

**Usury and Insurance in Islam: An Analysis**

**Risman Hadi**

Universitas Islam Negeri (UIN) Siber Syekh Nurjati Cirebon, Indonesia  
*Rismanhadi0104@gmail.com*

**Moh. Viki Azis**

Universitas Islam Negeri (UIN) Siber Syekh Nurjati Cirebon, Indonesia  
*Vikiazis10@gmail.com*

**Ade Surya Ramadhon**

Universitas Islam Negeri (UIN) Siber Syekh Nurjati Cirebon, Indonesia  
*Suryarandi59@gmail.com*

**Alam Tarlam**

Universitas Islam Negeri (UIN) Siber Syekh Nurjati Cirebon, Indonesia  
*alamtarlam@gmail.com*

**Abstract**

*This research examines the concepts of riba (usury) and insurance in Islamic jurisprudence, exploring their permissibility and interrelationship. Riba, defined as an unjust increase in wealth, is prohibited in Islam due to its exploitative nature, rooted in principles of justice and fairness. Insurance, a modern financial instrument, lacks explicit rulings in the Quran or Hadith, necessitating scholarly ijtihad. Findings reveal that conventional insurance often incorporates riba, gharar (uncertainty), and maysir (gambling), rendering it incompatible with Islamic law. Conversely, Islamic insurance (Takaful) offers a permissible alternative, based on mutual cooperation (ta'awun) and voluntary contribution (tabarru'), effectively eliminating prohibited elements. This study underscores the adaptability of Islamic law to modern economic challenges and emphasizes the need for ethical financial practices. It contributes to understanding how Islamic principles can shape contemporary financial systems while promoting equity and justice.*

**Keyword:** *Riba, Insurance, Takaful*

**Abstrak**

This study examines the concept of riba and insurance in Islamic jurisprudence, exploring their permissibility and interrelationship. Riba, defined as an unjust increase in wealth, is prohibited in Islam due to its exploitative nature, based on justice and equality. Insurance, as a modern financial instrument, is not explicitly regulated in the Quran or Hadith, thus requiring ijtihad from scholars. The results of the study show that conventional insurance often contains riba, gharar (uncertainty), and maysir (gambling), making it contrary to Islamic law. In contrast, Islamic insurance (Takaful) offers a permissible alternative, based on mutual assistance (ta'awun) and voluntary donation (tabarru'), which eliminates the prohibited elements. This study confirms the ability of Islamic law to adapt to the challenges of the modern economy and highlights the importance of ethical financial practices. This study contributes to the

understanding of how Islamic principles can shape contemporary financial systems while promoting justice and equality.

**Keywords:** *Usury, Insurance, Takaful*

## **A. Introduction**

The study of Islamic law has a crucial role in explaining various contemporary issues, especially in the realm of modern economics and finance. The flow of modernization and social change that continues to develop not only influences human behavior patterns but also has a significant impact on the practice of Islamic law (Pusvisasari, 2023). This ongoing social dynamic poses a challenge, considering that *the nash-nash* (legal texts) in the Qur'an and Hadith are limited and have been cut off with the death of the Prophet Muhammad SAW (Abdul Manan, 2017). Consequently, Muslims are faced with new problems that do not have an explicit legal basis, thus requiring an *ijtihad approach* a process of legal reasoning by scholars to find solutions (Muslich, 2015). Insurance, as one of the modern financial products, is an *ijtihadiah issue* whose law is not explicitly indicated by *the text* (Anwar, 2007).

On the other hand, the concept of usury has been widely known and practiced by society long before the arrival of Islam (Kalsum, 2014). The prohibition of usury in the Qur'an and Fiqh is an important foundation for realizing economic welfare and upholding justice in community life (Ipandang & Askar, 2020). However, with the emergence of modern banking institutions and the concept of bank interest, the definition and application of usury have become a subject of controversy that has sparked deep debate among Islamic thinkers (Marwini, 2017).

The debate on insurance and usury has become closely intertwined in contemporary Islamic jurisprudence. Many scholars forbid conventional insurance because it is considered to contain elements of usury, *gharar* (uncertainty), and *maysir* (gambling) (Nurwanti et al., 2022). This shows that Islamic law, through the mechanism

*ijtihad*, has an inherent capacity to remain relevant and applicable in the face of the complexities of the modern economy. This process ensures that its basic principles, such as justice and avoiding exploitation, are maintained. Differences of opinion among scholars on *ijtihad* issues are inevitable and enrich the intellectual treasury of Islam (Abdullah et al., 2018).

## **B. Literature Review**

In understanding the law of modern economic transactions such as insurance, it is important to refer to the basic principles of *muamalah* in Islam. One of the fundamental principles that is the basis is that the original law in *muamalah* is permissible (*al-ashl fi al-mu'amalah al-ibahah*) unless there is evidence that prohibits it (Ash-Shawi & Al-Muslich, 2001). This principle provides flexibility in dealing with economic innovation, but remains within the limits of sharia.

