owj8f/> (March 28, 2024).

After decades of conflict and political turmoil, Somalia struggles to establish a functioning insurance market. This study examines the Somali insurance industry, highlighting significant challenges including the absence of a regulatory framework. The study highlights issues such as the regulatory framework, political instability, poor public awareness, and limited financial infrastructure. Despite hurdles, growth prospects exist, such as rising risk management demand, Somali diaspora influence, digital financial services expansion, and Sharia-compliant insurance products (Takaful). The paper analyzes obstacles and opportunities, offering recommendations for a strong and sustainable insurance sector. The focus is on regulatory reform, public education, and international collaboration to address challenges and capitalize on possibilities.

This analysis seeks to promote a sustainable insurance market in Somalia, promoting economic recovery and long-term stability.¹³

Finally, a study provides a comprehensive overview of the landscape of Islamic finance in Somalia, with a focus on the challenges and opportunities it presents. The authors delve into the socio-economic context of Somalia, highlighting the country's predominantly Muslim population and the growing recognition of Islamic finance as a viable alternative to conventional finance. One of the strengths of the article lies in its exploration of the challenges facing the development of Islamic finance in Somalia. The authors address issues such as the lack of regulatory framework and infrastructure to support Islamic financial institutions effectively. They also discuss the need for capacity building and human resource development within the Islamic finance industry to overcome operational hurdles.¹⁴

In the existing literature, there is a notable absence of comparative research on Islamic insurance (Takaful) between Somalia and Pakistan, despite the existence of country-specific studies on each of these countries. The regulatory frameworks, market development, and challenges of Pakistan's Takaful system have been the subject of significant research. Conversely, Somalia's Takaful landscape has been the subject of limited studies. Nevertheless, there is no single prior study that compares the two existing systems to identify the similarities and differences. The absence of such information regarding the two countries has resulted in a gap that this research

¹³ Ismail Ali Sheikhnor "Assessing the Insurance Landscape in Somalia: Navigating Challenges and Uncovering Opportunities," <https://doi.org/10.2139/ssrn.4935403> (September 24, 2024).

¹⁴ Abdirahman Abdillahi Farah Adam, Abdulmajid Obaid Hasan Saleh, and Ashurov Sharofiddin. "Islamic Microfinance in Somalia: Challenges, Opportunities, and Practises" <https://al-qanatir.com/aq/article/view/781/594> (July, 2024).

seeks to resolve by the time the work is completed. It looks at the pros, cons, and chances for the growth of Islamic insurance. This adds to what is already known and, more importantly, helps policymakers, practitioners, and researchers figure out how to promote its spread around the world.

1.7. Research Methodology

This study is grounded in qualitative research. Qualitative Research is a kind of scientific research emphasizing knowledge of human behavior, experiences, perceptions, and social events by means of non-numerical data. Unlike quantitative studies, which depend on statistical analysis, qualitative research aims to investigate meanings, patterns, and underlying motivations behind people's behaviors and interactions.

Takaful insurance is a type of insurance that is practiced in both Somalia and Pakistan. The objective of this study was to identify commonalities and disparities in takaful insurance practices across the two countries. Throughout this study, a range of techniques were employed. The descriptive method is employed in this research to analyze and discuss the findings related to takaful insurance.

This study explores the impact of takaful insurance on the global community and other Muslim countries. The analytical method is an alternative approach employed in this qualitative investigation.

This study involves the examination of takaful insurance in Somalia and Pakistan, with a specific focus on market penetration. Furthermore, the perception of takaful insurance by society has also been a factor. An additional method, known as the comparative study method, will be utilized in the course of this research. This method will be utilized to compare and examine the differences that exist between the two countries, namely Somalia and Pakistan. Additionally, it will be discussed whether Islamic takaful insurance is being followed in its true meaning and whether the regulators or Shariah board are in charge of this matter. Throughout this research examination, we use Secondary data, Research journals, Books, and Websites while conducting this thesis.

Chapter 2

Islamic Insurance (Takaful): An Introduction

2.1. History of Islamic Insurance (Takaful)

Even though the precise date of Islamic insurance's inception is unknown, certain Muslim scholars have contended that it has been in existence for a long time and was known as *Al-Aqilah*.¹⁵ During the time of the Prophet Mohammed (*SAW*). Subsequently, Islamic insurance progressed incrementally from the time of the Prophet Mohammed (*SAW*) until the period between 1784 and 1836. The Hanafi scholar Ibn Abidin introduced this term as Islamic insurance for the first time. Later, numerous insurance companies worldwide implemented the format. It can categorize the development of Takaful insurance into six different phases.¹⁶

Precautionary measures have consistently been implemented to mitigate potential future risks. For instance, Prophet Yousuf (*SAW*) made sure to store products and ensure food accessibility during the seven-year drought.¹⁷

2.1.0. The ancient Arabs practiced Al-Aqilah

¹⁵ Aqilah is Asaba which is donates paternal relatives of the killers, Mohd M. Billah, Ezzedine GhلامAllah, and Christos Alexakis. 2019. "Understanding the Pillars of Takaful." Encyclopedia of Islamic Insurance, Takaful and Retakaful <https://doi.org/10.4337/9781788115834.00011:1-51> (2019), 5.

¹⁶ Mohammad Masum Billah. "Islamic Insurance: Its Origins and Development." Arab Law Quarterly 13 (4): 386–422. <https://doi.org/10.1163/026805598125826201> (1998), 387.

¹⁷ Amir Sohail Ahmed. "Marine Insurance Act, 2018 & Takaful: A Comparative Study." LLMITL Thesis International Islamic University Islamabad (2019), 21.

Ancient Arabs developed insurance practices, according to different sources. When someone killed another member of their tribe, the Arabs would gather funds and pay the *Diya* of the deceased individual. Therefore, they have a custom known as *Aqilah*, which is a way of compensating one another in times of need and necessity to compensate for the loss caused by any member of the tribe. As a result, Arab communities were prepared to provide financial compensation in the event of a loss or injury to society, as well as to compensate for those losses.¹⁸

2.1.1. Practices at the time of Prophet Mohammed (saw)

There were two ways of obtaining insurance at the time of Prophet Mohammed:

- 1- The first one, known as *Aqilah*, predated the prophet and received acceptance from the prophet Mohammed. Here is a brief account of it.

*“Narrated by Abu Hurairah (RA), he said that once two women from Huzail clashed when one of them hit the other with a stone, which killed her and the baby in the victim’s womb. The victim’s heirs petitioned the court of the Holy Prophet (saw), who ruled that the ‘Aqilah’ (the father’s side relatives) of the killer should pay blood money (Diyat) as compensation for the slain woman”.*¹⁹

- 2- The second event occurred in 622 when the prophet Mohammed (saw) enacted the first constitution of Medina.

The prophet enacted the first constitution in Medina, a city home to a variety of societies, including the Muslims of *Muhajirin* and *Ansar*, as well as Christians, Jews, and other tribes. The Prophet then enacted a constitution for Medina society, which comprised the following main chapters: The payment of *Diya* took place during the carnage. Additionally, in the event of a ransom, the tribe of prisoners is required to pay the ransom to release the prisoners. This is why

¹⁸Mohammad Masum Billah, Ezzedine Ghlam Allah, and Christos Alexakis. “Understanding the Pillars of Takaful.” Encyclopedia of Islamic Insurance, Takaful and Re-takaful <https://doi.org/10.4337/9781788115834.00011:1-51> (2019), 4.

¹⁹Sahih Al-Bukhari: [7.71.654]
<https://www.quranexplorer.com/hadithebook/english/Hadith/bukhari/007.071.654.html> (2024).

the entire society coexists harmoniously in an insurance-based manner, eliminating obstacles and sharing in the sorrow and loss within the tribe.²⁰

2.1.2. Practices of Companions

Aqilah further encouraged and developed Sayid Omer during the second Khalifah. During the second Khalifah, Omer established a *diwan*, or draft, which urged the tribes to assist each other in the event of a death or homicide, intending to pay tribute and perform the *Diya* of the departed among the tribe.²¹

2.1.3. The implementation of insurance takes place between the 14th and the 17th Century

From the 14th to the 17th centuries, the Sufi kazeerunniya ordered marine insurance, which was in place in China. This insurance was primarily designed to compensate for the hazards of the sea as a result of the reliance on commercial mariners.²²

2.1.4. Practices of the 19th Century

In the 19th century, Hanafi scholar Ibn Abidin was the first to propose the term "Islamic insurance" and the legality of contract insurance. He also discussed the fact that insurance would no longer be a customary practice but rather a legal constitution. During that period, a significant number of Muslims began to utilize the insurance services of both non-Muslims and Muslims who had established insurance service companies.²³

2.1.5. Practice of the twenty-first century

The renowned Muslim law expert Muhammad Abduh issued two fatwas in the 20th century that legalized the practice of insurance in the Muslim Ummah. However, numerous Muslim scholars are opposed to this proposition and have issued fatwas that prohibit life insurance. Despite this, the Muslim scholars of that era failed to provide the Ummah with an alternative insurance option. Despite the existence of different satisfactory alternatives that compel Muslim and non-

²⁰ Mohammad Masum Billah, Ezzedine Ghulam Allah, and Christos Alexakis. 2019. "Understanding the Pillars of Takaful." Encyclopedia of Islamic Insurance, Takaful and Retakaful <https://doi.org/10.4337/9781788115834.00011:1-51> (2019), 5.

²¹ Ibid, 6.

²² Ibid, 7.

²³ Ibid, 7.

Muslim countries and other societies to adopt Islamic insurance (Takaful), these societies have not yet established Takaful.²⁴

2.2. Concept and Definition of Takaful

Takaful is a mutual guarantee or assurance agreement in which a group of individuals funds a pool to assist the participants in the event of unforeseen losses or risks. This agreement aims to compensate for the losses and remove the obstacles the individual faces.²⁵

Legally, Takaful is "an agreement based on mutual assistance in which Takaful participants agree to contribute to a common fund that provides for mutual financial benefits that are payable to Takaful participants or their beneficiaries upon the occurrence of pre-agreed events."²⁶

Takaful is a compilation of ethical and community-driven insurance solutions in a fast-changing financial landscape that is fast-changing. Islamic principles form the foundation of Takaful. Participants engage in risk-sharing, fairness, and mutual support. It is a system based on solidarity and brotherhood, not just insurance. By understanding Takaful, individuals can achieve financial security while aligning their decisions with their values. This innovative method of risk management encourages financial stability and social accountability.²⁷

The Arabic words "*Kafalah*" and "*Musharakah*" are the source of the term "Takaful."

Takaful (Islamic Insurance) is a business model in which the Takaful operator offers protection to an individual or commercial entity up to a predetermined amount. Takaful is a policy that shares the responsibility for risk. It involves the provision of insurance policies and the payment

²⁴ Mohammad Masum Billah. "Islamic Insurance: Its Origins and Development." Arab Law Quarterly 13 (4): 386–422. <https://doi.org/10.1163/026805598125826201> (1998) 390.

²⁵ "Broader Application of Ta'awun in Takaful." https://www.bnm.gov.my/documents/20124/948107/Discussion_Paper_on_Broader_Application_of_Taawun.pdf (2022), 4.

²⁶ "Improving the Takaful Sector in Islamic Countries' Comcec Coordination Office Standing Committee for Economic and Commercial Cooperation of the Organization of Islamic Cooperation (COMCEC)." 2 <https://www.comcec.org/wp-content/uploads/2021/12/PROCEEDINGS-OF-THE-13TH-MEETING-OF-THE-FCWG.pdf>. (October, 2019), 15.

²⁷ Aziz ur Rehman, Rehana Sher Muhammad, Muhammad Aslam, Anam Iqbal, and Malik Shahzad Shabbir. n.d. "Consumer Awareness and Knowledge about Takaful (Islamic Insurance): A Survey of Pakistan." Journal of Namibian Studies. (Accessed August 10, 2023).

of an operational fee. If an unexpected loss or calamity occurs in the future, Takaful Company will be responsible for compensating for it.²⁸

2.3. The Legality of Takaful From the Quran and Sunnah

Many references in the Quran and Sunnah indicate cooperation and social solidarity among the society. Here are the References to the Quran and Sunnah:

*“And help one another in righteousness and piety and do not help each other in evil deeds and enmity”.*²⁹

The Tafseer or explanation of this verse is: This part highlights the importance of supporting each other in doing good and practicing piety, which are essential for spiritual growth and a fulfilling life and other section warns against assisting others in committing wrongdoings or breaking God's laws, emphasizing that such actions are harmful and lead to negative consequences.

*“(Allah) who prepares nourishment to prevent the fear of hunger and saves puts peace those who fear”.*³⁰

*“The believers are but a single brotherhood: So, make peace and reconciliation between your two (contending) brothers; and fear Allah, that ye may receive Mercy”.*³¹

The explanation of this verse: This establishes the foundational principle of Islamic unity, where believers are considered brothers and sisters in faith, regardless of their background or differences. The other part is a direct call to action, urging Muslims to resolve conflicts and strive for reconciliation within the community, the last part discussing or emphasizing the importance of piety and reverence for Allah, as seeking His mercy is the ultimate goal and reward for striving for unity and reconciliation.

“And hold firmly to the rope of Allah all together and do not become divided. And remember the favor of Allah upon you - when you were enemies and He brought your hearts together and you

²⁸ Amir Sohail Ahmed. “Marine Insurance Act, 2018 & Takaful: A Comparative Study.” LLMITL Thesis International Islamic University Islamabad (2019), 21.

²⁹ Al-Quran 5:2.

³⁰ Al-Quran 106:4.

³¹ Al-Quran 49:10.

became, by His favor, brothers. And you were on the edge of a pit of the Fire, and He saved you from it. Thus, does Allah make clear to you His verses that you may be guided".³²

"And those who, before them, had homes (in Al-Madinah) and had adopted the Faith, love those who emigrate to them, and have no jealousy in their breasts for that which they have been given (from the booty of Banî An-Nadîr), and give them (emigrants) preference over themselves, eventhough they were in need of that".³³

Worship Allah alone and associate none with Him. And be kind to parents, relatives, orphans, the poor, near and distant neighbors, close friends, needy travelers, and those bonds people in your possession. Surely Allah does not like whoever is arrogant, boastful.³⁴

"Allah (SWT)intends you to enjoy with an easy life, He does not wish you to face hardships".³⁵

"A Muslim is a brother of another Muslim, so he should not oppress him, nor should he hand him over to an oppressor. Whoever fulfilled the needs of his brother, Allah will fulfill his needs; whoever brought his (Muslim) brother out of a discomfort, Allah will bring him out of the discomforts of the Day of Resurrection, and whoever screened a Muslim, Allah will screen him on the Day of Resurrection".³⁶

"The similitude of believers regarding mutual love, affection, fellow-feeling is that of one body; when any limb of it aches, the whole-body aches, because of sleeplessness and fever".³⁷

"A system based on solidarity, peace of mind and mutual protection which provides mutual finance and other forms of aid to members (of the group) in case of specific need, whereby Members mutually agree to contribute monies to support this common goal".³⁸

³² Al-Quran 3:103.

³³ Al-Quran 59:9.

³⁴ Al-Quran 4:36.

³⁵ Al-Quran 2:185.

³⁶ Sahih al-Bukhārī. <https://www.abuaminaelias.com/dailyhadithonline/2017/12/06/muslim-brother-another-muslim/>. (December 6, 2017).

³⁷ "JamicSaheeh - the Book of Virtue, Enjoining Good Manners, and Joining of the Ties of Kinship - والصلة البر كتاب - Sunnah.com - Sayings and Teachings of Prophet Muhammad (صلى الله عليه و سلم و آله و آلہ) ." n.d. Sunnah.com. <https://sunnah.com/muslim:2586a> (Last Accessed date December 26, 2024).

³⁸ Mian Muhammad Sheraz. "APPLICATION of ISLAMIC INSURANCE in PAKISTAN & MALAYSIA, CHALLENGES and PROSPECTS." Faculty of Shariah & Law International Islamic University Islamabad (2012), 44.

A Muslim is defined as an individual who has a steadfast belief in the destiny of the world, which includes the possibility of future events. Both Muslims and humans must protect all their belongings. The prophet Muhammad (*SAW*) cites a hadith where a man approaches and inquires whether he should untie the camel before departing.

Prophet Muhammad (*SAW*) responded by instructing the man to do so. This incident serves as an indication that it is important to reduce risks and make the most coordinated efforts to prevent losses. Additionally, the Holy Prophet states that "no human action can change the will of Allah (*SWT*) for our destiny." Takaful/Insurance policies do not influence future events; instead, they serve as precautionary measures or efforts, requiring complete trust in Allah (*SWT*).³⁹

2.3.1 The Takaful Company must satisfy the following criteria to be Shariah-compliant, as per the Shariah standard:

- i. The participants' donations and contributions must compensate for the loss that has occurred. We must manage the contribution and insurance amount according to the regulations, making payments to offset any potential deficits.
- ii. The Takaful Operators are required to establish two separate accounts: the first account is for the liabilities of the Takaful Company, while the second account is for the rights and liabilities of the policyholder.
- iii. The Takaful holders are required to manage the insurance account as Wakeel and invest the Takaful Fund in various Shariah-related business activities as *Mudarib*.
- iv. The insurance account associated with the assets and the return on the investments must cover the liabilities of the assets.
- v. The Takaful company must donate all insurance policies to charitable causes upon its liquidation. Additionally, the Takaful company is required to invest resources toward Shariah compliance activities.
- vi. The Takaful company must invest the company assets in the Shariah-based Activities.

³⁹ Amir Sohail Ahmed "Marine Insurance Act, 2018 & Takaful: A Comparative Study." LLMITL Thesis International Islamic University Islamabad (June 20, 2019), 30.

vii. The Takaful company must have a Shariah Supervisory Board, which is responsible for issuing Fatwas and other Islamic principles. The Fatwas on this board are binding.⁴⁰

The ultimate objective of the insurance revolution is to establish a Shariah-based activity with the primary objective of mutually sharing risks and preventing commercial profit, much like conventional insurance.

Islamic insurance (Takaful) differs from conventional insurance, it aims to support individuals in times of need and hardship, thereby promoting the growth of the Muslim community and Muslim society overall. Takaful is essentially the arrangement of a sum of money and the establishment of a pool that only uses the money when necessary to compensate for losses incurred by the participant or, in the case of Waqf, by individuals outside the participant.⁴¹

2.3.2 Takaful is composed of four Elements:

- (1) A participant is an individual who pays into the fund and participates in the Takaful fund pool.
- (2) The operator is either an agency or an individual responsible for administering the mutual fund.
- (3) When a loss or risk occurs, the insured is the one who receives compensation.
- (4) Beneficiaries are individuals who receive benefits from the mutual fund that the participant arranges.⁴²

Additionally, Islamic insurance (Takaful) is not a method of obtaining profit or benefit; rather, it is a mutual guarantee and assistance that ensures the victim of loss does not feel alone and shares

⁴⁰ Shariah standard No (26) Islamic Insurance. n.d. "Accounting and Auditing Organization for Islamic Financial Institutions. November, 2017" <https://aaoifi.com/ss-26-islamic-insurance/?lang=en> (Last accessed November 24, 2024).

⁴¹ "Family Takaful vs Conventional Insurance | FWD Malaysia. <https://www.fwd.com.my/blog/protection/difference-between-insurance-and-takaful/> (March 31, 2023).

⁴² Mohammad MasumBillah, EzzedineGhلامAllah, and Christos Alexakis. "Understanding the Pillars of Takaful." Encyclopedia of Islamic Insurance, Takaful and Re-takaful <https://doi.org/10.4337/9781788115834.00011>:1–51(2019), 1.

responsibility for the loss. This is the primary motivation behind the evolution of Takaful insurance. Takaful insurance also complies with Shariah principles.⁴³

2.4. Models of Islamic Insurance

Muslim countries worldwide adhere to various models of Islamic insurance, known as takaful. These models exhibit differences in their terms and dealings.

