

## ABSTRACT

This thesis analyses the modern insurance contract from the Islamic perspective and highlights the Islamic system of insurance as an alternative to that of conventional system. A special reference is made to the operation of Syarikat Takaful Malaysia Berhad (STMB) and MCIS Insurance Berhad.

Chapter One is an introduction to the conventional insurance contract, focusing on its definition, the origin of insurance, characteristics of contracts and benefits and objectives of insurance.

Chapter Two analyses in details the conventional insurance contracts, featuring its two main characteristics, security against loss and the importance of insurance and its connection with gambling element. This chapter also discusses The Life Assurance Act 1774 and Gaming Act 1845 to see how far insurance contract can avoid itself from being affected by gambling element.

Chapter Three discusses insurance from the Islamic perspective as well as views from Islamic jurists who reject the operation of conventional insurance due to the fact that the elements of *ribā*, *gharar* and *maysir* do exist. Also examples are included whereby these three elements prevail in insurance transactions. The concept of insurance

in Islam, within the framework of *al-takāful al-ijtimā'ī* which is more comprehensive than that of conventional system is also discussed.

Chapter Four examines the formation and operation of Syarikat Takaful Malaysia Berhad (STMB), focusing on Takaful Keluarga (Family Insurance) and Takaful Am (General Takaful) and the company's capability to emerge as alternative to other insurance companies currently operating on conventional basis. A study on the differences between *'aqd takāful* and the conventional insurance contract in terms of profits distributions based on *'aqd muḍārabah* is also done.

Chapter Five studies the formation and operation of MCIS Insurance Berhad, followed by the commentary from the Islamic perspective on general and life insurance schemes offered by the company.

At the end, a conclusions is made about this study followed by suggestions and proposals in the effort to improve any shortcomings in the Islamic system of insurance in Malaysia.

## ABSTRAK

Kajian ini menganalisis kontrak insurans moden dari sudut pandangan Islam dan seterusnya menonjolkan sistem insurans Islam sebagai satu alternatif kepada sistem insurans konvensional dengan rujukan khusus kepada operasi Syarikat Takaful Malaysia Berhad (STMB) dan Syarikat MCIS Insurance Berhad.

Bab Satu adalah pengenalan kepada kontrak insurans konvensional. Perbincangan ditumpukan kepada definisi, sejarah perkembangan, ciri-ciri kontrak insurans, faedah dan tujuan kontrak insurans diwujudkan.

Bab Dua menganalisis secara detail kontrak insurans konvensional dengan memberikan tumpuan kepada dua ciri utama di dalam kontrak ini iaitu jaminan kepada kerugian dan kepentingan kontrak insurans dan hubung kaitnya dengan elemen perjudian. Seterusnya bab ini akan membahaskan Akta Insurans Nyawa 1774 dan Akta Judi 1845 untuk melihat sejauhmanakah kontrak insurans boleh mengelak daripada dipengaruhi oleh unsur perjudian ini.

Bab Tiga membincangkan insurans dari sudut pandangan Islam dan penolakan ahli-ahli perundangan Islam terhadap operasi insurans konvensional kerana kewujudan elemen-elemen *ribā*, *gharar* dan *maysir*, berserta contoh-contoh di peringkat manakah elemen-elemen ini wujud di dalam transaksi insurans. Seterusnya bab ini membahaskan

konsep insurans Islam, dalam rangka *al-takāful al-ijtimā'i* yang sifatnya lebih menyeluruh daripada insurans konvensional.

Bab Empat menganalisis penubuhan dan operasi Syarikat Takaful Malaysia Berhad (STMB) yang menjalankan perniagaan Takaful Keluarga dan Takaful Am dan bagaimana syarikat ini menjadi alternatif kepada syarikat-syarikat insurans konvensional yang sedia ada. Bab ini juga membahaskan perbezaan di antara akad takaful dengan kontrak insurans konvensional dari segi pembahagian keuntungan berasaskan akad *mudārabah*.

Bab Lima mengkaji tentang penubuhan dan operasi Syarikat MCIS Insurance Berhad, berserta komentar dari sudut pandangan Islam tentang produk-produk insurans nyawa dan am yang ditawarkan.

Kajian ini diakhiri dengan kesimpulan dan cadangan-cadangan untuk membaiki kelemahan sistem insurans Islam di Malaysia.