Muslich (2015) explains several key concepts that are taboo in *transactions* that are prohibited by sharia, including:

- ***Gharar* (Uncertainty):** *Gharar* refers to any transaction that is not transparent and unclear, thus potentially harming one of the parties. In the context of conventional insurance, *gharar* arises because customers pay premiums without certainty whether they will receive benefits from the insurance claim. This ambiguity can lead to injustice.
- ***Maysir* (Gambling/Speculation):** *Maysir* is defined as any form of gambling speculation that kills the real sector and is unproductive. Conventional insurance is often equated with gambling because of the element of uncertainty about who will profit and who will lose from the transaction (Hachemi et al., 2014) .
- ***Usury* (Interest/Additional):** *Usury* means taking additional from the principal or capital in a void manner. It is a distortion of currency into a commodity by imposing additional (interest) on credit or loan transactions. The prohibition of usury aims to avoid extortion and exploitation in the economy (Az-Zahra, 1970) .

These three elements— *gharar* , *maysir* , and *riba* —are not stand-alone prohibitions, but rather interrelated elements that often occur together in unfair transactions. For example, uncertainty ( *gharar* ) can create opportunities for speculation ( *maysir* ), and both can lead to unfair profit-making ( *riba* ) ( Muslich, 2015 ) . These prohibitions collectively aim to ensure fairness, transparency, and avoid exploitation in Islamic economic transactions. Understanding these interconnections allows for a deeper analysis of modern financial products. If a product contains one or more of these elements, it is likely to be problematic from a sharia perspective ( Sholihin, 2013 ) . Conventional insurance is often prohibited because it is considered to contain all three of these elements simultaneously, rather than just one ( Rafsanjani, 2022 ) .

### **A Brief Overview of Usury**

Etymologically, the word usury means addition, growth, or enlargement (Az-Zahra, 1970) . In Islamic jurisprudence terminology, usury is defined as a special addition owned by one party who makes a transaction without a certain reward, or an excess that is not accompanied by a reward that has been required in a sale and purchase transaction (Muhammad, 2012) . Ibn al-Arabi al-Maliki explains usury as any addition taken without a replacement or balancing transaction that is permitted by sharia (Az-Zahra, 1970) .

The practice of usury has been widely known and practiced by pre-Islamic societies, including in ancient Greek and Roman civilizations, as well as in Jewish and Christian teachings. Philosophers such as Plato and Aristotle criticized this interest system because it was considered to cause conflict, division, dissatisfaction, and exploitation of the poor by the rich (Muhammad, 2012) . The prohibition of usury in

Islam, reinforced by condemnation from ancient civilizations and other religions, shows that usury is not merely a ritualistic matter, but a violation of fundamental economic ethics. Its main *cause* is injustice ( *ẓulm* ) and exploitation (Az-Zahra, 1970) .

Az-Zahra (1970) explains that usury is categorized into several types:

- ***Riba Fadhl***: Is an additional form required in the exchange of similar goods or barter without additional compensation, such as exchanging 10 kg of rice for 11 kg of rice. This type of riba occurs in six types of ribawi goods: gold, silver, wheat, corn, dates, and salt, which is caused by the ability of the goods to be measured ( *makilat* ) and weighed ( *mauẓunat* ).
- ***Riba Nasi'ah***: It is an additional requirement taken by the lender in return for delayed payment. This type of riba is also known as riba jahiliyyah, where the habit of the jahiliyyah people is to offer an extension of the debt payment period with additional interest. The practice of monthly or annual interest on money loans in modern financial institutions is included in the category of riba nasi'ah.
- ***Riba Yad***: Occurs in buying and selling or exchanging activities by delaying the receipt of both goods exchanged or one of them without specifying the time, or the contract is final but there has been no handover of the goods.
- ***Riba Qardhli***: Includes all forms of debt and receivables practices in which there is a profit motive ( *sharth naf'an* ) which returns to the debt lender.

Ipandang and Askar (2020) describe that there are various views of scholars regarding *the evil* of prohibiting riba:

- **Hanafi and Hanbali**: *Illat* riba *fadhl* is the buying and selling of measured or weighed goods and similar goods. <sup>1</sup>
- **Maliki**: *The reason for* riba in gold and silver is the price, while in food it is the nature of staple foods that are strong and can be stored for a long time. <sup>1</sup>
- **Shafi'i**: *The meaning of* usury in gold and silver is the price, while in food it is everything that can be eaten, whether as a staple food, a delicacy, or a medicine. <sup>1</sup>
- **Zhahiri**: He is of the opinion that usury cannot be *denied* , because it is determined by *texts* alone, so that usury only occurs in six types of goods that have been determined in fiqh. <sup>1</sup>

The prohibition of usury in Islam occurs gradually in the Qur'an, starting from the depiction of negative elements, hints of prohibition, prohibition with limitations, to total prohibition (Ghofur, 2016) . This graduality shows a pedagogical approach in establishing complex laws, as well as the importance of *illat* usury for extrapolating the law to new cases that are not explicitly mentioned in *the text* . The modern bank interest

controversy is an attempt to reconcile this principle with economic reality, but the core argument for prohibition remains the potential injustice it causes (Kalsum, 2014) .