The foundation of takaful insurance, an Islamic insurance system, is collaboration and support. This insurance system can function thanks to a variety of models. One Islamic insurance option that may be used is takaful insurance.

in a variety of ways. Takaful insurance, which follows the cooperative concept, comes in three varieties: *waqf*, *wakalah*, and *mudaraba*. *Mudaraba*, *wakalah*, and hybrid models are actively used in Turkey. Here is the following different models of Islamic Insurance in brief:

2.4.1 Mudaraba Model

In the *Mudarabah* model, the principles of *Mudarabah* are profit sharing between the participant (*Rab al Mall*)⁴⁴ and the Takaful operator. *Rab al Mall* is the capital owner, and the fund's manager is the operator. So, the takaful operator and participant would agree on a pre-agreed ratio before the fund is invested in the *Mudarabah* models, which completely must be followed with the principles of Shariah. If there is no claim to the participants, then the investment *Mudarabah* profit would be shared among the pre-agreed ratios between the capital owner and the operator, and if there is a loss, then there is no claim to profit because all the parties would bear the loss. That's why the difference between conventional and Islamic insurance exists: Islamic insurance capital belongs to the capital owner, which is the participant, while

⁴³ Amir Sohail Ahmed. "Marine Insurance Act, 2018 & Takaful: A Comparative Study." LLMITL Thesis International Islamic University Islamabad (June 20, 2019), 36.

⁴⁴ Rab al Mall is the owner of the property. "Rab-Al-Mal Definition | Law Insider. 2015 <https://www.lawinsider.com/dictionary/rab-al-mal>. (Last Accessed date December 2024)

conventional insurance capital belongs to the company, and if there is no claim, profit goes to the company.⁴⁵

2.4.2. Wakalah Model

The design of this model resembles a contract of agency (*wakalah*). The Takaful operator functions as an agency, taking responsibility for the funds in the participants' pool.

The Takaful operator would perform all of the agent's required activities and collect money, manage it, and distribute it according to the agreed ratio of participants; if there was a surplus, it would be distributed among the participants. The loss and the profit solely belong to the participants because the Takaful operator's function is to manage the collected fund pool in a responsible and permissible way.⁴⁶

2.4.3. Waqf Model

The *waqf* model's structure is a charity way of donating funds, with the participant seeking rewards from Allah (*SWT*). The Waqf model is a religious endowment. These waqf charities include buildings, agricultural land, wells, livestock, and even cash. The waqf model functions similarly to a charitable donation, to seek Allah's rewards. The participant does not have the right to claim any profit, as the model is based on charitable donations; however, they do have the right to claim in the event of a loss or misfortune.⁴⁷

2.4.4. Hybrid Model

Today's family takaful operators prioritize this aspect, applying *Wakala* to the underwriting fund and *Mudarabah* to investment profits. The operator specifically deducts the *Wakala* fee from the takaful contributions and distributes all underwriting profits back to the participants. Therefore,

⁴⁵ Ilhamiddin Ikramovich Nazarov, and Naeem Suleman Dhiraj. "A Conceptual Understanding and Significance of Takaful (Islamic Insurance): History, Concept, Models and Products." *International Journal of Innovation Education and Research* 7 (4): 280–98. <https://doi.org/10.31686/ijier.vol7.iss4.1408> (2019), 289.

⁴⁶ Ibid, 290.

⁴⁷ Ibid, 291.

this model combines elements of both the *Mudarabah* and *Wakala* models, which is why some scholars have proposed it.⁴⁸

2.4.5. Wakalah Waqf Model

This model is an extension of the *Wakalah* model, which employs the *Tabarru* fund to fulfill the promises of the Waqf fund. Justice Muhammad TaqiUsmani, a notable scholar, introduced this. Under this model, the Takaful company's shareholders established a Cash of *Waqf* fund for contributions. The contributions of the participants who sign up to join the Waqf fund's cash will be utilized following the Waqf deed agreement. The Waqf fund will serve as the legal entity responsible for investment, compensation, and surplus dealing, and it will also act as the owner. The waqf fund must be invested by Shariah law, and the returns must be beneficial to the participants. The Takaful operator has the option to charge for its services as *Wakalah* principal. We will utilize the entire fund following the waqf deed, which includes the distribution of Mudaraba investment profit, operator fee charge, and claims payments. We should retain the waqf fund's surpluses to prevent future losses or deficits, distribute them among the participants, or donate them to charitable organizations approved by the Takaful company's Shariah board. The Takaful operators act as the fund's agents in the Waqf fund preview, while the participants are the fund's members.⁴⁹

2.5. Global Influence of Takaful

Islamic insurance (Takaful) has been on the market for almost 45 years around the world. The first company to start Islamic insurance was in Sudan in 1979. Additionally, Muslim countries have established insurance companies in both Muslim and non-Muslim regions. However, Takaful insurance still lacks sufficient global coverage, with various factors impeding its ability to gain worldwide recognition. Despite the setbacks and misconceptions, particularly in the case of life insurance, some scholars argue that it violates Sharia. However, its rapid development can be attributed to people's understanding of the challenges and hardships of conventional insurance,

⁴⁸ Mohammad Masum Billah, Ezzedine Ghlam Allah, and Christos Alexakis. "Understanding the Pillars of Takaful." Encyclopedia of Islamic Insurance, Takaful and Re-takaful <https://doi.org/10.4337/9781788115834.00011>:1–51 (2019), 40.

⁴⁹ Amir Sohail Ahmed "Marine Insurance Act, 2018 & Takaful: A Comparative Study." LLMITL Thesis International Islamic University Islamabad (2019), 40-42.

as well as the growing influence of the Muslim Ummah, with an estimated 1.8 billion Muslims living worldwide.

Malaysia and other Middle East countries like Saudi Arabia, Qatar, Bahrain, Oman, Kuwait, and the UAE dominate the Takaful market. Most companies are located in these countries, while other Muslim countries like Pakistan, Indonesia, Nigeria, and some other parts of North Africa are developing the Islamic insurance sector over time.

Many Muslims reside in the USA, UK, and Europe, leading to a rapid increase in the market penetration of Takaful Insurance in those countries. If we continue to raise awareness, not only Muslims in Europe, the UK, and the USA but also non-Muslims will be eager to adopt the Takaful instead of conventional insurance.⁵⁰

The estimated total assets of Takaful in 2017 were 46 billion, with 324 Takaful operators. 112 were general Takaful operators and 76 were life Takaful operators. There are also 113 Takaful and 21 Re-takaful operators.⁵¹

General Takaful includes Property, Engineering, Motorway accidents, and Marine insurance. This has an estimated market share of around 83%, a range of USD 12.3b, and a growth rate of 17%. Family Takaful includes Education, Marriage, *Haji* and *Umrah*, and Savings plans. This estimated market share is around 17%, with a range of USD 2.6 billion and a growth rate of 1%.⁵²

Based on Shariah values, including mutual collaboration (ta'awun) and risk-sharing, Malaysia's Takaful business is a top Islamic insurance sector. Bank Negara Malaysia (BNM) regulates it under the Takaful Act 1984 and the IFSA 2013. Key participants include Etiqa Takaful and Syarikat Takaful Malaysia, which provide family (life) and general Takaful services using the Wakalah (fee-based) and Mudarabah (profit-sharing) models. While digital innovation (TakafulTech) and robust regulatory frameworks help the sector, it struggles with market

⁵⁰ "Takaful: Growth Opportunities in a Dynamic Market." n.d.
https://www.pwc.com/bm/en/services/assets/takaful_growth_opportunities.pdf (2008).

⁵¹ Yusuf Dinç, Ruslan Adam, Mustafa Omar Mohammed, Umar A. Oseni, Mohamed Cherif Al Amri, Buerhan Saiti, Rusni Hassan, Abdelkader Chachi, and Rashed Jahangir. "Improving the Takaful Sector in Islamic Countries," COMCEC COORDINATION OFFICE <https://www.sbb.gov.tr/wp-> (October, 2019).

⁵² Mohammad Masum Billah, Ezzedine Ghلام Allah, and Christos Alexakis. "Understanding the Pillars of Takaful." Encyclopedia of Islamic Insurance, Takaful and Re-takaful <https://doi.org/10.4337/9781788115834.00011>:1–51 (2019), 36.

penetration. Driven by moral need and government backing, Malaysia wants to be a worldwide Islamic financial center.⁵³

2.6. Shariah Compliance of Takaful Insurance

Islamic insurance differs from conventional insurance because it complies with the Shariah's teachings and principles. This new modern Islamic insurance has undergone various phases of development and has been the subject of several arguments among Muslim scholars in the past. Later, after extensive discussions about the necessity and clarity of Takaful insurance, Shariah determined that Takaful insurance that adheres to the Islamic teachings of the Quran and Sunnah is permissible.

To be considered halal, Takaful insurance must comply with the following fundamental principles:

- a- **Riba (Interest):** Islamic teaching strictly prohibits *Riba*, as Takaful is free of interest. Any individual or entity that attempts to exploit interest to obtain a benefit violates Islamic principles and declares war against Allah (*SWT*). For this reason, Takaful is entirely interest-free, and any Takaful company that charges interest would not qualify as Takaful Islamic insurance. This is the reason why Islamic insurance emerged after conventional insurance. Finally, interest is an immoral act and a legal method of earning money by deceiving the public through insurance recompense to compensate for loss. However, it is in direct opposition to the morality and principles of Takaful insurance.⁵⁴
- b- **Uncertainty (*Gharar*):** Uncertainty is also a violation of Shariah principles. Therefore, Takaful eliminates uncertainty by conducting all transactions transparently based on pre-agreed ratios. The takaful operators and participants engage in a thorough discussion before finalizing the insurance contract to ensure there are no future ambiguities. Furthermore, this is why takaful differs from conventional insurance, which is defined by the presence of future uncertainty. Therefore, Takaful insurance is entirely against

⁵³Bank Negara Malaysia (BNM) – Islamic Financial Services Act (IFSA) 2013
https://www.bnm.gov.my/documents/act/en_ifsa.

⁵⁴Ilhamiddin Ikramovich Nazarov, and Naeem Suleman Dhiraj. "A Conceptual Understanding and Significance of Takaful (Islamic Insurance): History, Concept, Models and Products." *International Journal of Innovation Education and Research* 7 (4): 280–98. <https://doi.org/10.31686/ijer.vol7.iss4.1408>. (2019), 286.

uncertainty, as any form of uncertainty would render the insurance contract null and invalid due to violation of the principles of Shariah.⁵⁵

c- Speculation (*Maisir*): Takaful provides the participant with impartiality and protection against any form of wagering. It also ensures transparency, which is in complete agreement with Shariah's teachings and principles.⁵⁶

d- Sincerity: Takaful is done with intention of utmost sincerity and closeness to Almighty Allah (*SWT*). The intention is to aid the needy, while also promoting unity among Muslims. It also aims to attract non-Muslims to adopt Takaful. Furthermore, the parties involved in Takaful must have a genuine intention to assist and support one another during times of need, rather than to gain any financial matters.

e- Moral Attributes: Morality is founded on the principles of fairness and pure intention. It is not permissible to deceive people into believing Islamic insurance while simultaneously collecting funds for financial gain. If this is the case, we cannot accept the insurance and treat it as prohibited, just like conventional insurance.⁵⁷

f- Justice

Fairness and justice must be the foundation of insurance contract transactions among the participants.

g- Amanah

The insurance company's transparency and accountability are shown by the financial period presented in each statement, which is indicative of the principle of trust in insurance company organizations. It is crucial to take into account the trust that the company has garnered from its participants and the premium trust that the insurance contract's provisions uphold.

h- Willingness

⁵⁵ Ibid, 287.

⁵⁶ Ibid, 288.

⁵⁷ Mohammad Masum Billah. 1998. "Islamic Insurance: Its Origins and Development." Arab Law Quarterly 13 (4): 386–422. <https://doi.org/10.1163/026805598125826201> (1998), 396-397.

Another principle that distinguishes Islamic insurance from conventional insurance is willingness. Each Takaful company member must demonstrate their willingness to contribute to social funds and to encourage one another by forgoing a portion of their premiums. The primary objective is to assist in the event of a disaster.⁵⁸

2.7. Takaful products

There are a variety of takaful products available worldwide, and each takaful operator adheres to the needs and capabilities of their companies. Here are a few types of Takaful products that are available globally:

2.7.1. General Takaful:

In general, Takaful primarily relies on the Tabarru and Ta'awun among participants, enabling them to assist each other during times of need. The general Takaful category includes several varieties of products.

- 1- Motor Takaful: This category is designed to assist or mitigate the risks incurred by participants due to theft, vehicle accidents, or bodily injury or loss.
- 2- Fire Takaful: Regardless of whether fire affects a building, land, furniture, plant, or any other related property, this form of insurance aims to compensate for the loss. Therefore, it encompasses both explosion and lightning-caused fire damage. Additionally, Fire Takaful does not include natural disasters such as earthquakes or tsunamis.
- 3- Engineering Takaful: The purpose of this insurance is to support the contractor in the event of a loss that causes damage to land or other construction.
- 4- Marine Takaful, also referred to as marine insurance, serves to protect ships, vessels, yachts, and other seawater-traveling vessels from potential losses resulting from severe weather conditions or other marine-related incidents.⁵⁹

2.7.2. Family Takaful

⁵⁸Helmy Syamsuri, Rahmawati Muin, and Muhammad Wahyuddin Abdullah. "Implementation of Sharia Insurance in Providing Sustainable Financial Protection." *Technium Sustainability* 6 (June): 25–37. <https://doi.org/10.47577/sustainability.v6i.11150> (June 6, 2024), 32.

⁵⁹ Mohammad Masum Billah, Ezzedine Ghlam Allah, and Christos Alexakis. "Understanding the Pillars of Takaful." *Encyclopedia of Islamic Insurance, Takaful and Re-takaful* <https://doi.org/10.4337/9781788115834.00011>:1–51 (2019), 36.

Another type of Takaful insurance that is popular worldwide is family takaful. This insurance protects the participant in the event of a family member's death or disability. Therefore, the family member agrees to participate in the funding pool before either *modaraba* or *wakala* occurs. This agreement protects against death or disability in the future. Furthermore, it can assist Takaful participants' family members in obtaining future health, education, and land mortgages.⁶⁰

2.8. Risk sharing and cooperation of Takaful

The risk of loss of life, property, land, and other items is an inherent aspect of existence. Consequently, risk influences our lives. Takaful Insurance serves as an alternative approach to dispersing and managing risks. The Islamic insurance risk relies on the principles of *Ta'awun* and cooperation, thereby eliminating all potential sources of legal uncertainty, including *Riba*. Conversely, conventional insurance is predicated on the pursuit of profit, with the sole objective being to gain a benefit. Takaful Insurance fosters cooperation among society members to share the risk of losses through any possible means. Furthermore, Takaful participants and Takaful administrators have already reached an agreement regarding risk allocation. The Takaful Insurance parties may return or invest any surplus after the claim, as previously agreed upon. Finally, Takaful insurance is a form of voluntary assurance that is more charitable and inclusive, allowing individuals to share losses to foster a sense of community and protect against loss. Consequently, Takaful insurance prohibits any potential benefit and shares risks among the parties, unlike conventional insurance, which bases risk on one party.⁶¹

2.9. A comparison between Conventional Insurance and Takaful

Takaful insurance is different from conventional insurance in every aspect, including its conceptual framework. The following points highlight the key differences between conventional and Islamic insurance:

2.9.1. Concept

⁶⁰ Ibid.

⁶¹ Nawal Kasim, Sheila Nuhtay, and Syed Ahmed Salman. "Risk-Sharing and Shared Prosperity through Takaful." Middle East Journal of Scientific Research 23 (11). <https://doi.org/10.5829/idosi.mejsr.2015.23.11.22799>. (2015).

Takaful insurance is based on *Tabarru* and *Ta'awun* when needed, whereas conventional insurance is based on a contract of sale and exchange between the insurer and the insured.⁶²

2.9.2. Interims of obligation

Takaful participants are required to pay the agreed-upon fund, and they will receive any surplus in the remaining portion. Conventional insurance, in contrast, requires the participant to make payments to the insurance company before the occurrence of a claim. However, if there is a surplus, the participant will not receive it.⁶³

2.9.3. Surplus returns

Takaful insurance operators are required to return any surplus to the participant, either in *Mudarabah* or *Wakala*, by the pre-agreed model. Only the commission fees are received by the operators. In contrast, conventional insurance is based on commercial profit generation without a claim.⁶⁴

2.9.4. Indemnification Component

Conventional insurance is based on a commercial relationship between the insurer and the insured, whereas Islamic insurance is based on risk sharing and cooperation.⁶⁵

2.9.5. Principles

Takaful is based on Shariah's teachings, which prohibits any element that contradicts Islamic principles, such as interest, uncertainty, gambling, or any other method that causes doubt and is prohibited by Islamic principles. There are no ethical considerations or restrictions when

⁶² Ilhamiddin Ikramovich Nazarov, and Naeem Suleman Dhiraj. "A Conceptual Understanding and Significance of Takaful (Islamic Insurance): History, Concept, Models and Products." *International Journal of Innovation Education and Research* 7 (4): 280–98. <https://doi.org/10.31686/ijer.vol7.iss4.1408> (2019), 294.

⁶³ Ibid, 294.

⁶⁴ Ibid, 295.

⁶⁵ Hafiza Tahira, and Zeeshan Arshad. "Comparative Performance of Islamic and Conventional Insurance Companies in Pakistan." *IOSR Journal of Business and Management* 16 (6): 33–45. <https://doi.org/10.9790/487x-16623345> (2014), 35.

formulating conventional insurance. Conventional insurance lacks any ethical constraints or considerations.⁶⁶

2.9.6. Ownership

In Islamic insurance, the members are the owners of the funds, and the primary responsibility of the Takaful operator is to administer the fund and collect fees for the services they provide. On the other hand, conventional insurance entails the purchase or sale of risks, and the company is different from its members.⁶⁷

2.9.7. Forfeiture

Under conventional insurance, the insurer has the right to forfeit the policyholders' premiums in certain circumstances, such as non-disclosure of material facts. On the other hand, under no circumstances can the Islamic Insurance Company forfeit any participant contribution funds. Takaful does not have the right to forfeit in any situation or circumstance, as it provides services and manages the fund pool contributed by the participants.⁶⁸

2.9.8. Investment

Conventional insurance companies invest in non-compliant Shariah activities after collecting money from their members. Their primary goal is to generate profit, and they have the freedom to engage in any type of investment, regardless of any business restrictions. However, in Islamic insurance, the Takaful company is required to guarantee that the investments are Halal and that they are by the acceptance of Shariah business activities.⁶⁹

2.9.9. Coverage against loss

⁶⁶Mher Mushtaq Hussain, and Ahmad Tisman Pasha. "CONCEPTUAL and OPERATIONAL DIFFERENCES between GENERAL TAKAFUL and CONVENTIONAL INSURANCE." Australian Journal of Business and Management Research 01 (08): 23–28. <https://doi.org/10.52283/nswrca.ajbmr.20110108a03> (2012), 25.

⁶⁷ Amir Sohail Ahmed. "Marine Insurance Act, 2018 & Takaful: A Comparative Study." LLMITL Thesis International Islamic University Islamabad (2019), 33.

⁶⁸ Ibid, 35.

⁶⁹ "A Complete Guide about the Difference between Takaful and Conventional Insurance." Cometinsure. <https://cometinsure.com/blog/a-complete-guide-about-the-difference-between-takaful-and-conventional-insurance/> (November 11, 2020).

