

ABSTRACT

The conventional insurance contract is one of the highly regarded contracts which has a vital role that cannot be overruled in the modern world due to its tightly knit nature with the economic and business life of the people. As to the legality of conventional insurance contract under the Islamic law (*Sharī'ah*) there are difference of opinion among Muslim Scholars. Majority of *Fuqahā'* (Islamic law Jurists) are of the opinion that Conventional insurance does not conform to any of the known valid Islamic contracts, due to the existence of unacceptable features associated with its contract (such as: gambling (*maisir*), uncertainty (*gharar*) and interest (*ribā*)). However, few other Muslim writers and researchers see nothing unlawful under the *Sharī'ah* in the basic principles underlying the modern conventional insurance system. According to them the basic in Islamic principles refers to the permissibility of things and conventional insurance is not part of what is generally forbidden unless there is a clear evidence to say otherwise. They further opine that any want of knowledge (*jahālah*) and uncertainty (*gharar*) involved in the conventional insurance are not of a degree large enough to call for the prohibition of the conventional insurance and its contract. It is the aim of this research to examine these jurisprudential arguments and to reveal from *Sharī'ah* perspectives the preferable, and more acceptable opinion on the issue. As mentioned earlier, the conventional insurance system has penetrated all aspects of our daily life socially and economically, therefore, an objective study by the muslim *Fuqahā'* (Islamic law Jurists) has been made in order to develop an alternative system to the conventional insurance system which can fulfil the needs of the *Muslim Ummah*, without violating any of the basic principles of Islamic

transaction. This noble effort leads to the establishment of *Al-Takāful* system (i.e. Islamic insurance) as a substitute of the present modern insurance system, which has been the most controversial subject among Muslim scholars. The basic objective of *Takāful* system is the mutual assistance among a group of people by helping one another during hardship. In this work we choose to study the application of *Takāful* system in the operation of *Syrikat Takāful Malaysia Berhad* (STMB) and *Syrikat Takāful Nasional Sendirian Berhad* (TNSB) because of its role as a leading *Takāful* industry in the world. The hypothesis of this study is the concept of the conventional insurance and its operational system, which is in conflict with the principles enunciated by Islam. This study reveals that the modern conventional insurance system does not at all conform to the Islamic concept of transactions or to any one of the known valid Islamic contracts, because it is proven to be contradictory with the Islamic law. Therefore, *Takāful* (Islamic insurance system) is the alternative to *Muslim Ummah*.