### **A Brief Overview of Insurance**

The term insurance comes from the English word "insurance" which means guarantee, or in Arabic it is called *al-ta'min* (Pusvisasari, 2023) . In general, insurance is defined as a contract that requires the insurer to guarantee the insured or fulfill the benefits stated in the insurance by handing over money or replacement property, at the time of the event as stated in the contract, because the insured has made payments in installments or at once to the insurer (Abdullah et al., 2018) .

Asra and Rizqiyah (2019) describe insurance as having three main elements:

1. **Guarantor (company):** A party willing to guarantee a sum of money or goods based on an agreement.
2. **Insured:** A party who is willing to pay a premium at a certain time, according to the agreement.
3. **The existence of an event:** This is a condition for payment of compensation in accordance with the agreement, such as fire or theft.

Abdullah, et al., (2018) explained that in general, insurance is divided into two types:

1. **Compensation Insurance:** The company provides compensation to parties who suffer loss of goods, such as fire or theft insurance.
2. **Cash Insurance:** The company pays a certain amount of money to customers who suffer a disaster, such as accident or life insurance.

Although modern insurance was unknown during the time of the Prophet Muhammad SAW, the concept of risk protection and mutual assistance has existed in Islam through practices such as *aqilah* , *muwalah* , and *tanahud* (Siddiq, 2017) . This shows that the essence of insurance—namely, sharing risks—is in accordance with the spirit of sharia. The development of sharia insurance ( *Takaful* ) is a modern attempt to realize these principles in the context of the contemporary economy, by eliminating prohibited elements such as *riba*, *gharar* , and *maysir* (Salman, 2014) . This indicates that Islam does not reject the concept of risk protection itself, but rather demands that its mechanisms be in accordance with the principles of Islamic justice and ethics.

Conventional insurance is based on legal regulations, aimed at reimbursement ( *tabaduli* ), where premium funds belong to the company, and investment of funds is carried out based on interest (*riba*), with claim payments from the company's fund account (Asra & Rizqiyah, 2019) . Conventional insurance is often considered to

contain elements of *gharar*, *maysir*, and *riba*. In contrast, sharia insurance (*Takaful*) is based on laws and regulations and sharia provisions, aims to help each other (*ta'awuni*), where premium funds (especially *tabarru' funds*) belong to participants, and investment funds are carried out in accordance with sharia with a profit-sharing system (*mudharabah*) or *wakalah*, with claim payments from *tabarru' funds* (social funds) of all participants (Badr & Tayachi, 2021). Sharia insurance is designed to avoid elements of usury, *gharar*, and *maysir*. (Salman, 2014)

### **Previous Studies on Usury and Insurance**

Several previous studies have examined the issue of usury and insurance separately or in a comparative context. Ipendang et al.'s (2020) research provides an in-depth review of the definition, types, history, and views of scholars on usury, including the controversy over bank interest. Meanwhile, Lina Pusvisasari's research (Pusvisasari, 2023) discusses the definition, law, rules, legal basis of sharia insurance, and differences of opinion among scholars on conventional and sharia insurance.

Other journals consistently discuss the prohibition of conventional insurance due to the elements of *riba*, *gharar*, and *maysir*, as well as the approval of sharia insurance (*Takaful*) based on the principles of *ta'awun* (mutual assistance) and *tabarru'* (voluntary donation) (Rafsanjani, 2022). These studies also compare the operations and principles between conventional and sharia insurance, and identify contemporary issues and challenges in the *takaful* industry (Asra & Rizqiyah, 2019).

A review of previous studies shows a strong consensus among contemporary scholars (especially those who support Islamic insurance) that conventional insurance is problematic due to *riba*, *gharar*, and *maysir*. However, there are significant initial differences of opinion, with some scholars absolutely forbidding it, absolutely permitting it, or distinguishing between social and commercial insurance (Hashim et al., 2005). The emerging consensus is that Islamic insurance should be based on the principles of *ta'awun* and *tabarru'*, not risk trading or *riba* investment. This suggests that despite initial differences of opinion, scholarly discourse has moved towards identifying a shari'ah-compliant model for risk protection (Nazla et al., 2024). These studies provide a strong foundation for the argument that Islamic insurance is a valid solution, not a compromise.