The foundation of Islamic insurance (Takaful) is the theory of loss, protecting against loss instead of risk. Takaful fund members receive compensation in the event of an actual loss. Conventional insurance does not offer coverage against loss; however, it does offer protection against risk.⁷⁰

2.9.10. Governance

The Islamic insurance industry is subject to separate rules and regulations. Islamic principles, sourced from the *Quran*, *Sunnah*, *Ijma*, and *Qiyas*, form the basis of the rules and regulations. Conversely, human desires and thoughts shape the principles of conventional insurance, which are man-made laws. Furthermore, Western philosophy and theories of secularism and materialism inform these rules and regulations.⁷¹

2.10. Challenges and Opportunities of Takaful

The main problems identified in the contemporary Takaful sector relate to operations, rules, and a lack of knowledge about Takaful. Similarly, a lack of awareness has hindered the growth of legal and Shari'ah concerns, as well as market competitiveness. Most of the problems covered here are aimed at provoking concerns that should interest all legislators and inspire more growth of the Takaful sector. The problems stem from current research with an eye toward identifying areas where legislators should focus their efforts to enhance the Takaful sector.

2.10.1. The concept of Takaful is not well-understood

There is a lack of understanding regarding Takaful's fundamental concept; some individuals believe that Takaful is a method of obtaining money or investing, but the reality is quite different. The primary obstacles that hinder the development of Takaful are the misconceptions surrounding it, and raising awareness is necessary to overcome these obstacles.⁷²

2.10.2. Lack of Education

⁷⁰ Toyeeb Yusuf. "TAKAFUL and CONVENTIONAL INSURANCE: A COMPARATIVE DISCOURSE." LinkedIn.com. <https://www.linkedin.com/pulse/takaful-conventional-insurance-comparative-discourse-toyeeb/> (April 5, 2020).

⁷¹ Amir Sohail Ahmed. "Marine Insurance Act, 2018 & Takaful: A Comparative Study." LLMITL Thesis International Islamic University Islamabad (2019), 31.

⁷² Maryam Saeed. "Challenges of Islamic Insurance (Takaful) Globally." COMSATS Journal of Islamic Finance 4 (1): 62–87. <https://doi.org/10.26652/cjif.4201915> (2019), 74.

One can categorize this level of education as either academic or organizational. Nevertheless, it is necessary to enhance the education sector to facilitate the teaching of Takaful. This will enable individuals to gain a more comprehensive understanding of Islamic insurance.⁷³

2.10.3. A Lesser Number of Takaful Models

The lack of a diverse selection of Takaful models also diminishes Islamic Insurance's interest. Therefore, it is crucial to develop new, modified Takaful models to draw in-market subscribers.⁷⁴

2.10.4. Absence of Standardization

Standard Takaful models, such as those suggested by the Accounting and Auditing Organization for Islamic Financial Institutions (AAOIFI) and the Islamic Financial Services Board (IFSB), are still not very efficient, even though they are becoming more popular and acceptable. Numerous factors, including the complexity of Shariah compliance, limited technological integration, higher administrative costs, and challenges in risk pooling and management, contribute to this inefficiency.⁷⁵

2.10.5. Cultural Differences

One of the challenges that Takaful has yet to address in Muslim countries is the cultural diversity in the regions. Particularly in East Africa, such as Somalia and other countries, there is a social interdependence that has impeded the development of the insurance industry. Additionally, there is a cultural conflict in numerous countries that continue to permit the development of Islamic insurance.⁷⁶

2.10.6. Participant's Substantial Income

One of the key challenges in Islamic insurance (Takaful) is ensuring accessibility for all members of society, particularly those with limited financial means. When a participant's income falls below the required threshold, making it difficult or impossible to pay the necessary premium contributions, this creates a barrier to obtaining essential Takaful coverage. This issue

⁷³ Dr. Khalid Al-Amri. "Introduction to Takaful Insurance: Opportunities and Challenges." Gulf Actuarial Society Sultan Qaboos University <https://www.actuaries.org.uk/system/files/field/document/23112015%20-%20GAS%20Introduction%20toTakaful%20Insurance.pdf>. (November 23, 2015).

⁷⁴ Dr. Abdalelah S. Saaty, and Dr. Zaid Ahmad Ansari. 2008. "TAKAFUL – an ISLAMIC WAY of INSURANCE - DEVELOPMENTS, GROWTH, CHALLENGES and ISSUES." https://www.kau.edu.sa/Show_Res.aspx?Site_ID=0007001&Lng=EN&RN=31263 (December 23, 2008).

⁷⁵ Shariq Sikander, and FSA, CERA. "Takaful: An Alternative Approach to Insurance." General Insurance Research Committee. <https://www.soa.org/495f33/globalassets/assets/files/resources/research-report/2024/takaful-alternative-approach.pdf> (April, 2024), 61.

⁷⁶ Ibid.

is especially significant because Takaful is rooted in principles of mutual assistance (Ta'awun) and social solidarity, meaning that solutions should align with Islamic finance ethics while ensuring no one is left unprotected due to financial constraints.⁷⁷

2.10.7. Takaful Companies' Small Size

Takaful Insurance faces fewer significant companies, which further complicates the risk-taking process and the collection of substantial amounts of funds among participants.⁷⁸

2.10.8. Fewer Number of Re-takaful Companies

Re-takaful companies are involved in the development of takaful. In the event of a grievous loss, these companies must compensate the Takaful operators and provide funding. This will ensure Takaful Insurance's stability and reliability with the public.⁷⁹

2.10.9. Limited Investment Permits

The capacity of Takaful companies worldwide has been restricted by the challenge of limited avenue investment, as the majority of suspected investments are related to market interest. Takaful operators must resolve the dilemma of combining short-term profitability with long-term sustainability. Additionally, the ethical considerations of Shariah compliance investments have presented challenges due to the increased pressure to mitigate the loss of investment concentration, such as equity, real estate, and other assets.⁸⁰

2.11. The Benefits of Islamic Insurance (Takaful)

Participants can benefit from Islamic insurance once they implement the principles and actual meaning of insurance. The following are a few of the benefits of Islamic insurance:

⁷⁷ Maryam Saeed. "Challenges of Islamic Insurance (Takaful) Globally." COMSATS Journal of Islamic Finance 4 (1): 62–87. <https://doi.org/10.26652/cjif.4201915> (2019), 75.

⁷⁸ Ibid, 75.

⁷⁹ "Improving the Takaful Sector in Islamic Countries." COMCEC COORDINATION OFFICE https://www.sbb.gov.tr/wp-content/uploads/2019/10/Improving-the-Takaful-Sector-In-Islamic-Countries_2019_October.pdf (October, 2019) 56.

⁸⁰ Shariq Sikander, and FSA, CERA. "Takaful: An Alternative Approach to Insurance." General Insurance Research Committee. <https://www.soa.org/495f33/globalassets/assets/files/resources/research-report/2024/takaful-alternative-approach.pdf> (April, 2024), 61.

1. Financial protection: insurance participants may receive financial benefits in the event of illness, mortality, or other calamities. Participants can ensure compensation for themselves and their families in future disasters by paying premiums.
2. Peace of mind: The participants can experience a sense of security and tranquility in the event of misfortune, as they will receive compensation, thereby reducing their tension and anxiety.
3. Emergency Fund organizations: Insurance can function as an emergency fund in the event of a disaster or unexpected occurrence, assisting in the organization of resources to assist members during difficult times. In the event of severe illness or accidents, it may be beneficial for medical expenses.
4. Business Risk Association: The insurance policy can also protect against financial risks that may confront business operations, including but not limited to fire and theft.⁸¹

2.12. Takaful Policy Expiration

The following are situations in which an insurance policy has expired:

- i. The insurance policy would end at the conclusion of the specified time span.
- ii. The insurance contract ends when the Takaful operator or participant does. This would occur if each party had the right to terminate its insurance policy.
- iii. If the participant does not have any nullifying entitlement to compensation and the insured property sustains complete damage,
- iv. The insurance policy would also expire upon the demise of the insured person.⁸²

2.13.Future Prospectus of Takaful

Despite its steady development, there is a promising future ahead. Non-Muslim comprehension is on the rise, and one of the most significant differences is that conventional insurance is based on commercial principles, whereas Islamic insurance is based on mutual and risk-sharing

⁸¹ “Takaful Market Size, Trends and Global Forecast to 2032”
<https://www.thebusinessresearchcompany.com/report/takaful-global-market-report> (Last date Accessed on November 20, 2024).

⁸² Amir Sohail Ahmed. “Marine Insurance Act, 2018 & Takaful: A Comparative Study.” LLMITL Thesis International Islamic University Islamabad (2019), 43.

principles. These distinctions will continue to accelerate Takaful's development in the years ahead.

Furthermore, the market's size, share growth, opportunity, and forecast indicate that the Takaful Global Market will grow significantly between 2023 and 2032. Takaful in 2023 was 33.6 billion USD. Additionally, the IMRC group anticipated that the Takaful notable amount would double in 2032, reaching 74 billion USD, indicating an annual growth rate of 8.9%. The Takaful market will experience growth between 2024 and 2032 due to the following factors: the expanding Muslim population, the economic growth of Muslim nations, the advancement of knowledge in Islamic finance, the growth of customers, and technological advancements.

The Islamic Financial Service Board report in 2023 shows that the general Takaful sector has experienced the most significant coverage, with an approximate coverage of 86.6%, while family Takaful registered a 17.4% share. The study also indicates that the GCC, MESA, SEA, and Africa are the regions that contributed the most in 2022, with a rate of 16.6%, 5.9%, 6.8%, and 0.8%, respectively. In general, analysis indicates that Takaful will experience significant growth and have a promising future.⁸³

The expansion of Takaful is coincident with a significant rise in the number of Muslim populations worldwide. Muslims adhere to and follow the teachings of the Prophet Muhammad (SAW). According to the 2023 Muslim Population by Country report from World Population Review, Islam is the second most populous religion, with over two billion followers, after Christianity. It implies that Islam will surpass Christianity by 2050.

This considerable increase and expansion of the Muslim population would have a substantial impact on the future growth of the Takaful market.⁸⁴

2.14. Conclusion

Islamic Insurance (Takaful) promotes collaboration and responsibility. Takaful originated from the Arabic word *Kafalah*, which means guarantee. Participants pool cash and provide claimants

⁸³Yusuf Dinc, and S M Rashed JAHANGİR. "Differences in Perspectives between Islamic and Conventional Insurance: An Argumentative Analysis Based on Risk-Sharing and Risk-Transfer Concept." ADAM AKADEMI Sosyal Bilimler Dergisi 10.31679/adamakademi.1015089 <https://doi.org/10.31679/adamakademi.1015089> (March, 2023), 53.

⁸⁴Helmy Syamsuri, Rahmawati Muin, and Muhammad Wahyuddin Abdullah. 2024. "Implementation of Sharia Insurance in Providing Sustainable Financial Protection." Technium Sustainability 6 (June): 25–37. <https://doi.org/10.47577/sustainability.v6i.11150>. (2024).

in the case of loss. According to Muslim scholars, *Al-Aqilah*, which assists tribes, initiated Islamic insurance.

Medina's constitution mandated Muhammad (*SAW*) to provide mutual support and pay *Diya* during times of tribal violence. It also included Muslims, Jews, and other tribes. After the Prophet, the Companions, especially Sayid Omer, allowed tribes to help each other. Takaful Insurance offers general and family products. Islamic Insurance (Takaful) prohibits Shariah violations.

Takaful differs from conventional insurance in interest, gambling, uncertainty, and purpose. Islamic insurance helps each other without these concerns, while traditional insurance is commercial and interest-based. Lack of understanding and awareness of Takaful is the largest obstacle to its global expansion; however, Islamic Insurance will grow globally.

Chapter 3

Legal Framework for the Regulation of Islamic Insurance (Takaful) in Pakistan

3.1. Introduction of Takaful in Pakistan

Pakistan has been promoting the establishment of Islamic finance since the beginning of the financial revolution. Pakistan is the only Islamic nation that emerged in the name of Islam after India's partition. The Pakistani Constitution mandates the elimination of *riba*, and this initiative

began in the 1980s with the removal of *riba* from the country. However, several obstacles, including the lack of adequately trained human resources knowledgeable about Islamic finance, severely hampered the revolution to eliminate *riba*. Pakistan changed its policy of Islamizing finance in 2000 by establishing a parallel conventional finance industry that was already in existence. Following this, the country welcomed the addition of Islamic finance sectors, which included 22 banks (17 of which were conventional banks with Islamic branches), 5 Takaful Insurance Companies, and 80 Islamic mutual funds operating in Pakistan.⁸⁵

3.2.The Historical Evolution of Takaful

Pakistan is defined by the Insurance Ordinance 2000 as "a scheme based on mutual assistance that complies with the provisions of Islamic Shariah which provides mutual financial aid and assistance to the participants in case of occurrence in certain contingencies whereby participants mutually agree to contribute common fund for that purpose."⁸⁶

Both conventional and Takaful insurance are available in Pakistan, with the introduction of conventional insurance taking precedence over Takaful insurance.

Pakistan has 77 foreign insurance companies since its independence in 1947, while there are only seven local insurers. Pakistan established the first governmental insurance corporation (PIC) in 1952 to enhance the insurance industry. The number of local insurance companies has increased to 60 over time, while the number of foreign insurance companies has decreased to only seven.⁸⁷

The era of economic liberation in Pakistan commenced in 1990, with the promotion of international and domestic insurers. The Insurance Ordinance Act, which became the first insurance act in the country in 2000, mandated that companies maintain a paid-up capital of between 100 and 150 million Rs for life insurance companies and between 50 and 80 million Rs for non-life insurance companies. This was the state of affairs before the introduction of Takaful into the insurance market. In 2003, Pakistan introduced Takaful under the governing authority of

⁸⁵ Muhammad Hanif, and Abdullah M. Iqbal. "An Evaluation of Takaful Insurance: Case of Pakistan." Journal of Islamic Economics Banking and Finance 13 (1): 121–46. <https://doi.org/10.12816/0051159> (January 1, 2017), 122.

⁸⁶ "Insurance Ordinance, 2000, Section(2)(Lxiv)." <https://jamapunji.pk/sites/default/files/InsuranceOrdAmended-Nov2011.pdf> (Amended November, 2011).

⁸⁷ Muhammad Akmal. "A Comparative Analysis of Customer Satisfaction and Economic Efficiency Conventional versus Islamic Insurance Industry in Pakistan." SSRN Electronic Journal, <https://doi.org/10.2139/ssrn.3773716>. (January 26, 2013), 16.

SECP. The Takaful Rules 2012 repealed the rules enacted in 2005. Pak Kuwait Takaful Limited established itself as the first company in Pakistan following the inception of Takaful.⁸⁸

Subsequently, four additional Takaful companies were established: Pakistan Takaful Ltd, Dawood Family Takaful Ltd, Salam Takaful Ltd, and Pak Qatar Takaful Limited. Of these five takaful companies, three provide general takaful services, while two specialize in family takaful, namely Dawood and Pak Qatar Family Takaful.⁸⁹

There were five Takaful corporations in 2015, and their estimated asset value was 16 billion rupees by the end of December. The premium collected during that year was 9 billion rupees, and the claims or approved amount was 3 billion Rupees by the year's end. Overall, the data showed that Takaful accounts for 2% of the Pakistani insurance sector. Takaful has experienced a significant increase in asset value and potential for growth in Pakistan from 2009 to 2015. In 2009, the asset value increased by 9%, while in 2012 and 2013, it increased by 50% and 45%, respectively. In contrast to conventional insurance, which outsourced 79% of its risks during that period, Takaful companies only outsourced 28% of theirs. This indicates that conventional insurance companies are more susceptible to risk.⁹⁰

There are 31 active operators in the Takaful Market in Pakistan as of June 2022, with 3 of them being Takaful operators and 28 windows of Takaful operators. The combined asset size of both operators and windows is Rs 88.731 billion.⁹¹

In conclusion, Takaful Insurance has a promising future, despite its infancy phases. Conventional insurances have a larger market share than Takaful insurance due to the latter's establishment and weak profitability.⁹²

3.3. Takaful Models in Pakistan

The Takaful rules of 2005, as outlined by the SECP, dictate that Pakistan follows either the *Wakala* or *modaraba* model, or both. Subsequently, it was designated as the *Wakala-Waqf* model

⁸⁸ Ibid, 17.

⁸⁹ Security Exchange Commission of Pakistan. "Takaful Guide." <https://jamapunji.pk/sites/default/files/TakafulGuide.pdf> (Last date Accessed on November 20, 2024).

⁹⁰ Muhammad Hanif, and Abdullah M. Iqbal. "An Evaluation of Takaful Insurance: Case of Pakistan." *Journal of Islamic Economics Banking and Finance* 13 (1): 121–46. <https://doi.org/10.12816/0051159>. (January 1, 2017), 129.

⁹¹ Security Exchange, Commission of Pakistan, Annual Report 2023 (December 6, 2023).

⁹² Muhammad Hanif, and Abdullah M. Iqbal. "An Evaluation of Takaful Insurance: Case of Pakistan." *Journal of Islamic Economics Banking and Finance* 13 (1): 121–46. <https://doi.org/10.12816/0051159>. (January 1, 2017), 135.

in Pakistan. The person in charge establishes the Waqf fund in this *Wakala-Waqf* model, and the fund's value is deemed a donation (*Tabarru*).⁹³

The Takaful operator and the Fund participants are in a relationship. The operator serves as the legal representative and is responsible for managing the funds that were paid by the participant. Additionally, the Takaful operator receives a commission fee as an agent. The participant is only required to pay the Waqf fund without any conditions, as the Waqf is a complete donation. The primary benefit of this model is that it resolves the issue of *Gharar*, which is the acceptance of the donation contract.⁹⁴

3.4. Regulatory Framework for Takaful in Pakistan

Pakistan follows English common law, which was a legal system in place before the partition of India. Pakistan subsequently implemented new developments to accommodate these changes. The Companies Act 1984 established the overall regulation of the insurance sector in Pakistan, which the Companies Act 2017 subsequently repealed. To provide Islamic or conventional insurance, a company must first register under the Companies Act 2017 and obtain a certificate of incorporation. The other regulators are the Insurance Ordinance 2000, amended in 2011, and the Takaful Rules 2005, repealed in 2012.⁹⁵

The emergence of new Takaful companies in the market has facilitated the expansion of Islamic insurance. The SECP is the regulatory body in charge of issuing and revoking licenses, and it also serves as the controlling authority for overseeing and supervising Islamic insurance. They authorized the operation of General Takaful Insurance and Family Takaful Insurance, respectively.⁹⁶

Takaful operators prioritize the Takaful Rules 2005 (2012) as their primary measure in the event of a dispute or disagreement. The registration process also requires the classification of either a general Takaful or a family Takaful company, and registration for both is mandatory.

⁹³ Security Exchange Commission of Pakistan. "Takaful Guide." <https://jamapunji.pk/sites/default/files/TakafulGuide.pdf> (Last date Accessed on November 20, 2024).

⁹⁴ Adnan Malik, and Muhammad Wahab. n.d. "Agency Problem in Wakala with Waqf (Principal -Agent) Model of Takaful." <http://ajss.abasyn.edu.pk/admineditor/specialissue/papers/CP%2001.pdf> (2018), 4.

⁹⁵ Muhammad Hanif, and Abdullah M. Iqbal. "An Evaluation of Takaful Insurance: Case of Pakistan." *Journal of Islamic Economics Banking and Finance* 13 (1): 121–46. <https://doi.org/10.12816/0051159> (January 1, 2017), 132.