Although *riba* and insurance have been widely studied separately, this study specifically elaborates on the points of intersection between *riba* and insurance laws, especially in the context of conventional insurance which is accused of containing *riba* elements. The novelty lies in the in-depth analysis of how *illat* *riba* is directly manifested in conventional insurance mechanisms, as well as how sharia insurance fundamentally addresses the problem of *riba* through different contract structures and fund management.



The shift from the initial debate on insurance law in general (haram, mubah, syubhat) towards the development and widespread acceptance of the Islamic insurance model ( *Takaful* ) as a *sharia-compliant alternative* (Salman, 2014) . The discussion is no longer just on "permissible or not", but on "how insurance can be operated in accordance with sharia" (Hachemi et al., 2014) . This involves an in-depth analysis of the contracts ( *mudharabah* , *wakalah* , *tabarru'* ) and fund management (separation of participant and company accounts, *tabarru' funds* ) to avoid *gharar* , *maysir* , and *riba* (Suhardih, 2018) . The *Takaful industry* has grown significantly in Islamic countries and even attracted global attention, demonstrating its acceptance and validity as a sharia financial instrument (Sula, 2007) .

The emergence of *Takaful* is not only the result of internal debates in Islamic jurisprudence, but also a response to the needs of the Muslim market for sharia-compliant products (Nazla et al., 2024) . Fatwas from scholars and sharia councils (such as DSN-MUI) that allow *Takaful* have provided legal legitimacy, which in turn has driven the growth of the sharia insurance industry (Muzhar & Yusuf, 2011) . However, challenges such as competition with established conventional insurance and the need for market education indicate that full adoption still requires a lot of effort to popularize sharia insurance (takaful) (Nazla et al., 2024) . This highlights the reciprocal relationship between Islamic jurisprudence, community needs, and market developments. Islamic law not only regulates, but also adapts and innovates to meet the needs of the community, which then creates new market segments and drives the growth of the sharia economy.

### **C. Research        Methods**

This study uses a literary study or document analysis type of research. This approach is a library research that collects and analyzes data from various written sources. The research approach used is a descriptive analysis method with a qualitative approach (Moleong, 2017) . This approach allows researchers to study in depth the social and legal phenomena related to the concept of insurance and usury in the views of Islamic jurisprudence scholars. In addition, a normative legal approach is also used, which focuses on efforts to find the principles of insurance law in Islam that are in line with *maqashid al-syariah* . (Rainbow Troops Team, 2021) .

The data obtained will be analyzed using a descriptive approach (Moleong, 2017) . This analysis process involves tracing, classifying, interpreting, and synthesizing information from various Islamic legal literature, classical books, fatwas, results of *ijtihad* of scholars, and modern and contemporary studies. The analysis will focus on the normative aspects of insurance based on sharia principles and exploring the relationship between Islamic legal theory and modern *muamalah practices* .

#### **D. Research Results and Discussion**

##### **Usury Law in Islam**

Riba, linguistically, means  *ziyadah*  (addition), growing, or enlarging (Az-Zahra, 1970) . In fiqh terminology, riba is defined as a special addition owned by one party who makes a transaction without a certain reward, or an excess that is not accompanied by a reward that has been required in a sale and purchase transaction. Ibn al-Arabi al-Maliki explains riba as every addition taken without a replacement or balancing transaction that is permitted by sharia (Sayyid Sabiq, 2008) .

Az-Zahra (1970) divides the types of usury into:

- ***Riba Fadhl:*** Additional requirement in exchanging similar goods without additional compensation, such as exchanging 10 kg of rice for 11 kg of rice. This occurs in ribawi goods that are measured (  *makilat*  ) and weighed (  *mauzunat*  ) such as gold, silver, wheat, corn, dates, and salt.
- ***Riba Nasi'ah:*** Additional charges required in return for delay in payment, known as riba jahiliyah. A modern example is monthly or annual interest on a money loan.
- ***Usury Yad:*** Buying and selling or exchanging by terminating the receipt of both goods or one of them without stating the time.
- ***Usury Qardhli:*** All forms of debts and receivables in which there is a profit motive that returns to the lender.

The views of scholars on  *the illat*  of usury vary. Hanafiyah and Hanabilah scholars see  *the illat*  on the scale or measure (  *alkali wa alwajn*  ) and the similarity of types. Malikiyah believes that  *the illat*  is on the price (for gold/silver) and the long-lasting nature of staple foods (for food).  <sup>1</sup>  Shafi'i attributes  *the illat*  to the price (gold/silver/money) and the edible nature (staple foods, delicacies, medicine). Meanwhile, the Zahiri School believes that usury cannot be  *illatkan*  , because it is determined by  *nash*  only, so riba only occurs on items that are determined by  *nash*  (Ghozali, 2018) .

The prohibition of usury in Islam, reinforced by condemnation from ancient civilizations and other religions, shows that usury is not merely a ritualistic issue, but a fundamental violation of economic ethics. Its main  *illat*  is injustice (  *zulm*  ) and exploitation (Umam, 2017) . Any transaction that generates profit without commensurate risk or without a fair real transaction, and has the potential to harm one of the parties, can be categorized as usury or at least problematic according to sharia. This is the key to analyzing conventional insurance.

The controversy over modern bank interest arose due to the various interpretations of the global definition of usury in the Qur'an. The view that forbids



bank interest equates it with *riba nasi'ah* because there is an addition to the principal of the loan in return for time, which is considered to cause injustice and exploitation. Meanwhile, the view that allows it argues that usury in the Qur'an only refers to usury of *jahiliyah* (the multiplication of capital that causes the slavery of the debtor), that usury *fiqh* only applies to the 'six commodities' and not to modern currency, and the need to distinguish between productive and exploitative loans. Some also argue that banking institutions are not categorized as *mukallaf* (legal subjects), or that emergencies ( *darurah* ) and public interest ( *maslahah* ) can allow it, as well as inflation as compensation for the decline in the purchasing power of money (Ghofur, 2016) .

### **Insurance Law in Islam**

Insurance was not known during the time of the Prophet Muhammad SAW, so its legal basis is not found textually in the Qur'an or Hadith. Therefore, its law is determined through *ijtihad* of scholars (Nurwanti et al., 2022) . Early debates about insurance often centered on whether the contract resembled a sale or other prohibited contract. However, more developed views, especially those that gave rise to sharia insurance, shifted from merely the form of the contract to the substance and purpose ( *maqashid* ) of the transaction (Suhardih, 2018) .

If the goal is mutual assistance ( *ta'awun* ) and risk protection in accordance with *the maqashid sharia* , then it can be permitted, as long as prohibited elements such as usury, *gharar* , and *maysir* are removed from its operation (Rafsanjani, 2022) . This shows the maturity of contemporary *ijtihad* , where scholars are not only fixated on the formal form of the contract, but also analyze the social and economic impacts and alignment with the broader objectives of sharia (Anwar, 2007) . This is a more holistic approach to establishing the law for modern financial instruments.

Suhardih (2018) explains the differences of opinion of scholars regarding insurance law as follows:

- **Absolute Prohibition:** Conventional insurance is prohibited because it is considered the same as gambling ( *maysir* ), contains elements of usury, *gharar* (uncertainty), elements of extortion/exploitation (forfeited premiums), premiums are rotated in usury practices, including buying and selling/exchanging non-cash currencies, and making human life/death an object of business. Scholars who support this view include Sayyid Sabiq, Abdullah al-Qalqili, Yusuf Qardhawi, Muhammad Bakhit al-Muth'i, Ibn Abidin, and Muhammad Al-Ghazali.
- **Absolute Permission:** Conventional insurance is permitted because there is no *text* that prohibits it, there is an element of willingness on the part of both parties, it is mutually beneficial, it contains *maslahah 'ammah* (public interest) because the premium is invested for development, it includes *a mudharabah* (profit sharing) or *syirkah ta'awuniyah* (cooperative) contract, and it can be likened to a pension.

Supporting scholars include Abd. Wahab Khalaf, Mustafa Akhmad Zarqa, Muhammad Yusuf Musa, and Abd. Rakhman Isa.

- **Middle Way (Allowing Social, Forbidding Commercial):** This view distinguishes between insurance that is social in nature (non-profit, mutual assistance) as permissible, and insurance that is commercial in nature (seeking profit, speculation, usury) as forbidden.
- ***Syubhat* (vague):** The law is considered vague because there is no clear evidence to prohibit or permit it, so Muslims must be careful.

The basic principle in *muamalah* is that the basic law in *muamalah* is permissible, except for *muamalah* which is prevented/prohibited by sharia. <sup>The</sup> prohibited *transactions* are those containing elements of *maysir*, *immorality*, *gharar*, *baram*, *usury*, *ibtikar* (hoarding), and danger (Sayyid Sabiq, 2008).

### **Insurance: Is It Usury?**

Conventional insurance, in the view of many scholars, can be categorized as containing elements of usury. The relationship between conventional insurance and usury is not only in the investment of funds, but also in the structure of the contract. If the conventional insurance contract is considered as a risk sale or exchange of money with money that is not balanced and not cash, then it can inherently trigger usury *nasī'ah* and/or usury *fadhīl*. This is because there is no fair and transparent *imadhb* (equivalent) for the "addition" or "deficiency" that may occur, unlike real sales transactions that have goods in return (Rizqy, 2024). Therefore, the sharia solution cannot only "avoid interest" but must restructure the entire contract and management of funds to eliminate the potential for usury, *gharar*, and *maysir*.