⁹⁶ Security Exchange Commission of Pakistan. "Takaful Guide." <https://jamapunji.pk/sites/default/files/TakafulGuide.pdf> (Last date Accessed on November 20, 2024).

Furthermore, Takaful companies must establish a Shariah supervisory board to oversee product design and insurance following Islamic principles.⁹⁷

The Companies Act 2017 repealed the Companies Ordinance 1984, which required the company to register first. This is the first step in the Takaful Insurance business sector. The country allows foreign corporations to register and regulate, but they must have a minimum of 50% of their paid-up capital, which is \$4 million. The minimum capital required to commence operations for General Takaful Companies is PKR 300 million.⁹⁸

Following the registration under the Companies Act, the insurance sector will commence. All insurance, whether conventional or Islamic, must comply with Section 6 of the Insurance Ordinance 2000, which establishes various criteria for insurance requirements, including managerial skills and transparency. Furthermore, after registering the insurance ordinance, Takaful Companies must comply with the Takaful Rules of 2005 and 2012, as well as the following requirements:

- i. There must be separate Takaful life and Takaful general, any company must have one of two different Islamic Insurance but there is no combination of both.
- ii. A single company can work with both conventional Insurance and Islamic Insurance.
- iii. The operational model must be either *Wakala* or *Modaraba*, or a combination of the two, which is subsequently redefined as a hybrid model. Additionally, there is a *Wakala-Waqf* model, in which the agency and the participants contribute to the fund without any conditions
- iv. A Participant Takaful Fund (PTF) must be established to oversee the risk, contribution of participants and re-takaful revenues. Additionally, the PTFs are responsible for funding investments, managing claims, and managing surplus funds after they have been established. Additionally, if a *Qard Hassan* (interest-free loan) exists, it must be managed. Therefore, PTF is responsible for overseeing the entirety of this process to ensure that the fund contribution is properly utilized.

⁹⁷ Ibid.

⁹⁸ Ibid.

v. Surpluses should be calculated annually after the deduction of the claims the remaining must be given back to the participant according to their contribution.

vi. If there is no availability of re-takaful Shariah compliant then with the approval of the Shariah board re-takaful can be obtained from the conventional Insurance re-takaful companies.

vii. The establishment of a Shariah Board and Sharia-compliant Audit is mandatory for every Takaful Company.⁹⁹

The SECP has established all these regulations to govern Takaful Insurance. The legislation also mentions adhering to corporate governance and AAOIFI standards as a means of expanding the Takaful market in Pakistan. The consideration of AAOIFI is not completely out of the question.¹⁰⁰

Pakistani regulators have demonstrated an elevated degree of credibility in their efforts to enhance financial stability, transparency, and Islamic finance to advance its principles. Therefore, SECP has implemented a variety of measures to improve the functionality of the takaful industry in Pakistan. The Takaful Insurance division of SECP is responsible for its regulation. Additionally, it's crucial to guarantee that the Takaful adheres to the ethical guidelines of worldwide Islamic finance.¹⁰¹

3.4.1. Takaful Insurance in Pakistan is also regulated by other Regulatory Frameworks

1. Insurance companies must also take into account the AML-CFT-CPF 2020 regulations when conducting Takaful business in Pakistan.

2. AML/CFT Guidelines, January 2021.

3. The last update to the Insurance Rules 2017 was on December 31, 2023.

4. Insurers' Code of Corporate Governance, 2016.

5. Unit-linked product and fund regulations were implemented in 2015.

⁹⁹ Muhammad Hanif, and Abdullah M. Iqbal. "An Evaluation of Takaful Insurance: Case of Pakistan." *Journal of Islamic Economics Banking and Finance* 13 (1): 121–46. <https://doi.org/10.12816/0051159> (January 1, 2017), 132.

¹⁰⁰ Ibid, 133.

¹⁰¹ Shariq Sikander, and FSA, CERA. "Takaful: An Alternative Approach to Insurance." General Insurance Research Committee. <https://www.soa.org/495f33/globalassets/assets/files/resources/research-report/2024/takaful-alternative-approach.pdf> (April 2024), 18.

6. Corporate Agent Rules Regulations 2020.
7. Shariah Governance Regulations 2023.
8. Insurance Ordinance 2000.
9. SECP Act 1997.
10. Directive for Life Insurance and Family Takaful Illustrations, 2016.¹⁰²

In summary, a variety of rules, regulations, and acts govern the Takaful business in Pakistan. Some of these regulations are directly involved, such as the Takaful Rules 2012 and the Company Act 2017, while others are linked and must be complied with to ensure the smooth operation of the Takaful business.

The Leading Judgment on Riba, Supreme Court of Pakistan (1999)

Dr. Mahmood-ur-Rahman Faisal v. Federation of Pakistan (PLD 1999 SC 879).

The primary points that the Supreme Court adjudicated under this judgment were as follows:

The Supreme Court ruled that, under Islamic Sharia, all types of interest, known as Riba, are forbidden.

The Court ordered the government to replace interest-based banking and financial systems with an Islamic economic system.

The ruling obligated the government to change legislation to fit Islamic values.

The Federal Shariat Court (FSC) was therefore granted authority to guarantee the Islamization of the banking sector.¹⁰³

3.5. Shariah Compliance of Islamic Insurance (Takaful) in Pakistan

To qualify as Islamic insurance, Takaful must comply with Shariah principles as follows:

¹⁰² “Takaful Regulatory Framework - DFTL. <https://dawoodtakaful.com/RegulatoryFramework.aspx> (Last date Accessed on November 20, 2024).

¹⁰³ PLD 1999 Supreme Court (879).

- I. *Riba*(Interest): Islamic insurance must be free of interest, as interest is entirely prohibited in Islam. Takaful transactions that are based on or include interest violate the principles of Islamic insurance. This is why Takaful differs from conventional insurance.
- II. *Gharar* (uncertainty): The principles of Islamic insurance prohibit any form of uncertainty in takaful.
Furthermore, the agent and the participant must establish a pre-agreement regarding the management of the contribution following the participant's contribution.
- III. Gambling (*MAISIR*): Additionally, it is imperative to refrain from engaging in any form of gambling to adhere to Shariah.

In addition, Takaful Insurance involves the sharing of responsibility without any commercial benefit, and the participants are assisting one another with cooperation and support in the event of a risk.¹⁰⁴

The following requirements must be satisfied, according to Section 9 of the Takaful Rules 2012, to decide whether or not to register a Takaful business in Pakistan:

- i. The establishment of a Shariah supervisory board is necessary.
- ii. The board should adhere to the norms and regulations of Takaful and Shariah.¹⁰⁵

Numerous individuals in this section emphasize the importance of segregating PTF and PIF in the assets and liabilities. In general, these regulations mandate that Takaful companies interested in establishing a Takaful business must comply with the Shariah supervisory board and ensure they do not exclude the AAOIFI standard.¹⁰⁶

3.6 The Takaful Companies and Their Products in Pakistan

Recent years have seen a significant increase in the number of Islamic insurance products in Pakistan due to the introduction of new products to the market. Takaful companies are limited corporations that specialize in Islamic insurance products. The Security Exchange Commission of Pakistan has granted them a license to operate in the insurance sector. The Islamic insurance

¹⁰⁴ Institute of Islamic Banking and Insurance (IIBI). n.d. "Islamic Insurance (Takaful)." Institute of Islamic Banking and Insurance. <https://islamic-banking.com/islamic-insurance-takaful/> (Last accessed date on December 27, 2024).

¹⁰⁵ Security Exchange Commission of Pakistan, "Takaful Rules 2012, Section (9)" (Last date Accessed on December 29, 2024).

¹⁰⁶ Ibid.

sector includes two distinct divisions, General Takaful and Family Takaful, also known as life insurance and non-insurance, respectively.¹⁰⁷

In 2005, Pak-Kuwait became the first Islamic insurance company to incorporate in Pakistan. Since then, Pakistan has been hosted by four completely operational Takaful companies. General Takaful companies include:

- i- Pak-Kuwait Takaful Company Limited.
- ii- Pak-Qatar General Takaful Limited.
- iii- Pakistan Takaful Limited.

Family Takaful Companies:

- i- Pak-Qatar Family Takaful Limited.
- ii. Dawood Family Takaful Limited.¹⁰⁸

In the parts where Takaful Insurance is restricted worldwide, there is an alternative option known as Window Takaful Insurance. This option allows conventional insurance companies to offer window Takaful Insurance. The two types of insurance have distinct assets and liabilities, as well as separate functionality. Takaful has a dedicated division of conventional insurance, according to the International Financial Services Board (IFSB). Countries such as Pakistan and Indonesia frequently implement window Takaful. This is attributed to the higher prevalence of conventional insurance in these countries. Consequently, the population has access to sufficient information regarding Takaful, which leads to increased promotion. The SECP permitted Window Takaful operators under Takaful regulations in 2012. This is the case for almost all insurance companies in Pakistan.¹⁰⁹

The Security Exchange Commission of Pakistan has implemented effective measures to encourage the development of window Takaful by issuing minimal licenses with lower capital

¹⁰⁷ Security Exchange Commission of Pakistan. "Takaful Guide." <https://jamapunji.pk/sites/default/files/TakafulGuide.pdf> (Last date Accessed on November 20, 2024).

¹⁰⁸ Ibid.

¹⁰⁹ Shariq Sikander, and FSA, CERA. "Takaful: An Alternative Approach to Insurance." General Insurance Research Committee. <https://www.soa.org/495f33/globalassets/assets/files/resources/research-report/2024/takaful-alternative-approach.pdf> (April 2024), 62.

requirements. This has resulted in a significant increase in the popularity of window Takaful, as numerous conventional insurance companies now offer window Takaful products.¹¹⁰

With the advent of efficiency, Takaful Insurance has encountered a well-established insurance industry that has been present since the inception of Pakistan. Some individuals were previously unwilling to use conventional insurance policies but are now prepared to subscribe to Takaful due to Shariah compliance¹¹¹

According to the 2016 Pakistan Islamic Finance Report (PIFR), the majority of conventional insurance companies in Pakistan now offer a Takaful window.¹¹²

Life Takaful, Motor Takaful, Health Takaful, and General Takaful comprise Pakistan's Islamic insurance offerings.¹¹³

1. Pak-Qatar Takaful Company: Two categories of products are available to the Pak-Qatar Takaful company: General Takaful and Family Takaful. In addition to these Takaful products, they provide the following: Motor Takaful, Fire Takaful, Home Takaful, Machinery Takaful, Contractors Plant Takaful, Fidelity Guarantee Takaful (which covers any fraudulent act), Money Takaful, Hajj and Umrah Takaful, and Marines Takaful are all general Takaful. Pak-Qatar also offers family group Takaful, individual Takaful, and health Takaful options.¹¹⁴
2. Dawood Takaful Limited was established in 2007. Family group Takaful and individual Takaful are the products that Dawood Takaful offers. Individual Takaful encompasses products such as child education, marriage plans, financial savings plans, financial protection plans, and investment risk protection. Family Takaful products include group

¹¹⁰ Ibid.

¹¹¹ Ghazanfar Ahmad, and Khan Muhammad Zahid. "Impact of Current Takaful Models in Pakistan and Malaysia: A Comparative Study." International "Journal of Academic Research for Humanities" 2 (4): 12–26. <https://jar.bwo-researches.com/index.php/jarh/article/view/105> (31 December 2022), 19.

¹¹² Aziz, Shahab, Zahra Afaq, Lakhi Muhammad, and Basharat Khan. "The Role of Media, Word of Mouth, and Subjective Norms in Determining Attitude and Intentions to Purchase Family Takaful – Schemes." Journal of Islamic Business and Management (JIBM) 10 (01): 110–30. <https://doi.org/10.26501/jibm/2020.1001-008> (July, 2020).

¹¹³ Team Mawazna. "Islamic Insurance (Takaful) in Pakistan: An In-Depth Insight." <https://mawazna.com/blog/islamic-insurance-takaful-in-pakistan-an-in-depth-insight/> (August 27, 2023).

¹¹⁴ "Pak Qatar - Family Takaful." <https://pqftl.com.pk> (Last date Accessed on November 20, 2024).

credit protection, group personal accident, and group term Takaful, which assist in the event of the participant's mortality due to any cause.¹¹⁵

3. Salam Takaful Limited is another Takaful company that offers a diverse range of Takaful products, including medical, engineering, marine, agricultural, travel, and livestock insurance.¹¹⁶
4. Since window Takaful was allowed, many insurance companies have established separate window Takaful operations. The following are a few of them: State Life Insurance Corporation of Pakistan, Jubilee Insurance Company.¹¹⁷

3.7. Customer Perception and Awareness of Takaful in Pakistan

Customers in Pakistan perceive and understand Takaful in a different way. The number of Takaful Insurance coverage in Pakistan is steadily increasing as a result of the transformation of Shariah-compliant insurance, which is accessible to the majority of Muslim individuals. The market is characterized by intense rivalry between Takaful and conventional insurance companies in terms of consumer preferences. To mitigate risks and gain a competitive advantage in the market, Islamic insurance companies must enhance the advanced nature of their products and services.¹¹⁸

Survey Results: Knowledge About Takaful (N=250)

Question	Response	Frequency	Percentage (%)
Do you know about Takaful?	Yes	101	40.4
	No	149	59.6
Do you know that Takaful products comply with Shari'ah?	Yes	102	41

¹¹⁵ “Takaful Regulatory Framework. <https://dawoodtakaful.com/RegulatoryFramework.aspx> (Last date Accessed on November 20, 2024).

¹¹⁶ “Salaam General Takaful.” <https://www.salaamtakaful.com/> (Last date Accessed on November 20, 2024).

¹¹⁷ Ghazanfar Ahmad, and Khan Muhammad Zahid. “Impact of Current Takaful Models in Pakistan and Malaysia: A Comparative Study.” International “Journal of Academic Research for Humanities” 2 (4): 12–26. <https://jar.bwo-researches.com/index.php/jarh/article/view/105> (December 31, 2022), 19.

¹¹⁸ Areeba Khan, Hafiz Abdur Rashid, Rana Muhammad Shahid Yaqub, and Saba Abbas. “Determinants of Customer Perception about Adoption of Islamic Insurance (Takaful) in Pakistan.” Journal of Business and Social Review in Emerging Economies 6 (4): 1505–16. <https://doi.org/10.26710/jbsee.v6i4.1485> (December 31, 2020).

Question	Response	Frequency	Percentage (%)
	No	148	59
Do you know that Takaful practice is ethical?	Yes	93	37.2
	No	157	62.8
Do you know that Takaful is suitable for anyone regardless of religion?	Yes	75	30
	No	175	70
Do you know that Takaful is free from interest (Riba)?	Yes	114	45.7
	No	136	54.3
Do you know that Takaful is free from uncertainty (Gharar)?	Yes	70	28
	No	180	72
Do you know that Takaful is free from gambling (Maysir)?	Yes	95	38
	No	155	62
Do you know that Takaful is not involved in any prohibited business activities?	Yes	91	36.4
	No	159	63.6
Do you know that Takaful can provide coverage and benefits similar to conventional insurance?	Yes	77	30.8
	No	173	69.2
Do you know that Takaful policyholders mutually share the risk?	Yes	80	32
	No	170	68

This survey was conducted with 250 participants from across Pakistan to determine their perception of Takaful Insurance. The results indicated that 40.4% of the participants were familiar with the meaning of Takaful, while 59.6% were unaware of it.

Consequently, the majority of the participants were unaware of Takaful Insurance. Intriguingly, 37.2% of respondents are cognizant of the ethical implications of Takaful insurance, while the majority, 62.8%, are unaware of whether Takaful insurance involves ethical considerations.

Additionally, 45.7% of respondents are aware that Takaful is interest-free, while 54.3% are unaware that Takaful is entirely interest-free. Furthermore, 45.7% of respondents are aware that Takaful Insurance eliminates uncertainty, while the majority, 54.3%, are unaware of whether it does or does not. Additionally, while 61.3% are completely unaware of whether gambling is Takaful-prohibited, 38.7% are aware that it is. The survey results reveal a lack of familiarity and awareness regarding Takaful in Pakistani society. Therefore, it is imperative to enhance society's awareness.¹¹⁹

Additionally, other market surveys conducted indicated that the main barrier to the adoption of Takaful insurance is a lack of awareness.¹²⁰

Also, religion plays a significant role in the adoption of Takaful Insurance, and trust and customer satisfaction are also significant factors in the promotion of awareness and subscription to Takaful Insurance.¹²¹

3.8. The Challenges of Takaful in Pakistan

Low awareness and knowledge of Islamic insurance concepts among people in general causes poor market penetration, which the Takaful sector in Pakistan struggles with. For providers, regulatory obstacles and the absence of a common legal structure particular to Takaful cause operational uncertainty. Takaful operators face greater challenges in gaining market share due to competition from conventional insurance firms that have established networks and enjoy consumer confidence. A lack of qualified people in Islamic finance hinders efficient management and Shariah compliance; limited product variety and innovation help limit development even further. Here are details for those challenges:

¹¹⁹ Aziz ur Rehman, Rehana Sher Muhammad, Muhammad Aslam, Anam Iqbal, and Malik Shahzad Shabbir. n.d. "Consumer Awareness and Knowledge about Takaful (Islamic Insurance): A Survey of Pakistan." *Journal of Namibian Studies*. (Last date Accessed on August 10, 2023).

¹²⁰ Muhammad Hanif, and Abdullah M. Iqbal. "An Evaluation of Takaful Insurance: Case of Pakistan." *Journal of Islamic Economics Banking and Finance* 13 (1): 121–46. <https://doi.org/10.12816/0051159> (January 1, 2017), 133.

¹²¹ Areeba Khan, Hafiz Abdur Rashid, Rana Muhammad Shahid Yaqub, and Saba Abbas. 2020. "Determinants of Customer Perception about Adoption of Islamic Insurance (Takaful) in Pakistan." *Journal of Business and Social Review in Emerging Economies* 6 (4): 1505–16. <https://doi.org/10.26710/jbsee.v6i4.1485> (December 31, 2020).

3.8.1. There is Limited Knowledge and Awareness Regarding Takaful

Pakistan's society is still unfamiliar with the concept of Takaful Insurance, as it is a relatively recent development. Some individuals understand that Takaful is a form of investment, while others fail to understand the differences between conventional insurance and Takaful insurance. Therefore, the government and Takaful administrators must conduct educational campaigns directed at the general public to advance Takaful.¹²²

3.8.2. Inadequate Trust in Takaful Companies

In Pakistan, Individuals in Pakistan express concern about the current Takaful companies in the country and are hesitant to trust their ability to pay claims. Therefore, the Takaful operators must provide assurance and trust to society to meet concerns regarding risks and claims.¹²³

3.8.3. Insufficient or Inadequate Research is Conducted Regarding Takaful

The lack of research publications on Takaful Insurance in Pakistan has resulted in a decrease in understanding of the subject. This is because society requires a significant number of articles and books to gain a comprehensive understanding and familiarity with Islamic insurance. To increase the public's awareness of Takaful, there should be a significant investment and encouragement in Takaful publishing research.¹²⁴

3.8.4. Pakistan's Economic Conditions

Pakistan's economic crisis—marked by high inflation, unemployment, and shrinking incomes—has reduced demand for Takaful insurance as families prioritize basic needs. Rising costs make even Sharia-compliant coverage unaffordable for many. Low financial literacy and distrust in insurance further dampen interest. However, solutions like micro-Takaful, digital platforms, and government partnerships could help. By offering low-cost plans and raising awareness, Takaful providers can make Islamic insurance accessible despite economic hardships. Without

¹²² Mohammad Ali Khan. "Exploring Strategies for Overcoming the Challenges of Micro-Takaful Growth in Pakistan." Wwv.linkedin.com. <https://www.linkedin.com/pulse/exploring-strategies-overcoming-challenges-growth-pakistan-khan/> (Last date Accessed on November 22, 2024).

¹²³ Ibid.

¹²⁴ Ibid.

intervention, the sector may continue to struggle as affordability remains a key barrier for most Pakistanis.¹²⁵

3.8.5. Shortage of Muslim Scholars

possess knowledge of Shariah compliance with Islamic jurisprudence regarding Takaful in a limited amount. Additionally, there is a shortage of Shariah advisors and board scholars who possess a sufficient level of expertise in Islamic finance.¹²⁶

3.8.6. A Less in the Number of Re-Takaful Insurance Companies

There is a global shortage of Islamic reinsurance companies capable of providing assistance and assurance to Takaful companies in times of need. The Takaful companies are required to establish an agreement with conventional insurance for reinsurance.¹²⁷

3.8.7. Limited Technological Advancement

Although technology has become a significant factor in every sector of the world, Takaful companies, both domestically and internationally, are slow to make progress. The technology that impedes the expansion of Islamic insurance is more prevalent.¹²⁸

3.8.8. Small Size of Takaful Companies

In comparison to conventional insurance companies, the current Takaful companies are of a smaller scale. In Pakistan, there are only five fully functional Takaful companies, while numerous conventional insurance companies are operational throughout the country.

Furthermore, conventional insurance has been in operation for a significantly longer period than Islamic insurance.¹²⁹

3.8.9. Negative Marketing of Takaful in the Market

¹²⁵ Mohammad Ayaz, Maryam Saeed, and Muhammad Ather Ashraf. "Micro-Takaful by Takaful Operators in Pakistan: Problems and Their Solutions from the Practitioners' Perspective." *Global Social Sciences Review* V (II): 523–40. [https://doi.org/10.31703/gssr.2020\(v-ii\).50](https://doi.org/10.31703/gssr.2020(v-ii).50) (June 30, 2020), 535.

¹²⁶ Maryam Saeed. "Challenges of Islamic Insurance (Takaful) Globally." *COMSATS Journal of Islamic Finance* 4 (1): 62–87. <https://doi.org/10.26652/cjif.4201915> (2019), 75.

¹²⁷ Ibid.

¹²⁸ Ibid, 78.

¹²⁹ Ibid.

During the initial years of Takaful Insurance in Pakistan, conventional insurance agents employed strategies to create a negative perception of Takaful in the market, thereby causing customers to be unsure about whether or not to purchase Islamic insurance. This action has the effect of discouraging the general acceptance of Takaful Insurance in the market.¹³⁰

3.8.10. Absence of Governmental Incentives

The government of Pakistan has not provided sufficient support for the promotion of Takaful Insurance. Although Takaful rules have been passed and the division of insurance is supervised by the SECP, there is a significant portion of the government that remains to be addressed, such as the reduction of tax temptations and other regulatory support, to increase the influence and acceptance of Takaful insurance throughout the country.¹³¹

3.9. Takaful and Economic Development in Pakistan

Takaful is a collective economic development initiative that encourages both Muslims and non-Muslims to participate. It is beneficial to encourage participants to share their misfortunes and responsibilities to elevate their social and economic status and unite them as one group. Even when policyholders collect funding from participants, they establish a pool and allocate it to assist those who are in need and suffering misfortune. An individual seeking assistance would greatly appreciate the relief. Therefore, Takaful does enhance the economic status of society as a whole, and its objective is to provide financial assistance rather than emotional relief.¹³²

Additionally, it contributes to economic growth by engaging in charitable activities and performing beneficial deeds. When participants establish a funding pool and Takaful operators' policyholders anticipate responsibility for managing the fund, it benefits individuals who lack even the most necessities. For example, if an individual contributes a charitable fund to the

¹³⁰ Mohammad Ali Khan. "Exploring Strategies for Overcoming the Challenges of Micro-Takaful Growth in Pakistan." <https://www.linkedin.com/pulse/exploring-strategies-overcoming-challenges-growth-pakistan-khan/> (Last date Accessed on November 22, 2024).

¹³¹ Ibid.

¹³² Security Exchange Commission of Pakistan. "Takaful Guide." <https://jamapunji.pk/sites/default/files/TakafulGuide.pdf> (Last date Accessed on November 20, 2024).

Takaful Pool, the operator may assist in the construction of a health center or educational facility.

This approach benefits numerous individuals who lack necessities. Furthermore, those Takaful are Waqf models, and if the government were to promote them, they would significantly enhance the economic status of poor areas, particularly in rural areas.¹³³

Investment portfolios that are diversified and contain ethical assets are desirable. The risk of asset sharing in unethical ways with conventional insurance is a major concern for the Muslim population worldwide. Consequently, many Muslims are concerned about the conduct and business practices of conventional insurance, which prioritize commercial profit over ethical considerations. These concerns would facilitate the development of Takaful insurance, given its foundation in Islamic principles that forbid any unethical behaviour. Therefore, it results in diverting Takaful and the shared responsibility principles of Islamic insurance. The implementation of Takaful has led to an increase in economic development in Pakistan and all Muslim countries.¹³⁴

According to Islamic Insurance principles, Takaful fosters and strengthens Muslim brotherhood. This is because Islamic Insurance funds the Pool, which tightens the robes of Muslims. Numerous Muslim scholars have cited Quran verses as examples of Muslim brotherhood.

“Help one another in righteousness and piety, but do not assist one another in evil deeds”¹³⁵

Based on mutual collaboration (Ta'awun) and shared accountability, Takaful is a Shariah-compliant alternative for conventional insurance. By pooling donations (Tabarru') to assist those in need, Hifz al-Mal (wealth preservation) is maintained; gharar (uncertainty) and riba (interest) are thus avoided. Unlike conventional insurance, Takaful guarantees fairness and openness by operating on ethical risk-sharing instead of risk transfer. Under Shariah oversight, funds invest in halal projects that support social unity (Ummah) and financial stability. Takaful guards people

¹³³Ibid.

¹³⁴ Shariq Sikander, and FSA, CERA. “Takaful: An Alternative Approach to Insurance.” General Insurance Research Committee. <https://www.soa.org/495f33/globalassets/assets/files/resources/research-report/2024/takaful-alternative-approach.pdf> (April, 2024).

¹³⁵ Al-Quran 5:2.

and communities from financial troubles by following Islamic values, so completing Maqasid al-Shariah—safeguarding money, religion, and social welfare in a morally acceptable context.¹³⁶

3.10. Future Prospectus of Takaful in Pakistan

The Takaful industry in Pakistan is expanding due to the presence of a new complement of Shariah-compliant products. The availability of Takaful Insurance initiatives to Muslims significantly transforms the development of Islamic insurance in Pakistan.¹³⁷

Conventional insurance companies compete to provide high-quality insurance products, while consumers are the ones who select their preferences. Consequently, to promote the insurance market, Islamic insurance companies in Pakistan must compete to provide the highest quality service products.¹³⁸

The Takaful sector has the potential to expand at a more rapid rate in the country, although many challenging difficulties need to be addressed.¹³⁹

In Pakistan, a large number of people are avoiding traditional insurance due to their religious beliefs, which is one of the primary factors leading to the potential expansion of Takaful in the country. This situation has arisen as a result of the inclusion of interest and other components in traditional insurance contracts, which directly contradict Islamic teachings.

It is also essential to consider the fact that the majority of the people who reside in Pakistan are Muslims. For Takaful Insurance in Pakistan to continue to act as a source of growth, the company needs to continue to enhance and maintain the quality of the services it provides.¹⁴⁰

3.11. Conclusion

¹³⁶ Mohammad Masum Billah, (2007). "Takaful (Islamic Insurance): An Economic Paradigm." *Journal of Islamic Economics, Banking and Finance*, 3(2), 51-71.

(Explains Takaful's role in wealth preservation and risk management.)

¹³⁷ Areeba Khan, Hafiz Abdur Rashid, Rana Muhammad Shahid Yaqub, and Saba Abbas. "Determinants of Customer Perception about Adoption of Islamic Insurance (Takaful) in Pakistan." *Journal of Business and Social Review in Emerging Economies* 6 (4): 1505–16. <https://doi.org/10.26710/jbsee.v6i4.1485> (December 31, 2020).

¹³⁸ Ibid.

¹³⁹ Ahmed Chishti, Atique. "The Future of Takaful in Pakistan." *Pakistan & Gulf Economist*. Pakistan & Gulf Economist. <https://www.pakistangulfeconomist.com/2020/08/31/the-future-of-takaful-in-pakistan/> (Last date Accessed on November 20, 2024).

¹⁴⁰ Sanaullah Ansari ((SZABIST)). 2021. "The Challenges and Opportunities for Takaful Industry in Pakistan" <https://www.coursehero.com/file/79619338/10-Challenges-opportunities-Takafulpptx/> (Last date Accessed on November 20, 2024).

In Pakistan, Pakistan is one of the most densely populated Muslim countries. Consequently, Takaful Insurance is still in its infancy stages, with numerous obstacles preventing its expansion in the business market. These obstacles include a lack of comprehension of the significant differences between Islamic insurance and conventional insurance.

However, with the implementation of rules and regulations that align with Shariah and Islamic teachings, Takaful Insurance is poised to expand in the future. conventional insurance existed before the establishment of Islamic Insurance (Takaful) in 2000. This results in an intense rivalry between the two, and society is free to make a choice.

The SECP division of the insurance sector regulates Takaful, and the Pakistani government is currently aiming to increase its market share. Nevertheless, challenges continue to hinder the Takaful flow, rendering it less efficient. Takaful has the potential to grow in Pakistan in the future, despite some individuals avoiding conventional insurance due to religious beliefs. Finally, there are Takaful windows for many conventional insurance companies, which shows the expansion of Takaful.

Chapter 4.

Legal Framework for the Regulation of Islamic Insurance(Takaful) in Somalia

4.1. Introduction of Takaful In Somalia

Somalia prohibits conventional insurance due to a lack of laws and its inconsistency with Shariah principles. Therefore, Somalia is now starting Takaful for several reasons, with the primary reason being the 100% Muslim population. Somalia has a long history of conflict and civil wars, which have resulted in instability. The civil war, which occurred following the dissolution of the central government in 1991, has destroyed every sector. As a result, it has taken twenty years to reconstruct the country. Every aspect of the Islamic finance sector, including the Islamic insurance component, underwent complete deconstruction during that time. The establishment of Takaful faced different challenges, the most significant being the political instability and conflicts that led to individual evacuations. The Takaful sector investment in Somalia is

considered high risk due to the presence of threats. Finally, Takaful can be a valuable addition to a country such as Somalia, which is currently in the construction phase. The economy and financial sectors are all undergoing reconstruction.¹⁴¹

The re-establishment of a federal government in Somalia in 2012 was a significant milestone in the country's efforts to rebuild its institutions, including the insurance sector. Nevertheless, the insurance industry is still in its infancy, and progress has proven to be incremental. The current insurance landscape in Somalia is characterized by limited public awareness of insurance products, an underdeveloped regulatory framework, and a small number of emerging actors. The sector continues to face fundamental obstacles that limit its development and efficiency.¹⁴²

4.2. Historical Evolution of Takaful Insurance in Somalia

In both developed and developing countries, insurance (Takaful) plays a significant role in improving the status of individual and economic finance.

Somalia has long-established insurance, particularly within the central government of the Communist era. At that time, conventional insurance existed. Following the 1991 government collapse, Somalia experienced a period of hardship in which all institutions, including financial institutions, collapsed and civil wars erupted throughout the nation. The insurance sector in Somalia was absent for approximately twenty years.¹⁴³

The first Takaful Insurance Company was established in 2014 after several years of civil conflict. The company was First Takaful and Re-Takaful Insurance (FISO). Around the nation, there will be approximately twelve Takaful companies in 2023. The Takaful market's primary concern was the steady growth of Somalia's insurance, which has been developing since its inception but, the insurance market has not improved or expanded within broader society after the establishment. There are Somali companies that have established partnerships with foreign insurance companies in Kenya, Malaysia, and Bahrain to improve their financial and risk

¹⁴¹ Jipril Adan Mohamed. "Progress and Challenges in Somalia's Takaful Industry" <https://www.linkedin.com/pulse/progress-challenges-somalias-takaful-industry-adan-mohamed-cams-owj8f/> (March 28, 2024).

¹⁴² Ismail Ali Sheikhnor. "Assessing the Insurance Landscape in Somalia: Navigating Challenges and Uncovering Opportunities," <https://doi.org/10.2139/ssrn.4935403> (September 24, 2024).

¹⁴³ Ibid.

management operations in Takaful. However, there are currently no significant market activities.¹⁴⁴

Somaliland is legally a part of Somali despite its declaration of independence. In 2021, the government established a regulatory authority known as the National Insurance Authority, whose primary responsibility is to supervise and oversee insurance companies. Additionally, the authority is responsible for issuing licenses to insurance companies.¹⁴⁵

Many obstacles are currently impeding the functionality and development of the Takaful industry in Somalia. Even though the Somali people are Muslim and the country is governed by Shariah principles, which prohibit any kind of Shariah contradiction, Takaful has yet to acquire societal recognition.¹⁴⁶

The primary obstacle that hinders Takaful is cultural conflict, as the Somali people possess socio-cultural independence known as the Somali language (*Qaraan*)¹⁴⁷.

The ancient Arabs employed a practice known as Aqilah, which has been in existence for centuries. This system is well-established within the Somali community, which also stated that tribe insurance is the biggest challenge to the growth of Takaful and that people have already implemented informal insurance. *Qaraan* is a funding pool system in which close relatives gather together and provide assistance during times of necessity or calamity. This has become the primary obstacle to Takaful development, and it's the Somali government's responsibility to educate the public and promote Takaful insurance. Additionally, the majority of individuals who enroll in insurance are employed by nongovernmental organizations (NGOs) and international organizations, which mandate that their employees maintain insurance coverage. Motorway

¹⁴⁴Jipril Adan Mohamed. "Progress and Challenges in Somalia's Takaful Industry" <https://www.linkedin.com/pulse/progress-challenges-somalias-takaful-industry-adan-mohamed-cams-owj8f/> (March 28, 2024).

¹⁴⁵"Annual Insurance Market Report 2022." <https://slnia.org/wp-content/uploads/2024/10/Annual-Report-2022.pdf> (Last date Accessed on December 23, 2024).

¹⁴⁶Ibid.

¹⁴⁷Qaraan: means independence of individual in Family members or close relatives on financial matters in the times of necessity and need. Jipril Adan Mohamed. "Progress and Challenges in Somalia's Takaful Industry" <https://www.linkedin.com/pulse/progress-challenges-somalias-takaful-industry-adan-mohamed-cams-owj8f/> (March 28, 2024).

insurance and medical insurance are among the few available insurance services in the country.¹⁴⁸

Finally, Takaful Insurance can be a beneficial addition to the economic development and socioeconomic advancement of a developing country such as Somalia. However, it is imperative to establish a regulatory framework and infrastructure that are favorable to the effective implementation of Takaful insurance.¹⁴⁹

4.3. Models of Takaful Operates in Somalia

Different models of Takaful are followed by the various countries of Muslim countries. The models that are followed depend on the requirements and accessibility of the organizations that exist. On the other hand, the insurance industry in Somalia is still in its infancy stage and cannot exercise any influence on the market. Therefore, it is challenging to have different models operating across the country since Takaful operates in a smaller market. Because of the small amount of risk management and the ease with which the funding pool of Takaful Insurance can be managed, the Wakala model is the one that is most commonly used and favored throughout the nation. In light of this fact, this makes the framework and its operation flexible.¹⁵⁰

Furthermore, the Wakala is one of the models that has been established for the Takaful gate and less risk management. It is the place where the majority of developed Takaful have begun their journey of insurance. After the participants have gathered their funds into the pool, the Takaful operator's primary function is to manage those funds on behalf of all of the participants and to pay the claim among the participant funds. In general, the Takaful operator's role is to manage and administer the funds of the pool. This model is similar to an agency. Moreover, it is a straightforward model that is utilized in Somalia, and the administration of that fund is simple as well. It is difficult to operate the other models in Somalia due to a lack of recognition in Takaful Insurance across the country as a whole. Since the Takaful market is very limited, it is nearly

¹⁴⁸Ali Yassin, and Ahmed Khadar. "Determinants of Islamic Insurance Acceptance: Empirical Evidence from Somalia." *European Journal of Business and Management* 8 (15): 102–8.
<https://iiste.org/Journals/index.php/EJBM/article/view/30571> (January 1, 2016).

¹⁴⁹Ibid.

¹⁵⁰Jipril Adan Mohamed. "Progress and Challenges in Somalia's Takaful Industry"
<https://www.linkedin.com/pulse/progress-challenges-somalias-takaful-industry-adan-mohamed-cams-owj8f/> (March 28, 2024).

impossible to take high risks to operate Modaraba. However, in the future, it may have a future.¹⁵¹

4.4.Shariah Compliance of Takaful in Somalia

There are no existing laws in Somalia that permit the practice of conventional banking or insurance. This prohibition stems from Somalia's complete adherence to Islamic principles. As a result, the Somali financial institution market would not tolerate any contradictions to Islamic principles' teachings.¹⁵²

Similarly, Takaful Insurance in Somalia is in full compliance with the principles of Shariah, and the Somali community does not tolerate any inconsistency with Islamic teachings. One persistent issue in Somalia is the lack of clarity between Islamic and conventional insurance. The general opinion is that insurance is a single entity in its infancy stage. This is the reason why it presents obstacles to the acceptance and implementation of Takaful Insurance. Somalis are opposed to any form of insurance that is in opposition to Islamic principles.¹⁵³

Islamic Insurance in Somalia and Somaliland (part of Somalia), adheres to the Shariah.

Any insurance business that violates Islamic principles is invalid and cannot operate in the country, as demonstrated by the Insurance Companies Act of 2022. In Somaliland, insurance companies are required to adhere to the teachings of Islamic principles, as outlined in articles 4(3), 6(3), and 8(1). Any contradiction would be considered null and invalid. Companies that engage in activities that violate the Shariah concept would have their licenses revoked.¹⁵⁴

Additionally, The Somali Constitution stipulates that any business activities that violate Shariah are invalid and unenforceable under the law. Furthermore, Takaful Insurance is entirely based on the principles of Shariah and prohibits interest (*Riba*), uncertainty (*Gharar*), and gambling

¹⁵¹ Ibid.

¹⁵² Ibid.

¹⁵³ Ismail Ali Sheikhnor. "Assessing the Insurance Landscape in Somalia: Navigating Challenges and Uncovering Opportunities," <https://doi.org/10.2139/ssrn.4935403> (September 24, 2024).

¹⁵⁴ "Insurance Companies Act, Articles (4,6,8)." [file:///C:/Users/ASUS/Documents/General%20Takaful%20research%20articles/Insurance%20Companies%20Act%20English-%20Reviewed%20\(3\).pdf](file:///C:/Users/ASUS/Documents/General%20Takaful%20research%20articles/Insurance%20Companies%20Act%20English-%20Reviewed%20(3).pdf) (Last date Accessed on November 20, 2024).

(*Maisir*). These attributes are in direct opposition to the principles of Shariah which laid down the constitution.¹⁵⁵

4.5. Regulatory Framework forTakaful

Somalia has been without an insurance authority for nearly thirty years following the civil conflicts and the government's collapse in 1991, as it has not had a regulated authority to ensure its improvement.¹⁵⁶

In 2020, Somaliland, which was declaredseparate from Somalia'sgovernment, constituted the National Insurance Authority (NIA) as the first insurance authority. Many setbacks hampered the establishment of the Insurance Authority, primarily due to societal reluctance to accept it. This was because the Somali people had not lived under a proper government for 30 years and had adopted a socio-cultural independence known as "*QARAAN*," which emphasized the importance of assisting within the tribe. Each tribe has a reservoir of funds that they use to assist one another. Finally, the government succeeded in establishing the National Insurance Authority in 2020 after a lengthy period of effort.¹⁵⁷

This authority's main goals are to supervise and oversee the insurance industry in Somaliland, where its main headquarters are located.Once established, the process of persuading society to subscribe to insurance takes time.