Rafsanjani (2022) explains the elements of usury that are manifested in conventional insurance:

- ***Usury Nasī'ah*:** Scholars who forbid conventional insurance often equate it with *riba nasī'ah*. This happens because customers pay premiums periodically (installments) and if a claim occurs, they can receive an amount greater than the total premium that has been paid. On the other hand, if there is no claim or the customer stops paying, the premium that has been paid can be forfeited or its return reduced. This addition or reduction is considered not to have a valid *imadhb* (equivalent) in the context of risk trading, but rather solely because of the delay or uncertainty.
- ***Usury Fadhīl*:** Several Shafī'iyah and Hanabilah scholars are of the opinion that the practice of insurance is equated with the practice of *riba fadhīl* and *nasī'ah* at the same time. This is because there is a payment of money at a certain time with an increased return at a later time. If the premium is considered as "capital" and the claim as "return", then the positive difference without a fair real transaction

can be considered as *riba fadhli*.

- **Premium Fund Investment:** One of the strong arguments for the prohibition of conventional insurance is that the premiums collected are often used in *riba* (interest-bearing credit) practices in conventional banks. The funds collected from customers belong to the company and are invested based on interest. This directly involves *riba* in the operations of conventional insurance companies.
- **Uncertainty ( *Gharar* ) and Speculation ( *Maysir* ) Leading to Usury:** The elements of *gharar* (uncertainty of claims) and *maysir* (gambling) in conventional insurance can create conditions where one party gains profit without clear or equivalent compensation, which is essentially similar to taking usury. For example, a customer who has only paid a small premium but immediately gets a large claim, or conversely, a customer who has paid premiums for years without a claim and the funds are forfeited. The profit obtained in these conditions is not based on fair exchange or productive effort, but rather on luck or exploitation of uncertainty.

**Table 1: Comparison of Conventional Insurance and Sharia Insurance (Focus on *Riba*, *Gharar*, *Maysir*)**

Comparative Aspects	Conventional Insurance	Sharia Insurance ( <i>Takaful</i> )
<b>Contract</b>	Buying and selling ( <i>aqad tabaduli</i> )	Helping each other ( <i>ta'awuni</i> ), <i>mudharabah</i> , <i>wakalah</i> , <i>tabarru'</i>
<b>Objective</b>	Replacement ( <i>tabaduli</i> ), profit oriented	Helping each other ( <i>ta'awuni</i> ), risk protection, mission of faith, worship, economy, empowering the community
<b>Premium Fund Ownership</b>	Company owned	<i>Tabarru'</i> funds belong to participants, the company as the trust manager
<b>Fund/Investment Management</b>	Based on interest ( <i>riba</i> ), free to determine allocation	In accordance with sharia, the profit sharing system ( <i>mudharabah</i> ), without usury
<b>Claim Payment Source</b>	Corporate fund account	<i>Tabarru'</i> funds for all participants
<b>Usury Elements</b>	There is	Avoided
<b>Element of <i>Gharar</i></b>	There is (uncertainty of claims/benefits)	Minimized/deleted via <i>tabarru'</i> account
<b>Elements of <i>Maysir</i></b>	There is (fate,	Avoided

	speculation)	
<b>Forfeited Funds</b>	Yes (if unable to continue premium)	None (funds can be withdrawn except <i>tabarru'</i> )
<b>Sharia Supervisory Board</b>	There isn't any	There is

### Sharia Insurance as a Solution

Islamic insurance ( *Takaful* ) emerged as a fundamental *sharia solution to the problems of conventional insurance*. The concept of *Takaful* is based on principles that are in line with Islamic values, making it an alternative that is in accordance with *maqashid al-syari'ah* and the needs of modern society for risk protection (Hakim, 2011) . Islamic insurance is not just a "halal" financial product, but a concrete manifestation of the principles of justice, mutual assistance, and avoiding exploitation in Islamic economics.

Tila (2019) explains that the basic principles of sharia insurance ( *Takaful* ) include:

- ***Ta'awun* (Mutual Assistance):** This is the philosophical and operational basis of *Takaful* , where participants help each other in the face of calamities. This principle is in line with the hadith of the Prophet SAW which describes the believers as one body, where if one part is sick, the whole body feels feverish and cannot sleep.
- ***Tabarru'* (Voluntary Contribution):** Participants voluntarily contribute a certain amount of funds into a fund ( *tabarru' fund* ) which is intended to help other participants who have been struck by disaster. This fund does not belong to the company and does not contain any usury elements.
- ***Risk Sharing*:** Unlike conventional insurance which emphasizes *risk transfer* (transferring risk to the company), *Takaful* emphasizes *risk sharing* (sharing risk) among participants.

Sula (2007) added that the operational mechanism of sharia insurance is designed to eliminate elements that are prohibited in Islam, such as:

- **Separation of Accounts:** Premiums paid by participants are divided into participant fund accounts (for savings products) and *tabarru' accounts* . This separation overcomes the problem of *gharar* related to claim payments, because claims are paid from *tabarru' funds* which are voluntary contributions from all participants.