They arrange a few educational seminars for the chief tribes, the public, and scholars, to explain the mission and vision of the Authority. Ultimately, these activities added some attention to society, although they are still rare and the majority of the population is unwilling to accept insurance.

Currently, the authority is not functioning effectively as a result of the lack of recognition by society in the field of insurance and the scarcity of educated scholars in the field. The authority has made it mandatory to insure motorways as a third party due to the high number of accidents

¹⁵⁵ "Somalia Constitution Article (2&3)." https://www.constituteproject.org/constitution/Somalia_2012 (2012).

¹⁵⁶ Ali Yassin, and Ahmed Khadar. "Determinants of Islamic Insurance Acceptance: Empirical Evidence from Somalia." *European Journal of Business and Management* 8 (15): 102–8. <https://iiste.org/Journals/index.php/EJBM/article/view/30571> (January 1, 2016).

¹⁵⁷ "Annual Insurance Market Report 2022." <https://slnia.org/wp-content/uploads/2024/10/Annual-Report-2022.pdf> (Last date Accessed on December 23, 2024).

in the country. Despite the public's mandate, the number of motorways insured remains significantly below the expected level. Furthermore, the authority's vision for the future involves enhancing its confidence to drive improvement. The statistics indicate that the insurance sector has improved in the past two years, though at a slower pace than the cultural insurance performance of the public, which is the primary obstacle to the insurance sector's growth.¹⁵⁸

4.6.Takaful Companies in Somalia

Twelve Takaful companies currently operate insurance across the entirety of Somalia, following the founding of the first Takaful business in 2014. The first Takaful firm was FISO Takaful and Re-Takaful Insurance. Some of the other types of Takaful insurance are *Amanah* Takaful, *Ta'amin* Takaful Insurance, *Salma* Star Takaful Insurance, *Kalkaal* Takaful Insurance, Takaful Insurance, Horn of Africa Insurance, *Barakah* Insurance, *Damal* Insurance, and City Insurance.¹⁵⁹

The majority of the aforementioned Takaful insurance operators do not actively operate in the market due to the scarcity of Takaful subscribers. Takaful, Fiso Takaful, and Re-takaful Insurance are some of the Takaful operators who have been in business for about 10 years and have expertise in the Takaful industry.

Despite the fact that some of the other Takaful Insurance operators are now operating within the current Takaful Insurance market, the primary challenge these businesses continue to face is a significantly smaller market of Takaful subscribers and a relatively low level of awareness about insurance activities. Despite the annual establishment of new insurance businesses and the openness of the market, it remains challenging to predict the future of the insurance industry.¹⁶⁰

4.6.1.Takaful Insurance Africa

Takaful Insurance Africa is a Takaful company that is located in Kenya and Somalia. Takaful Insurance has established its operations in Somalia and is supported by local Somali investors. It is primarily affiliated with Takaful Insurance Africa in Kenya, but the two entities are

¹⁵⁸ Ibid.

¹⁵⁹ Jipril Adan Mohamed. "Progress and Challenges in Somalia's Takaful Industry" <https://www.linkedin.com/pulse/progress-challenges-somalias-takaful-industry-adan-mohamed-cams-owj8f/> (March 28, 2024).

¹⁶⁰ Ibid.

independent. TIA provides local businessmen and investors with methods to mitigate their risks. Established in 2014, Takaful Insurance Africa operates multiple branches throughout Somalia, including Mogadishu, Hargeisa, Kismayo, and Garowe. The strategic objective was to spread throughout the nation and East Africa. Takaful products, including motorway Takaful, general Takaful, and a few family Takaful, are available from TIA.¹⁶¹

4.7. Takaful Products and Services in Somalia

Takaful operators in Somalia provide a limited number of insurance options. The low number of subscribers severely restricts the provision of insurance. The services include medical, motorway, travel, marine cargo, and property insurance. Furthermore, it indicates that insurance services are restricted to specific products and lacking a diverse range of services.¹⁶²

At the time, the National Insurance Authority mandated motorway insurance, which was met with controversy from Sharia scholars who maintained that coverage is optional and that its mandatory implementation would violate Shariah principles.

(NIA) ultimately persuaded the academicians that the intention is not to mandate it for the benefit of Takaful operators, but rather to address a public issue. They came to this realization after a lengthy meeting.

The government and the National Insurance Authority recognized an opportunity to address the increasing number of motorway accidents, which were affecting the entire country regularly. Additionally, they sought to recover the losses of innocent motorway drivers and accident victims. Consequently, it is currently mandatory for all motorways and third parties to maintain insurance coverage to facilitate the recovery of their losses through cooperation.¹⁶³

The majority of Somali insurance subscribers use medical and its most popular products. Medical insurance has expanded widely since its inception for several reasons. Here are some of the factors that have contributed to this expansion:

¹⁶¹ Abdullahi Maki. "Overview of Takaful Industry in Somalia." Academia.edu, September. https://doi.org/10.550427/21642474/20977993/s200_abdullahi (September 27, 2018).

¹⁶² Jipril Adan Mohamed. "Progress and Challenges in Somalia's Takaful Industry" <https://www.linkedin.com/pulse/progress-challenges-somalias-takaful-industry-adan-mohamed-cams-owj8f/> (March 28, 2024).

¹⁶³ "Annual Insurance Market Report 2022." <https://slnia.org/wp-content/uploads/2024/10/Annual-Report-2022.pdf> (Last date Accessed on December 23, 2024).

- a. Somali citizens are required to have insurance to comply with the budget plans of international organizations such as UNICEF, FOA, and other NGOs that are operating in Somalia. Both employed individuals and those seeking employment must comply with this requirement. Since it is mandatory, the workers went to insurance operators to enroll in insurance. Somali insurance is Islamic and effective for believers.¹⁶⁴
- b. The Somali Diaspora: Upon their return to their homeland, Somalis who have resided abroad have already acquired experience in the insurance sector, whether it be Islamic or conventional insurance. Consequently, they primarily enter into insurance contracts to address their medical needs. As a result, this is the primary reason for the significant changes occurring in the insurance industry, particularly in the medical sector. Even though diaspora rates are not particularly high, they are increasing year by year.¹⁶⁵
- c. In Somalia, the health situation is poor. Another reason for the addition of interest and the increase in health insurance is the low standard of health insurance in the country. This has led individuals with stable economic lives to incorporate insurance into their plans, enabling them to travel abroad should their health situation deteriorate.
While this reason may not be a significant motivator, some individuals view it as an opportunity to obtain insurance.¹⁶⁶

Additionally, maritime and property insurance products have yet to achieve widespread recognition, even though Somalia boasts the largest coastline in Africa. Nevertheless, marine insurance remains exceedingly limited. Although property insurance is available, there is a limited number of subscribers in the market, and the public prefers to use their traditional methods of property protection, whether it be due to cultural or socioeconomic interdependence or contractor losses.

¹⁶⁴ Jipril Adan Mohamed. "Progress and Challenges in Somalia's Takaful Industry" <https://www.linkedin.com/pulse/progress-challenges-somalias-takaful-industry-adan-mohamed-cams-owj8f/> (March 28, 2024).

¹⁶⁵ Ismail Ali Sheikhnor. "Assessing the Insurance Landscape in Somalia: Navigating Challenges and Uncovering Opportunities," <https://doi.org/10.2139/ssrn.4935403> (September 24, 2024).

¹⁶⁶ A Gele. "Challenges Facing the Health System in Somalia and Implications for Achieving the SDGs." *European Journal of Public Health* 30 (Supplement_5). <https://doi.org/10.1093/eurpub/ckaa165.1147> (September 30, 2020).

Let us examine the years 2021 and 2022 in comparison. Insurance Indicators: The insurance market has experienced a 9% annual increase in the number of policies and underwriting policies, with a net premium of \$289 in 2022. For instance, in 2021, the number of policies was 265; in 2022, it was 289. In 2021, the net premium stood at 2 million, and in 2022, it surged to 2.8 million, signifying a rise in the net amount Takaful service providers received.¹⁶⁷

4.7.1. The distribution of gross written premiums from 2021 to 2022:

Class of business	2021	2022	annual change (2021/2022)
Motorway	108,341	189, 945	%75.3
Medical	2,071,049	2,866,775	%38.4
Property	13,500	18,500	%37
Travel	4,521	4301	%5-
Marine	3,000	12811	%327
Total	2,200,412	3,092,332	%40.5

The most significant contributors to the insurance market are medical and motorway, with a range of 98.8%. The Takaful sector plays a significant role in the country, especially in the year 2022. The statistics indicate that only medical and motorways are currently actively contributing to the country, while other products, such as travel, property, and marines, are inactive and quiet in the market. This suggests that Takaful is still not functioning properly, despite the numerous encouraged policies.¹⁶⁸

4.7.2. The incurred claims are displayed with the gross premium net in 2021 and 2022, as indicated below:

Class of business	2021	2022	annual change (2021/2022)
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¹⁶⁷“Annual Insurance Market Report 2022.” <https://slnia.org/wp-content/uploads/2024/10/Annual-Report-2022.pdf> (Last date Accessed on December 23, 2024).

¹⁶⁸Ibid.

Motorway	62,186	103,273	%64
Medical	1,158,271	1,227,459	%6
Property	0	0	%0
Travel	10,817	4,486	%59-
Marine	0	0	%0
Total	1,231,873	1,335,218	%8

This statistic indicates that medical and motor vehicles remain among the most frequently claimed

insurances, with an estimated 72% of the claims falling within these two categories. Furthermore, there are either no or very few claims for marine and property insurance. This suggests that the public is not yet familiar with Takaful, and the introduction of additional insurance could pose a risk to the market. Previous years' measurements indicate that society in Somalia has yet to implement Takaful. While there are some signs of improvement in the health and motorway sectors, it is still far from meeting expectations.

The Takaful market in Somalia and Somaliland is experiencing a significant decline in interest from society, which is cause for concern. The associated authority must take additional measures to enhance the insurance policy, as the country has an estimated population of 12 to 15 million.¹⁶⁹

In General, there is another study of the market Industry in Somalia that shows that the Somali market is young, with six Takaful operators and one broker each operating for two to nine years. No Re-takaful Operator exists. The total contributions increased by more than 40% from US\$6.5 million to US\$9.2 million between 2019 and 2022. However, expatriates receive the majority of the coverage for medical purposes.¹⁷⁰

These different stats indicate that the previous stats are related to a specific area, which is Somaliland, which was declared independent from other parts of Somalia, and the last stats show the overall status of the Takaful Industry in Somalia.

¹⁶⁹ Ibid.

¹⁷⁰ Zep Re-insurance Company. "What Is the Status of the Takaful Market in Somalia?" Zep-Re.com. 2019. <https://zep-re.com/drive-project/drive-takaful-faq/> (Last date Accessed on November 20, 2014).

4.8. Challenges of Takaful in Somalia

Numerous obstacles have hampered the availability of insurance in Somalia, resulting in a steady market increase. Although the insurance companies have expressed their desire to expand further, and the National Insurance Authority has implemented a limited number of initiatives to motivate the public and Takaful operators, the insurance market has gradually grown.

Unfortunately, all of these endeavors have been futile, and the obstacles present in Somalia have made it challenging to establish an insurance culture. Furthermore, the comparison of Takaful Insurance's prospects and challenges demonstrates that the challenges are significantly greater than the prospects and future expectations.¹⁷¹

The market has recorded the following fundamental challenges:

4.8.1. Lack of Understanding of Takaful

One of the most significant obstacles to insurance expansion is the public's misconception about Takaful, whether it's an investment or loan, requiring them to pay the insurance companies to potentially profit or lose. The market lacks an insurance environment, and educational institutions often fail to offer insurance courses.

The general public's awareness and fundamental understanding of insurance is extremely low. Additionally, there is a lack of clarity among the public regarding the difference between Islamic and conventional insurance. Shariah prohibits insurance entirely, but the public is unaware of the difference between the two types of insurance.¹⁷²

4.8.2. A Lack of Public Awareness

Insurance adoption in any location depends upon perception and awareness. Therefore, in Somalia, there is a significant lack of awareness regarding Takaful, and there are no concrete initiatives to enhance the public's perception of the insurance. In certain regions, the general public is unaware of the exact meaning and purpose of Takaful.¹⁷³

¹⁷¹ Jipril Adan Mohamed. "Progress and Challenges in Somalia's Takaful Industry" <https://www.linkedin.com/pulse/progress-challenges-somalias-takaful-industry-adan-mohamed-cams-owj8f/> (March 28, 2024).

¹⁷² Ali Yassin, and Ahmed Khadar. "Determinants of Islamic Insurance Acceptance: Empirical Evidence from Somalia." *European Journal of Business and Management* 8 (15): 102–8. <https://iiste.org/Journals/index.php/EJBM/article/view/30571> (January 1, 2016).

¹⁷³ Ibid.

4.8.3 Sociocultural Independence (*QAARAAN*)

The most challenging aspect of Takaful Insurance is the interdependence among the tribes in Somalia, known as "*Qaraan*" in the Somali language. *Qaraan* refers to the interdependence among tribe members and the accumulation of funds to provide coverage or protection for each member. In the event of a member's death at the hands of another, or the event of unforeseen events or losses. This custom has been in existence for an extended period, and it has been a cultural norm in Somali society for centuries. Additionally, the culture (*Qaraan*) has become increasingly strong in the absence of the Somali government's decline in 1991. Despite the existence of a government and the duration of civil conflicts, social independence persists. The culture persisted with even greater sophistication, as ruled by the Chief of the tribe collecting funds from the tribe members and mandating each member to contribute to the tribal funds to support necessary events. Even the tribes contributed to the advancement of that culture by allocating portions to the various funds. For instance, tribe members who own vehicles share the motorway funds, but the Diya funding pool remains separate. Finally, this culture fosters the perception that the tribe union exclusively performs the insurance function, complicating the evolution of Takaful activities.¹⁷⁴

4.8.4. Political Instability

For the past three decades, Somalia has experienced political instability, which has resulted in physical and economic difficulties for the public. Despite rebuilding financial institutions after the conflicts, the public has yet to recognize and accept them. This issue has resulted in Takaful companies being more vigilant about the market, and foreign companies are less present in Somalia due to the ongoing political disruption and instability in the country. For any sector to develop and expand, political stability is essential. Takaful Insurance is equivalent to this, and the recognition would remain consistent without instability in the country, as stability promotes the growth of financial sectors.¹⁷⁵

4.8.5. Lack of Proper Regulatory Framework

The regulatory authority is critical for the insurance sector's growth and encouragement. Unfortunately, Somalia lacks a proper regulatory authority, despite the establishment of the

¹⁷⁴ Ismail Ali Sheikhnor. "Assessing the Insurance Landscape in Somalia: Navigating Challenges and Uncovering Opportunities," <https://doi.org/10.2139/ssrn.4935403> (September 24, 2024).

¹⁷⁵ Ibid.

National Insurance Authority at the end of 2020 and its existence for nearly three years. The authority lacks proper regulation and has limited capacity. Despite the enactment of the Insurance Act in 2023, the act and its regulatory framework remain in their infancy. The authority carries out some activities, but the majority of them are futile. Lastly, the regulatory framework is still in its infancy, and the absence of experienced personnel within the authority is a concern in terms of increasing market involvement. Additionally, the authority's limited government support in terms of rules and regulations resulted in the regulator's decreased activity.¹⁷⁶

4.8.6. Underdeveloped Financial Structure

Somalia's financial structure is still significantly underdeveloped, particularly in rural areas where banking services are essentially nonexistent. This factor has significantly impeded the efficiency of the insurance sector, as it required a stable financial structure to collect premiums, process claims, and distribute products. Individuals in rural areas primarily utilize the informal financial structure to save and lend to each other.

This has led to a decrease in the efficiency of the insurance sector and a lack of regulatory supervision. The situation in urban areas is marginally improving due to the presence of financial institutions.

However, there are still many individuals who prefer and use informal financial institutions. This decentralized approach has resulted in limited insurance coverage, and the Takaful company's collection of premiums and payment of claims appears to be challenging to execute due to the absence of formal financial institutions.¹⁷⁷

4.8.7. Economic Instability

With the lack of political instability and potential threats, investors view Somalia as a high-risk investment destination, leading them to reluctantly consider their investment decisions. Furthermore, the classification of Somalia as an underdeveloped nation includes a population living on less than two dollars per day and a high unemployment rate. This has caused individuals to evaluate their consumption habits and the government's inadequate services. This

¹⁷⁶ Ibid.

¹⁷⁷ Ibid.

has resulted, in individuals' incomes becoming extremely low, and the priority becoming consumption. So, it causes difficulties in accessing insurance services. This has a significant impact on Somali insurance companies, resulting in a decrease in market growth.¹⁷⁸

4.8.8. Product Availability is Limited

Another challenge is the scarcity of models and products that are necessary to sustain the Somali insurance market. The market currently offers only the Wakala model and a limited number of products, including health and motorway insurance. As a result, Takaful becomes less engaged and active in the market.¹⁷⁹

4.8.9. Lack of Standardization

There is a complete absence of standardization within the takaful industry in Somalia. Both AAOIFI and IFRS are examples of standard institutions that are providing answers to the Takaful market on a worldwide scale. On the other hand, Somalia adheres to these rules at a lower level, thereby restricting the operations of Takaful companies.¹⁸⁰

4.8.10. Shortage of Muslim Scholars

Every Takaful operator must establish a Sharia Supervisory Board, typically consisting of three or more experts. When Takaful companies seek to expand, they frequently prioritize board members with regional expertise, which enhances their credibility. A profound comprehension of both Islamic law and Takaful operations is required by these scholars to guarantee Sharia compliance. Nevertheless, the scarcity of specialists who are proficient in both Islamic law and insurance results in a situation in which these scholars serve on multiple boards, potentially leading to conflicts of interest and a decrease in the quality of their advisory services.¹⁸¹

4.9. Takaful and Economic Development in Somalia

Insurance is essential for the preservation of assets, risk management, and financial stability in modern economies. In an efficient insurance market, insurers effectively manage and mitigate

¹⁷⁸Utz Pape, and Philip Wollburg. "Estimation of Poverty in Somalia Using Innovative Methodologies." <https://documents1.worldbank.org/curated/en/509221549985694077/pdf/WPS8735.pdf> (February, 2019).

¹⁷⁹Jipril Adan Mohamed. "Progress and Challenges in Somalia's Takaful Industry" <https://www.linkedin.com/pulse/progress-challenges-somalias-takaful-industry-adan-mohamed-cams-owj8f/> (March 28, 2024).

¹⁸⁰Maryam Saeed. "Challenges of Islamic Insurance (Takaful) Globally." COMSATS Journal of Islamic Finance 4 (1): 62–87. <https://doi.org/10.26652/cjif.4201915> (2019), 78.

¹⁸¹Ibid.

risks transferred from individuals and enterprises. The financial impacts of unexpected occurrences. Insurance facilitates risk management, which in turn promotes economic stability, investment, and activity. Individuals and organizations with insurance coverage are more likely to invest and participate in economic activities, as it protects them from potential losses. In developing economies, insurance is of greater significance. In addition to safeguarding vulnerable populations from financial crises, insurance also fosters microenterprises and enhances economic resilience.