- **Contracts Used:**
  - **Mudharabah:** A business cooperation agreement between participants (capital owners or *shahibul maal*) and companies (managers or *mudharib*). Profits are shared according to agreement, while losses are borne by the capital owners unless caused by the negligence of the manager.
  - **Wakalah:** The company acts as a representative of the participants in managing funds and is entitled to receive service fees. In this model, all funds and investment results become the full rights of the participants.
- **Sharia Investment:** The funds collected are invested in instruments that do not conflict with sharia, strictly avoiding usury.
- **No Forfeited Funds:** If a participant withdraws before the end of the agreement period, the funds deposited can be taken back, except for a small portion of *the tabarru' funds* that have been intended for mutual assistance purposes.

The majority of contemporary scholars allow sharia insurance because it is in accordance with the principle of *ta'awun* and effectively avoids the elements of *gharar*, *maysir*, and *usury*. The National Conference of Alim Ulama in 2006 even determined the choice of law and model of sharia insurance that is free from differences of scholars (*al huruj minal khalaf mustababbun*) (Maksum, 2013).

With *its tabarru'* and *risk sharing structure*, *Takaful* transforms the relationship between participants from "buyer-seller of risk" to "members of a community of mutual insurers". This fundamentally overcomes the *riba*, *gharar* and *maysir objections* inherent in conventional insurance, as profits are not derived from the unequal exchange of money for money or from speculation, but rather from the management of common funds and voluntary contributions (Ditama et al., n.d.). The success of *Takaful* demonstrates that Shari'ah principles can be implemented in the modern financial system to create a more ethical and equitable model. It also paves the way for further innovation in Islamic financial products that are based on Islamic social and moral values, rather than purely financial returns.

## **Conclusion**

Based on the analysis that has been conducted, several key points can be concluded regarding the law of usury and insurance in Islamic jurisprudence. First, usury (riba) in Islam refers to any addition to the principal amount of wealth, which is explicitly prohibited in the Qur'an and Islamic jurisprudence (fiqh). The various types of riba—such as riba fadhl, riba nasi'ah, riba yad, and riba qardhli—are all rooted in the principle of justice and the avoidance of exploitation. The modern debate surrounding bank interest reflects the complexity of applying traditional riba laws to contemporary financial instruments, but the essence of the prohibition remains in the potential injustice it causes. Second, insurance is considered an *ijtihadiyah* (subject to scholarly interpretation) matter in Islamic law, leading to differing opinions among scholars due to the absence of explicit scriptural texts. However, the dominant view identifies conventional insurance as involving elements of *gharar* (uncertainty), *maysir* (gambling), and *riba* due to its speculative nature, lack of transparency, and interest-based investment practices. Third, conventional insurance can be classified as involving *riba*, particularly *riba nasi'ah* and *riba fadhl*, due to the potential for unbalanced profits or losses without *'iwadh* (equivalent exchange) according to sharia, and the practice of investing premium funds in interest-bearing instruments. The contract structure of conventional insurance, which resembles risk trading, also contributes to the element of *riba*. Fourth, sharia-compliant insurance (*Takaful*) has emerged as a fundamental solution within the framework of Islamic law. Based on the principles of *ta'awun* (mutual assistance) and *tabarru'* (voluntary donation), and using *mudharabah* or *wakalah* contracts along with sharia-compliant investments, *Takaful* effectively eliminates the elements of *riba*, *gharar*, and *maysir*. Thus, *Takaful* serves as an alternative that aligns with the objectives of Islamic law (*maqashid al-shari'ah*) and meets the modern need for risk protection based on Islamic ethics.



**Bibliography**

- Abdul Manan, AM (2017). *Sharia Economic Law in the Perspective of Religious Court Authority* . Prenada Media Group.
- Abdullah, SS, Prayoga, H., & Sari, HI (2018). *Business Law: Application of Loss Insurance Law to Portal-Based E-Commerce Risk Protection* . Mandiri Nirizindo Utama CO.
- Anwar, K. (2007). *Sharia Insurance, Halal & Maslahat* . Three Musketeers.
- Ash-Shawi, S., & Al-Muslich, A. (2001). *Islamic Economic Jurisprudence* . Darul Haq.
- Asra, M., & Rizqiyah, R. (2019). Comparative Study of Sharia and Conventional Insurance. *Istidlal: Journal of Islamic Economics and Law* , 3 (2), 103–117.
- Az-Zahra, MB (1970). *Fi ar Riba* . Dar al Buhus al Islamiyyah.
- Badr, R., & Tayachi, T. (2021). A COMPARATIVE STUDY: TAKAFUL AND CONVENTIONAL INSURANCE. *PalArch's Journal of Archeology of Egypt/Egyptology* , 18 (13).
- Ditama, RA, Fauzi, M., & Muid, A. (nd). Islamic Insurance (Takāful): A Review Of Recent Research and Future Directions. *Review of Islamic Economics and Finance* , 7 (2), 155–170.
- Ghofur, A. (2016). The Concept of Riba in the Qur'an. *Economica: Journal of Islamic Economics* , 7 (1), 1–26.
- Ghozali, AR (2018). *Fiqh of Muamalat* (5th ed.). Prenada Media Group.
- Hachemi, M., Mohamaed, A., Eshebani, R., Abd Aziz, M., Abd Ghani, W., & Ab Aziz, M. (2014). Takaful and conventional insurance: A comparative study. *International Journal of Management Sciences* , 2 (12), 543–551.
- Hakim, MA (2011). At-Ta'min At-Ta'awuni: Alternative Insurance in Islam. *Muqtasid: Journal of Islamic Economics and Banking* , 2 (2), 231–279.
- Hashim, S., Shahidan, A., & Fadzim, WR (2005). *The elements of gambling in conventional insurance and takaful* .
- Ipandang, I., & Askar, A. (2020). The concept of usury in fiqh and the Qur'an: A comparative study. *Ekspose: Journal of Legal and Educational Research* , 19 (2), 1080–1090.
- Kalsum, U. (2014). Usury and bank interest in Islam (legal analysis and its impact on the economy of the people). *Al-'Adl* , 7 (2), 97–83.
- Maksum, M. (2013). *Fatwa on Sharia Economics in Indonesia, Malaysia, and the Middle East* . Research and Development and Training Agency, Ministry of Religion of the Republic of Indonesia.
- Marwini, M. (2017). Usury Controversy in Conventional Banking and Its Impact on the Economy. *Aẓ-Zarqa': Journal of Islamic Business Law* , 9 (1).
- Moleong, LJ (2017). *Qualitative research methodology* . Rosda Karya.
- Muhammad, M. (2012). Usury and Bank Interest Law in an Ethico-Legal Perspective. *Al-Manahij: Journal of Islamic Law Studies* , 6 (2), 319–331.
- Muslich, A. W. (2015). *Muamalah Fiqh* (3 ed.). Hamza.
- Muzhar, MA, & Yusuf, CF (2011). *Fatwa of the Indonesian Ulema Council (MUI) in the perspective of law and legislation* . Center for Religious Life Research and Development, Research and Development and Training Agency, Ministry of Religion.
- Nazla, L., Agustina, RS, Nuraini, S., Hanapiah, SN, & Mughni, JA (2024). STRATEGIES IN IMPROVING THE EXISTENCE OF SHARIA

- INSURANCE IN INDONESIA. *Taraadin: Journal of Islamic Economics and Business* , 4 (2).
- Nurwanti, YD, Zaelani, MA, & Pramesti, ED (2022). Sharia Insurance Reviewed from Islamic Law. *Proceedings* , 95–101.
- Pusvisasari, L. (2023). Insurance Law: A Review of Islamic Jurisprudence Scholars. *MASHLAHAH* , 2 (2), 37–50. <https://doi.org/10.62824/jgqwx727>
- Rafsanjani, H. (2022). Analysis of Riba, Gharar, and Maisir Practices in Conventional Insurance and Solutions from Sharia Insurance. *MAQASID* , 11 (1).
- Rizqy, JJR (2024). *ANALYSIS OF RIBA IN SHARIA INSURANCE PRODUCTS* .
- Salman, S.A. (2014). Contemporary issues in Takaful (Islamic insurance). *Asian Social Science* , 10 (22), 210.
- Sayyid Sabiq. (2008). *Sunnah Jurisprudence* (Vol. 3). Al-I'tishom.
- Sholihin, AI (2013). *General Guidelines for Islamic Financial Institutions* . Gramedia Pustaka Utama.
- Siddiq, M. (2017). The position of insurance in Islamic law. *Islamic Banking: Journal of Thought and Development of Islamic Banking* , 2 (2), 44–55.
- Suhardih, D. (2018). The Halal-Haram Controversy of Sharia Insurance. *Tabkim: Journal of Law and Sharia* , 14 (2), 305–316.
- Sula, MS (2007). *Sharia insurance: Life and general: Concept and operational system* . Gema Insani Press.
- Tila, L., Mukhsinun, M., & Fursotun, U. (2019). LEGAL BASIS AND PRINCIPLES OF SHARIA INSURANCE IN INDONESIA. *LABATILA JOURNAL* , 2 (01), 53–73. <https://doi.org/10.33507/lab.v2i01.107>
- Laskar Pelangi Team. (2021). *Fiqh Muamalah Methodology: Methodological Discourse on the Concept of Socio-economic Interaction* (Mudaimullah Azza, Ed.). Lirboyo Press.
- Umam, K. (2017). Prohibition of usury and application of sharia principles in the banking legal system in Indonesia. *Mimbar Hukum-Faculty of Law, Gadjah Mada University* , 29 (3), 391–412.