The establishment of a strong insurance market in Somalia is crucial for the stabilization and economic recovery of the country. A solid insurance market facilitates economic stability, investment, and financial security for both individuals and businesses.¹⁸²

4.10. Future Prospects and Opportunities of Takaful Insurance in Somalia

Despite the many obstacles that stand in the way of the development of the insurance business, Takaful's expansion in Somalia has a future. One of the most important factors that indicates that it has a future is the absence of conventional insurance available in the nation. Additionally, the restriction of conventional banking throughout the whole of Somalia would be a possibility to gain prominence among the general population.¹⁸³

Furthermore, Somalia is solely a Muslim nation, with no other religion prevalent within its borders. This makes it possible for the general people to be persuaded that Takaful is a form of alternative to conventional insurance and that it has compliance with the principles of Shariah. Furthermore, the evidence from the last two years shows that some insurance products, such as Health and Motorway, have seen a large growth in Somalia. That is a positive indication, and it suggests that insurance may be a beneficial addition to the general population. Because of the ability to recover losses, insurance (Takaful) plays an important role in increasing economic activity and managing risks.

¹⁸²Ismail Ali Sheikhnor. "Assessing the Insurance Landscape in Somalia: Navigating Challenges and Uncovering Opportunities," <https://doi.org/10.2139/ssrn.4935403> (September 24, 2024).

¹⁸³Jipril Adan Mohamed. "Progress and Challenges in Somalia's Takaful Industry" <https://www.linkedin.com/pulse/progress-challenges-somalias-takaful-industry-adan-mohamed-cams-owj8f/> (March 28, 2024).

It also encourages entrepreneurial endeavors and upcoming business activities. As a result, Somalia needs a proper environment to encourage Takaful Insurance, which would solve major problems that the Somali government is currently facing, such as tribalism.¹⁸⁴

4.11. Conclusion

The Takaful industry in Somalia is still in its infancy and fragile state. It has existed for only the past decade, following the re-establishment of Takaful in Somalia. The challenges that Takaful encounters are more extensive than its prospects. Proper regulation and various products are required for the Takaful market in Somalia. The society is not yet prepared to recognize due to the existence of tribal relationships and socio-cultural independence. This reduces the Takaful's interest in the market. Nevertheless, there are glimpses of potential for growth in the Takaful industry, as conventional insurance is not available in Somalia and the majority of the population is Muslim.

Chapter 5

Legal Framework of Islamic Insurance (Takaful) in Somalia and Pakistan:

A Comparative Analyses

5.1. The Market Scope of Islamic Insurance in Somalia and Pakistan

The Insurance Ordinance 2000 established the regulations for Takaful, followed by the enactment of Takaful Rules 2005 and their subsequent repeal by Takaful Rules 2012. Currently, SECP serves as the regulatory body for Takaful Industries.¹⁸⁵

At the end of December 2022, the Takaful size market was comprised of 31 active Takaful operators. This market comprises three dedicated Takaful operators and 28 window Takaful operators, to which certain insurance companies have access. The asset size of the Takaful industry market as of June 2022, according to the SECP annual report, was Rs 88.731 billion.¹⁸⁶

¹⁸⁴“Annual Insurance Market Report 2022.” <https://slnia.org/wp-content/uploads/2024/10/Annual-Report-2022.pdf> (Last date Accessed on December 23, 2024).

¹⁸⁵Security Exchange, Commission of Pakistan, Annual Report 2023 (December 6, 2023), 42.

¹⁸⁶ Ibid.

Compared to Somalia, the size of the Takaful market in 2021 was 2.2 million USD, and in 2022, the gross premium amount reached 3 million USD. The overall data reveals that the majority, accounting for 98% of the total, is attributed solely to medical and motorway Takaful, with the remaining 2% being made up of a few products such as property, marine cargo, and travel. This suggests that the Takaful market in Somalia is relatively small, and the general public remains unaware of this fact.¹⁸⁷

These two different stats indicate that Pakistan is more advanced and has a larger Takaful market than Somalia, highlighting the need for countries like Somalia to learn about the mechanisms and ways to improve their Takaful industry.

5.2. Models of Takaful in Somalia and Pakistan

According to SECP, Pakistan uses the *Wakala-Waqf* model, established under the Takaful Rules in 2005.¹⁸⁸

The Takaful rules of 2005, as outlined by the SECP, dictate that Pakistan follows either the *Wakala* or *modaraba* model, or both. Subsequently, it was designated as the *Wakala-Waqf* model in Pakistan. The person in charge establishes the Waqf fund in this *Wakala-Waqf* model, and the fund's value is deemed a donation (*Tabarru*).¹⁸⁹

The Takaful operator and the Fund participants are in a relationship. The operator serves as the legal representative and is responsible for managing the funds that were paid by the participant. Additionally, the Takaful operator receives a commission fee as an agent.

¹⁸⁷ “Annual Insurance Market Report 2022.” <https://slnia.org/wp-content/uploads/2024/10/Annual-Report-2022.pdf> (Last date Accessed on December 23, 2024).

¹⁸⁸ Security Exchange Commission of Pakistan. “Takaful Guide.” <https://jamapunji.pk/sites/default/files/TakafulGuide.pdf> (Last date Accessed on November 20, 2024).

¹⁸⁹ Ibid.

The participant is only required to pay the Waqf fund without any conditions, as the Waqf is a complete donation. The primary benefit of this model is that it resolves the issue of *Gharar*, which is the acceptance of the donation contract¹⁹⁰

Although the Takaful industry in Somalia is still in its infancy, it adopted the Wakala model. As a result, the Takaful industry in Somalia cannot take risks by implementing other models, like *Modaraba*. Therefore, it would be challenging for the Takaful industry in a smaller market, such as Somalia to follow various and sophisticated models. Therefore, until the Takaful market in Somalia expands, the industry has opted for economic alternatives.¹⁹¹

5.3. The Regulatory Framework of Takaful in Somalia and Pakistan

Differences exist between the interims of the regulatory body that oversees Takaful in Pakistan and Somalia.

The Security Exchange Commission of Pakistan (SECP) is the regulatory body in Pakistan that grants licenses to Takaful companies. Additionally, SECP has the authority to revoke these licenses. The sector that facilitates this process is the insurance division.¹⁹²

Insurance companies throughout Pakistan are subject to the Insurance Ordinance and Takaful Rules. The insurance companies in question may offer either Takaful or conventional types of insurance. To commence their Takaful operations in Pakistan, Takaful companies must first register under the Companies Act 2017 and the Takaful Rules, which are the regulatory laws that Takaful operators must adhere to.

The Takaful principles provide a detailed explanation of the two methods of modeling Takaful: family Takaful, which is equivalent to life insurance, and general Takaful, which is equivalent to non-life insurance. It also stipulates that Takaful operators must have a Shariah supervisory body that conducts a function to check before the provision of products and services to the public.

¹⁹⁰ Amir Sohail Ahmed. "Marine Insurance Act, 2018 & Takaful: A Comparative Study." LLMITL Thesis International Islamic University Islamabad (June 20, 2019), 41.

¹⁹¹ Jipril Adan Mohamed. "Progress and Challenges in Somalia's Takaful Industry" <https://www.linkedin.com/pulse/progress-challenges-somalias-takaful-industry-adan-mohamed-cams-owj8f/> (March 28, 2024).

¹⁹² Security Exchange Commission of Pakistan. "Takaful Guide." <https://jamapunji.pk/sites/default/files/TakafulGuide.pdf> (Last date Accessed on November 20, 2024).

Additionally, the Takaful Rules permit window Takaful operators and conventional companies to operate as separate or window Takaful entities. This enables the provision of both Islamic and conventional insurance within a single organization, allowing society to select the insurance division that best suits their needs.¹⁹³

To enhance the Takaful industry within the country, the regulators in Pakistan, particularly SECP, have implemented credible measures. They have committed to adhering to Islamic finance principles.¹⁹⁴

A variety of rules and regulations, such as the AML/CFT 2021, Shariah Governance Regulations 2023, Insurance Code of Corporate Governance 2016, Corporate Agent Rules Regulations 2020, and others, govern the Takaful industry in Pakistan.¹⁹⁵

Somaliland, a region of Somalia, established the National Insurance Authority (NIA) in 2020. Following the 1991 civil war, the collapse of the government left Somalia in a fragile state, destroying all other institutional sectors. The country's institutions were re-established over two decades.¹⁹⁶

Due to the existence of customary laws, Somalia's society faces significant issues that prevent it from accepting this insurance approach. In the absence of a central government, the people maintained their socio-cultural independence, known as *Qaaraan*.¹⁹⁷

Although the best efforts to establish a well-regulated body for the insurance sector remain informal due to several obstacles. The lack of a legitimate regulatory body has reduced investor confidence and lack of dispute mechanism resolution and insurance laws.¹⁹⁸

¹⁹³ Muhammad Hanif, and Abdullah M. Iqbal. "An Evaluation of Takaful Insurance: Case of Pakistan." *Journal of Islamic Economics Banking and Finance* 13 (1): 121–46. <https://doi.org/10.12816/0051159>. (January 1, 2017), 132.

¹⁹⁴ Shariq Sikander, and FSA, CERA. "Takaful: An Alternative Approach to Insurance." General Insurance Research Committee. <https://www.soa.org/495f33/globalassets/assets/files/resources/research-report/2024/takaful-alternative-approach.pdf> (April, 2024), 18.

¹⁹⁵ "Takaful Regulatory Framework - DFTL. <https://dawoodtakaful.com/RegulatoryFramework.aspx> (Last Accessed date on November 20, 2024).

¹⁹⁶ Ali Yassin, and Ahmed Khadar. "Determinants of Islamic Insurance Acceptance: Empirical Evidence from Somalia." *European Journal of Business and Management* 8 (15): 102–8. <https://iiste.org/Journals/index.php/EJBM/article/view/30571> (January 1, 2016).

¹⁹⁷ Ibid.

¹⁹⁸ Ismail Ali Sheikhnor. "Assessing the Insurance Landscape in Somalia: Navigating Challenges and Uncovering Opportunities," <https://doi.org/10.2139/ssrn.4935403> (September 24, 2024).

Despite the enactment of laws like the Companies Act 2022, the Shariah Governance Framework (2020), and Islamic Financial Reporting & Accounting (2020), regulatory gaps and inefficiencies still exist.¹⁹⁹

Political instability and a lack of proper governance have impeded Somalia's financial sector, resulting in the insurance industry's inability to operate. In contrast, Pakistan boasts a stable and recognized regulatory body that receives support from all pertinent sources.

5.4. Products and Services of Islamic Insurance in Somalia and Pakistan

In Somalia, fewer services are covered by Takaful products, with the majority relying on General Takaful for coverage. The majority of the available products include medical and motorway Takaful, but there are also a few additional products, such as travel and cargo insurance, on the market. The majority of individuals who subscribe to these products are employees of non-governmental organizations and non-governmental organizations (NGOs), as these organizations are legally required to have insurance. Due to religious considerations, the market for insurance in Somalia is shrinking.²⁰⁰

The Takaful industry in Somalia is leading shortage of Takaful products offered by the companies and the subscription is also less. Nearly 72% of the market of Takaful comprises only two products Medical and Motorway Insurance, where other products are mostly inactive in the market.²⁰¹

On the other side When compared to Somalia, the insurance industry in Pakistan, particularly Islamic insurance, allows for the provision of a broader variety of insurance products. There are two categories of insurance available: General Takaful and Family Takaful. Conversely, non-life insurance and life insurance are the two types of insurance that are available simultaneously.²⁰²

¹⁹⁹World Bank Group. 2024. "Unlocking Private Sector-Led Growth at a Critical Juncture of Somalia's Development." <https://www.ifc.org/content/dam/ifc/doc/2024/somalia-country-private-sector-diagnostic-en.pdf> (June, 2024), 89-91.

²⁰⁰Jipril Adan Mohamed. "Progress and Challenges in Somalia's Takaful Industry" <https://www.linkedin.com/pulse/progress-challenges-somalias-takaful-industry-adan-mohamed-cams-owj8f/> (March 28, 2024).

²⁰¹"Annual Insurance Market Report 2022." <https://slnia.org/wp-content/uploads/2024/10/Annual-Report-2022.pdf> (Last date Accessed on December 23, 2024).

²⁰²Security Exchange Commission of Pakistan. "Takaful Guide." <https://jamapunji.pk/sites/default/files/TakafulGuide.pdf> (Last date Accessed on November 20, 2024).

Pakistan follows two types of coverage packages that fall under the umbrella of Takaful Insurance:

Family Takaful is a type of Islamic insurance that covers a wide range of family-related financial matters, including child education, marriage planning, financial savings planning, death, disability, and retirement planning. Health Takaful refers to any medical difficulties, including hospitalization, operations, and other medical procedures.

Motorway Takaful: Another option is to purchase Motorway Takaful, a product similar to Somalia but containing a wider range of items.

Property and Fire Takaful: This category, known as Property and Fire Takaful, includes all Islamic insurance policies that apply to homes and factories.

Agricultural Takaful: refers to insurance related to crops and livestock.²⁰³

Pakistan and Somalia offer Takaful insurance in significantly different ways. It is clear that the Takaful industry in Somalia is still in its infancy and requires more growth. Conversely, in Pakistan, the industrial market supplies more stable and extensive Takaful goods.

5.5. Customer Perception and Awareness in Somalia and Pakistan

The majority of the population in both Somalia and Pakistan is Muslim. Takaful is primarily unknown to the general population of Pakistan. The primary obstacle to the expansion of Takaful in Pakistan is its absence of awareness and comprehension.

A Pakistani survey reveals that 60% of respondents are unfamiliar with Takaful Insurance. Conversely, the remaining 40% are familiar with Islamic insurance. Additionally, the vast majority of individuals were unaware that Takaful takes into account ethical considerations, such as prohibition of interest, gambling, and other Takaful principles.²⁰⁴

Additionally, some individuals understand Takaful as a form of investment, but they do not fully comprehend the true meaning of Islamic insurance.

²⁰³ Ibid.

²⁰⁴ Aziz ur Rehman, Rehana Sher Muhammad, Muhammad Aslam, Anam Iqbal, and Malik Shahzad Shabbir. n.d. "Consumer Awareness and Knowledge about Takaful (Islamic Insurance): A Survey of Pakistan." *Journal of Namibian Studies* (Last date Accessed on August 10, 2023).

In Pakistan, the market is further defined by the intense rivalry between Islamic insurance and conventional insurance, both of which have been in existence for a long time and hold a substantial market share.²⁰⁵

In Somalia, the situation is similar to that of Pakistan in terms of the lack of awareness. The population's unfamiliarity with Takaful stems from the prolonged absence of an insurance sector following the collapse of the central government. Additionally, there is a lack of understanding of Takaful in the general population; some individuals believe that Takaful is a form of investment or loan.²⁰⁶

Somalia's population is predominantly Muslim, and despite the complete absence of conventional operations, cultural religious trusts have played a significant role. Furthermore, insurance is extremely rare in Somalia, and the population is reluctant to consider Takaful.²⁰⁷

In this regard, both nations are nearly identical, and to enhance the development of Takaful, governments must resolve the issue by increasing awareness. While Pakistan's government regulation system is more stable, it would require fewer steps to improve it, whereas Somalia would necessitate a greater amount of effort.

5.6. Shariah Compliance and Shariah Boards in Somalia and Pakistan

Shariah compliance is one of the primary similarities between Pakistan and Somalia in the context of Islamic insurance (Takaful).

In Pakistan, any company that operates Islamic insurance must adhere to the Shariah guidelines as outlined in the Takaful Rules of 2012. Section (9) of the Takaful Rules of 2012 demonstrates the necessity of a Shariah supervisory board, which must comply with the Shariah and Takaful principles.²⁰⁸

²⁰⁵ Areeba Khan, Hafiz Abdur Rashid, Rana Muhammad Shahid Yaqub, and Saba Abbas. "Determinants of Customer Perception about Adoption of Islamic Insurance (Takaful) in Pakistan." *Journal of Business and Social Review in Emerging Economies* 6 (4): 1505–16. <https://doi.org/10.26710/jbsee.v6i4.1485> (December 31, 2020).

²⁰⁶ Ali Yassin, and Ahmed Khadar. "Determinants of Islamic Insurance Acceptance: Empirical Evidence from Somalia." *European Journal of Business and Management* 8 (15): 102–8. <https://iiste.org/Journals/index.php/EJBM/article/view/30571> (January 1, 2016).

²⁰⁷ Ismail Ali Sheikhnor. "Assessing the Insurance Landscape in Somalia: Navigating Challenges and Uncovering Opportunities," <https://doi.org/10.2139/ssrn.4935403> (September 24, 2024).

²⁰⁸ Muhammad Hanif, and Abdullah M. Iqbal. "An Evaluation of Takaful Insurance: Case of Pakistan." *Journal of Islamic Economics Banking and Finance* 13 (1): 121–46. <https://doi.org/10.12816/0051159> (January 1, 2017), 132.

Additionally, Takaful operators in Pakistan follow the three primary principles that differentiate Takaful from conventional insurance. Islamic insurance prohibits interest, uncertainty, and gambling.²⁰⁹

Similarly, in Somalia, Takaful is subject to Shariah compliance in the same manner as in Pakistan. In Somalia, Takaful Insurance is entirely consistent with Shariah teachings, and society is unwilling to tolerate any practice that violates Islamic principles. Therefore, the Takaful industry in Somalia is entirely free of interest, uncertainty, gambling, and any other activity that infringes the principles of Islamic insurance.²¹⁰

An additional factor that facilitates the adoption of Islamic insurance in Somalia is the strict prohibition of conventional insurance.²¹¹

Furthermore, both nations adhere to the genuine definition of takaful, which emphasizes cooperation. It enables Takaful participants and Takaful operators to establish a pool to collect funds and subsequently distribute them among those in need. The primary objective of the funding pool is to assist one another and share responsibility.²¹²

5.6.1. The Shariah Boards in Somalia and Pakistan

In Somalia, the Insurance Law (2022) specifically requires the establishment of a Shariah supervisory body for each company to facilitate compliance with Islamic insurance principles. The Shariah supervisory board has the following functions:

1. Each insurance company must submit the names and details of the Board of Directors and the Islamic Sharia Advisory Committee to the Authority.
2. The Authority has to confirm that the Islamic Sharia's Advisory Committee maintains knowledge of Islamic Sharia issues, and each member must provide evidence of their education.

²⁰⁹Security Exchange, Commission of Pakistan, Annual Report 2023 (December 6, 2023), 42.

²¹⁰“Insurance Companies Act, Articles (4,6,8).”

[file:///C:/Users/ASUS/Documents/General%20Takaful%20research%20articles/Insurance%20Companies%20Act%20English-%20Reviewed%20\(3\).pdf](file:///C:/Users/ASUS/Documents/General%20Takaful%20research%20articles/Insurance%20Companies%20Act%20English-%20Reviewed%20(3).pdf) (2022).

²¹¹Jipril Adan Mohamed. “Progress and Challenges in Somalia’s Takaful Industry”

<https://www.linkedin.com/pulse/progress-challenges-somalias-takaful-industry-adan-mohamed-cams-owj8f/> (March 28, 2024).

²¹²Shariq Sikander, and FSA, CERA. “Takaful: An Alternative Approach to Insurance.” General Insurance Research Committee. <https://www.soa.org/495f33/globalassets/assets/files/resources/research-report/2024/takaful-alternative-approach.pdf> (April, 2024), 21.

3. The Islamic Shariah Advisory Committee assures that the insurance services offered by companies are under Islamic Shariah law.²¹³

On the other hand, the Takaful regulations (2012) in Pakistan clearly state that each organization must have a central Shariah board and a Shariah advisor. The article (25) clearly states this.

Following Article 25, the Central Shariah Commission Board must consist of a minimum of three members.

i. The Shariah Advisory Board will be responsible for the development of policies and guidelines for the operation and management of Takaful businesses by Shariah principles.

ii. The Shariah Advisory Board will decide what to do, and their decision will be final if the Commission finds that different operators have dealt with a similar operational issue in different ways, with the approval of their Shariah Advisor.

Additionally, a Shariah advisor should be appointed to oversee the following:

(a) The approval of products, including all relevant documentation.

(b) Approval of the Participant Takaful Fund policy.

(c) Approval of the investment policy.

(d) Approval of the Re-Takaful arrangements.

(e) The distribution of surplus to participants receives approval.²¹⁴

5.7. The Challenges of Takaful in Somalia and Pakistan

The Takaful industry in both Somalia and Pakistan is currently grappling with issues that are globally significant. On the other hand, Somalia and Pakistan face shared or similar challenges, in addition to those unique to each country:

²¹³“Insurance Companies Act, Article (20).”

[file:///C:/Users/ASUS/Documents/General%20Takaful%20research%20articles/Insurance%20Companies%20Act%20English-%20Reviewed%20\(3\).pdf](file:///C:/Users/ASUS/Documents/General%20Takaful%20research%20articles/Insurance%20Companies%20Act%20English-%20Reviewed%20(3).pdf) (Last date Accessed on December 23, 2024).

²¹⁴Takaful Rules, Section(25). <https://www.secp.gov.pk/document/takaful-rules-2012-2/?wpdmdl=13157&refresh=676d101b32a091735200795> (Last date Accessed on December 29, 2024).

The societies of both Somalia and Pakistan share a common challenge: a lack of understanding and awareness of Takaful. The actual meaning and contents of Islamic insurance are widely misunderstood. This fundamental issue has hampered Takaful's growth.²¹⁵

Secondly, a shortage of Muslim scholars is a significant issue that both Somalia and Pakistan share. This shortage is characterized by a lack of scholars who possess a comprehensive understanding of Islamic finance and insurance, as well as the ultimate intention. Additionally, a shortage of adequately trained human capital hinders the expansion of the Takaful industry. This issue poses a global challenge for Muslim countries and hinders the evolution of the Takaful industry.²¹⁶

The other challenge pertains to the scarcity of re-takaful companies in both countries. In Somalia, there are no re-takaful companies in the entire country, while in Pakistan, there are only a few. Additionally, it is permissible under Takaful regulations to utilize conventional insurance companies in the event of a Re-takaful need. Consequently, this is a factor that the majority of the Takaful industry faces in the future, if necessary.²¹⁷

However, some obstacles, like the Qaaraan issue, remain hidden and pose a significant challenge for the country. Another major obstacle to Takaful integration in Somalia is this issue. After the government's demise, a tribal system governs the society. This system is characterized by customary law, which establishes a fund pool within the tribe.

The claimants distribute the funds in the event of a loss or emergency. Consequently, the Somali population has come to embrace the system and has become a significant force in the community. Consequently, it is challenging to eliminate this custom from the general public.²¹⁸

Political instability is another significant issue that differs among the countries. We specifically focus on Somalia, where the government's inefficiency and the resulting conflicts hinder the Takaful industry. Investors are refraining from investing in this until Somalia obtains stability.²¹⁹

²¹⁵ Maryam Saeed. "Challenges of Islamic Insurance (Takaful) Globally." *COMSATS Journal of Islamic Finance* 4 (1): 62–87. <https://doi.org/10.26652/cjif.4201915> (2019), 76.

²¹⁶ Ibid.

²¹⁷ Ibid.

²¹⁸ Jipril Adan Mohamed. "Progress and Challenges in Somalia's Takaful Industry" <https://www.linkedin.com/pulse/progress-challenges-somalias-takaful-industry-adan-mohamed-cams-owj8f/> (March 28, 2024).

The economic conditions in Somalia pose a significant issue, given the population's reliance on livestock and the ongoing development challenges faced by other financial sectors, including the insurance sector. The economic situation in Somalia is bleak, and foreign and local investments are at risk due to the country's instability and likelihood of conflict.²²⁰

The financial activities of Somalia are largely controlled by informal sectors, which has resulted in a lack of activity and an inability to expand the insurance sector. The economic status of the country is extremely poor.²²¹

The challenge of the regulatory framework is another challenge in the development of the Takaful market is the absence of appropriate regulation. This has led to apprehension about subscribing to Takaful, as the entity responsible for supervision and protection is not present.²²²

On the other hand, Pakistan has established the SECP to oversee and regulate all Islamic insurance activities. Several regulations, rules, and laws also regulate Takaful, to foster its growth.²²³

5.8. The Future of Takaful in Somalia and Pakistan

The Takaful is expanding consistently on a global scale in countries and regions with a Muslim majority. Certain sources reported that the global Takaful market reached 30 billion US dollars in 2022.

Forecasters have predicted that Takaful will experience a 10% annual growth rate, with the potential to reach 54.9 billion US in 2028. This suggests that Takaful awareness and its emergence will expand globally.²²⁴

²¹⁹ Ismail Ali Sheikhnor. "Assessing the Insurance Landscape in Somalia: Navigating Challenges and Uncovering Opportunities," <https://doi.org/10.2139/ssrn.4935403> (September 24, 2024).

²²⁰ Ibid.

²²¹ Ibid.

²²² Ibid.

²²³ Security Exchange Commission of Pakistan. "Takaful Guide." <https://jamapunji.pk/sites/default/files/TakafulGuide.pdf> (Last date Accessed on November 20, 2024).

²²⁴ Shariq Sikander, and FSA, CERA. "Takaful: An Alternative Approach to Insurance." General Insurance Research Committee. <https://www.soa.org/495f33/globalassets/assets/files/resources/research-report/2024/takaful-alternative-approach.pdf> (April, 2024).

The growth of Takaful in Somalia is expected to increase in the future due to the absence of conventional insurance, which is strictly prohibited due to religious reasons, and the Somali diaspora's return to Somalia's desire for financial stability.²²⁵

Furthermore, Somalia is solely a Muslim nation, with no other religion prevalent within its borders. This makes it possible for the general people to be persuaded that Takaful is a form of alternative to conventional insurance and that it has compliance with the principles of Shariah. Furthermore, the evidence from the last two years shows that some insurance products, such as Health and Motorway, have seen a large growth in Somalia.

That is a positive indication, and it suggests that insurance may be a beneficial addition to the general population. Because of the ability to recover losses, insurance (Takaful) plays an important role in increasing economic activity and managing risks.²²⁶

On the other hand, the Takaful industry in Pakistan is expanding due to the presence of a new complement of Shariah-compliant products. The availability of Takaful Insurance initiatives to Muslims significantly transforms the development of Islamic insurance in Pakistan.²²⁷

Also, Pakistan is experiencing a faster rate of growth in the Takaful sector, despite the challenges it is currently facing. This is primarily because some individuals are avoiding conventional insurance due to religious beliefs, which will inevitably lead to the expansion of the Takaful industry in the coming years.²²⁸

5.9. Conclusion

In brief, Somalia and Pakistan are countries that follow the Islamic insurance (Takaful) system. Both countries share similar features of Takaful, such as Shariah compliance, which is adhered to by Takaful operators in both regions. They adhere to every component of the principles underlying Islamic insurance. On the other hand, the models used and the regulatory bodies

²²⁵Jipril Adan Mohamed. "Progress and Challenges in Somalia's Takaful Industry" <https://www.linkedin.com/pulse/progress-challenges-somalias-takaful-industry-adan-mohamed-cams-owj8f/> (March 28, 2024).

²²⁶"Annual Insurance Market Report 2022." <https://slnia.org/wp-content/uploads/2024/10/Annual-Report-2022.pdf> (Last date Accessed on December 23, 2024).

²²⁷ Areeba Khan, Hafiz Abdur Rashid, Rana Muhammad Shahid Yaqub, and Saba Abbas. "Determinants of Customer Perception about Adoption of Islamic Insurance (Takaful) in Pakistan." *Journal of Business and Social Review in Emerging Economies* 6 (4): 1505–16. <https://doi.org/10.26710/jbsee.v6i4.1485> (December 31, 2020).

²²⁸ Ibid.

responsible for ensuring efficient Takaful operations largely characterize the differences within Takaful operations. Additionally, another feature that differs between the two countries is the size of the Takaful business market.

In conclusion, the comparison indicates that Pakistan possesses a more well-equipped and stable system of Islamic insurance (Takaful), which has a brighter future. On the other hand, the Takaful industry in Somalia is still in its early stages, and the country needs to gain more knowledge about the Takaful sector in Pakistan.

Chapter 6

Conclusions and Recommendations

6.1. Conclusion

Islamic Insurance (Takaful) is an agreement based on cooperation and shared responsibility. Additionally, the Arabic word "*Kafalah*" meaning "guarantee," serves as its genesis. In the event of loss or misfortune, the participant would be provided with the fund pool, which was preserved by the participants.

The evolution of Islamic insurance began a long time ago, during the time of the Prophet Muhammad (*SAW*). People argued that *Al-Aqilah*, the tribes' mutual support in times of loss or

necessity, existed. For this reason, the Prophet Muhammad (*SAW*) was enacted under the Medina constitution to assist one another and pay *Diya* in the case of tribal murder. This population includes Muslims, Jews, and other communities from that time.

The system was in existence even after the Prophet's death, and the Companions, particularly the second Khalifah Sayid Omer, adhered to it. This system enables the tribes to assist one another in the event of death or other calamities. Following this, Islamic insurance continued to expand.

Today Takaful operators worldwide, particularly in Muslim countries, follow four different models of Islamic Insurance (Takaful): *Wakala*, *Modaraba*, *Waqf*, and Hybrid. General Takaful and Family Takaful are the two primary categories of Takaful insurance products.

Islamic Insurance (Takaful) is a form of insurance that adheres to Shariah law, thereby ensuring that it does not violate any of the principles of Islamic teachings. Interest, gambling, uncertainty, and the purpose of the agreement are the primary differences between Takaful and conventional insurance. Islamic insurance is free of all of these components, and the genuine intention of Takaful is cooperation and mutual assistance. In contrast, conventional insurance is interest-based and serves commercial purposes.

There are numerous obstacles that Takaful must overcome to expand globally. Lack of Takaful knowledge is the biggest issue. However, Islamic Insurance has a promising future and will persist in its global expansion.

Somalia's Takaful Industry is virtually operational; however, the nation is grappling with the challenge of re-establishing political harmony following the breakdown of its central government in 1991. These issues have resulted in an absence of Islamic insurance for nearly two decades. In 2014, the first Takaful Company came into existence, and at present, Somalia boasts 12 Islamic insurances (Takaful). The number of Takaful insurance products in Somalia is limited, with the majority of offerings being Motorway and Medical Takaful. Somalia lacks a legitimate regulatory framework, despite the establishment of the National Insurance Authority in 2020 in North Somalia, Somaliland. Despite this, the absence of insurance laws and proper authority propels the Takaful industry forward. The prospects of the takaful industry in Somalia are limited and highly unlikely to expand due to the numerous challenges it has encountered. The political

instability, economic conditions, and social interdependence culture of Somalia known as "*Qaaraan*," primarily constrain the Takaful industry.

The Islamic Insurance (Takaful) Industry in Pakistan is significantly different from Somalia. Before the establishment of the Takaful sector in Pakistan, there was a conventional insurance sector. Takaful began in Pakistan in 2003 with the establishment of the first Takaful company. In 2005, the government enacted the Takaful Rules.

In Pakistan, there are five fully operational Takaful companies, with two being family Takaful and the remaining three being general Takaful. In 2012, the Takaful Rules permitted window Takaful, leading to the implementation of independent window Takaful by numerous conventional insurance companies. These initiatives aim to improve the Takaful industry.

SECP is the regulatory entity responsible for the regulation and supervision of Takaful in Pakistan. The Takaful company is required to adhere to additional rules and regulations.

The transmission of Takaful in Pakistan is confronted with challenges, including a lack of awareness and a shortage of re-takaful companies. However, the future of Takaful is expanding, and the majority of the Muslim population in Pakistan is interested in Islamic compliance.

The comparison of the Takaful industry to Somalia, the Takaful market in Pakistan is significantly larger. The regulatory framework demonstrates that Pakistan has a well-established body to regulate the Takaful Industry, whereas Somalia has been lacking an appropriate regulatory body since the establishment of the Takaful Industry. Additionally, the insurance sector in Pakistan is governed by a variety of laws and regulations, including the corporate code of governance and shariah regulations. In contrast, Somalia lacks any laws, rules, or regulations that are specifically applicable to Islamic insurance.

In terms of the products that are available in Somalia, there are only two primary types of insurance: Motorway and Medical. However, in Pakistan, there is a wide range of products available, including general insurance products such as engineering construction, livestock, marines, death, motorway, travel, and medical. Family Takaful products include savings, marriage, and educational planning.

The Takaful Industry in Pakistan and Somalia have similar challenges, primarily a lack of awareness and understanding of Takaful. However, Somalia has unique challenges, such as political instability and a lack of proper regulatory oversight.

In contrast, it indicates that the Takaful market in Somalia remains low. Somalia needs information regarding the core components of Pakistan's accomplishment in the development of the Takaful Industry.

Takaful is a beacon of ethical and community-driven insurance solutions in a financial landscape that is rapidly changing.

Takaful, which is founded on Islamic principles, demonstrates risk-sharing, fairness, and mutual support among participants. It is not merely insurance; it is a system that is founded on solidarity and compassion. Through comprehension of Takaful, individuals can achieve financial security while also aligning their decisions with their values.

This innovative method of risk management fosters financial stability and social accountability.

Islamic Insurance is an alternative to conventional insurance, with the primary objective of promoting cooperation and solidarity within society. In addition, it forbids any action that contradicts Shariah's principles, including interest, gambling, and uncertainty.

Muslims are the majority of these countries, and Islamic insurance is available in both Somalia and Pakistan. Takaful's development began in 1979. In comparison to Somalia, Pakistan's Islamic insurance system is more established, and its regulatory framework and regulations are more stable. On the other hand, many challenges and lack of proper regulatory structure in Somalia have hindered the growth of Takaful. In Pakistan, several research studies examine the

regulatory, service, and product aspects of Takaful, as well as the consumer awareness of the industry. Similarly, some articles illustrate the situation of Islamic insurance in Somalia, with a particular emphasis on the challenges that Takaful has encountered and the future of the industry. Since then, no study has compared the Islamic insurance systems of Somalia and Pakistan. Therefore, this study aims to bridge this gap by comparing the Takaful systems of both countries. Additionally, this research would be useful to future researchers in both countries.

6.2. Recommendations

This Thesis Recommends:

1. Somalia and Pakistan must enact the "Takaful Act," which is similar to the Malaysian Takaful Act. This act would facilitate the growth and flow of Takaful operations in both countries, providing a comprehensive explanation and solution for these operations. Additionally, it discusses the challenges associated with Islamic insurance and provides strategies for overcoming them. Furthermore, it establishes a challenging and equal competition with the conventional insurance market.
2. Awareness and understanding of Takaful operations are still low in Pakistan and Somalia. Consequently, awareness campaigns and other initiatives must implement to increase awareness of Takaful's operations. The governments of the respective countries and the Takaful operators

must collaborate to conduct seminars, workshops, and any other method of promoting the adoption of Islamic insurance. Training programs for local Takaful professionals, intermediaries, and Shariah scholars in Takaful practices will enhance the sector's operational efficiency and expertise.

3. The world is currently transitioning to digitalization, with every sector getting ready for the shift to the digital market and technology. Consequently, Takaful operations must adapt their activities and marketing strategies to the realm of digital media. This shift in the benefits of accessing information about Islamic insurance is a result of the global transition to digital platforms.

4. The developed countries in the Takaful Industry are like Malaysia. There must be efforts to establish international cooperation. As Re-takaful companies become increasingly significant in the Takaful market, it is imperative to establish partnerships with international Takaful companies to ensure their support and Collaborate with Re-Takaful Providers: In the event of significant claims or catastrophes, both Somalia and Pakistan Takaful providers can improve their financial stability and reduce risk by establishing re-takaful (Islamic reinsurance) agreements with larger, international Takaful firms.

5. The Takaful industry needs an increase in the number of research publications. It raises societal awareness and encourages individuals to familiarize themselves with Islamic insurance. Additionally, these researches provide solutions to the current challenges of the takaful industry in both countries.

6. Somalia needs to formalize the socio-cultural independence known as *Qaaraan*. The informal insurance system in Somalia assists the tribal community. The government of Somalia has to change from informal assistance to the formal Takaful sector by conducting public seminars and campaigns to formalize the Takaful sector, which is operated by Takaful companies. The government can transform the policy of tribal relationships into a formal institution. As Somali populations face droughts and economic challenges, the development of new Takaful products can serve as an incentive for low-income individuals, small businesses, livestock, nomadic

individuals, and farmers. By compensating for their losses in the future, these new products enable all of those categories.

7. To oversee and regulate the current Takaful operations in the market, Somalia must establish a proper regulatory body. Somalia can learn from Pakistan's successful establishment of a regulatory body. Pakistan has the SECP regulatory body, which oversees and regulates Takaful operations as well as the insurance sector. The Takaful industry in Somalia can benefit from the same approach to achieve insurance harmony.

8. Engaging the Somali diaspora presents an opportunity for takaful growth. Somalia should establish a policy to encourage diaspora members to invest in local insurance companies and initiatives. Developing insurance products specifically tailored to satisfy the needs of the diaspora, such as coverage for remittances and property, presents the potential to attract investments and improve the insurance market. Somalia can apply the financial resources and expertise of the diaspora to promote the development of the sector.

9. Somalia must ensure political stability throughout the nation. Somalia's stability would attract investors from around the world, and given the sector's infancy, various insurance companies might seek investment opportunities. With Somalia's political stability, the diaspora can return and invest in their homeland. Therefore, promoting political stability in Somalia can revitalize the financial sector.

10. The government must also work to improve Somalia's economic conditions. Subscribing to Takaful operations is challenging for a society that is markedly low due to financial difficulties. The government must make significant efforts to improve the country's economic conditions, which will subsequently alleviate the insurance sector.

11. To benefit Pakistan, Takaful and conventional insurance must collaborate, as conventional insurance has a substantial market impact on the insurance sector. Therefore, it is imperative to facilitate the exchange of knowledge and products to enhance the market's familiarity and comprehensiveness with Takaful. This initiative would encourage the insurance subscribers to be aware that there is an alternative option to conventional insurance, and the majority of the society is Muslim. It would also encourage these individuals to avoid interest and other prohibited

aspects of insurance, Also, the government of Pakistan should offer tax incentives to individuals and Companies who choose Takaful insurance by conducting tax deductions.

12. The regulatory framework of Pakistan is already well-established and stable, and it is prepared to supervise the Takaful movement. To make sure everything is the same, though, the rules need to be updated to match international standards like those set by the AAOIFI and IFSB, and a central Shariah oversight board needs to be set up.

13. Many different rules, regulations, and acts pertaining to Islamic insurance and conventional insurance have been passed by regulatory entities in Pakistan; however, the execution or implementation of those regulations has not yet been achieved. Therefore, the regulatory authority should take strong action or initiate to implementation of those rules.

14. Pakistan has to concentrate on micro-takaful in order to investigate how it would be able to reach marginalized communities and encourage financial inclusion, and Enhance Resource Allocation to Make Sure Takaful firms' resources are distributed effectively to promote expansion and improvement.

15. Somalia must add different models like modaraba, or hybrid models, in order to increase the improvement and flow of the Takaful industry all over Somalia; it may learn from Pakistan how it practiced with the different models.

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