



Islamic Windows as Catalysts for Advancing the Takaful Insurance Industry

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Abstract : The introduction of Islamic windows dedicated to Takaful insurance reflects a strategic initiative aimed at advancing contemporary Islamic financial transactions and enhancing the domain of Islamic finance. Central to the purpose of these specialized channels is the strict adherence to the precepts of Islamic Sharia in all operational facets, deliberately avoiding usurious practices, Gharar (unjust acquisition), and the wrongful appropriation of individuals' assets through illegitimate means. The administration of Takaful insurance via these designated windows adheres to a rigorous framework of regulations and principles. This framework mandates steadfast compliance with Islamic legal doctrines and the pronouncements (Fatawa) issued by Sharia supervisory entities, alongside an unwavering commitment to the tenets of Islamic jurisprudence. Despite evident progress, the attainment of full alignment with Islamic principles remains a work in progress for Islamic windows. Consequently, a thorough reassessment of the legal, accounting, and financial framework governing these entities becomes imperative. Moreover, ensuring their complete autonomy from interest-based conventional financial institutions emerges as a critical necessity.

Keywords: Insurance, Takaful, Industry, Islamic Windows.

Guichets Islamiques comme Catalyseurs pour l'Avancement de l'Industrie de l'Assurance Takaful

Résumé : L'introduction des guichets islamiques dédiées à l'assurance Takaful reflète une initiative stratégique visant à faire progresser les transactions financières islamiques contemporaines et à renforcer le domaine de la finance islamique. Au cœur de l'objectif de ces canaux spécialisés se trouve le strict respect des préceptes de la charia islamique dans tous les aspects opérationnels, évitant délibérément les pratiques usurières, le Gharar (acquisition injuste) et l'appropriation injuste des biens des individus par des moyens illégitimes.

L'administration de l'assurance Takaful, via ces guichets désignés, respecte un cadre de réglementations et de principes. Ce cadre impose une conformité rigoureuse avec les doctrines juridiques islamiques et les avis (Fatawa) émis par les entités de surveillance de la charia, ainsi qu'un engagement inébranlable envers les principes de la jurisprudence islamique. Malgré des progrès évidents, l'atteinte d'une pleine conformité avec les principes islamiques demeure un travail en cours pour les

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guichets islamiques. Par conséquent, une réévaluation du cadre juridique, comptable et financier régissant ces entités devient impérative. De plus, veiller à leur complète autonomie par rapport aux institutions financières conventionnelles basées sur l'intérêt devient une nécessité.

Mots-clés : Assurance, Takaful, Industrie, Guichets Islamiques.

Introduction

Human beings, in the course of their lives, are compelled to confront various risks that may threaten their property and well-being. Notably, the Islamic faith stands out for its emphasis on the principles of solidarity and mutual support among members of the society. The concept of insurance, while rooted in antiquity, has undergone a significant transformation in contemporary times. In bygone eras, the practice of insurance lacked a formal legal framework; it operated on the grounds of conscience, ethics, and societal obligations. This ethical foundation is exemplified in the Quranic directive; Allah (SWT) says, "And cooperate in righteousness and piety, but do not cooperate in sin and aggression" (Al-Ma'idah, 05:02). This verse urges cooperation for virtuous and righteous deeds, while condemning any form of cooperation in sinful or unjust activities.

In the present epoch, the practice of insurance has experienced widespread adoption, accompanied by both merits and demerits. It has emerged as a pivotal component within the economic, social, financial, and commercial domains. Algeria's journey in the domain of insurance commenced with the inheritance of commercial insurance policies from the erstwhile French colonial regime. This transpired during a period characterized by a legal vacuum, compelling the adherence to French laws, except when they contradicted national sovereignty. Consequently, this precipitated the establishment of national insurance companies, primarily under state control, in an era defined by socialist policies. The outcome of this centralized regime was the absence of competition within the insurance sector, minimal presence of foreign and private insurance entities, and an almost complete dearth of cooperative insurance arrangements.

The transition to a capitalist system in Algeria ushered in an era of significant expansion within the insurance market, marked by the proliferation of national and international insurance companies. While commercial insurance offers several advantages, such as risk coverage, disbursement of insurance premiums to policyholders, coverage of specific medical expenses, and access to grants in case of risks, it bears inherent shortcomings. Of particular concern is its contravention of Islamic principles due to its association with unjust acquisition (Gharar), usury (Riba), wrongful appropriation of individuals' wealth, and its proximity to gambling practices. After extensive scrutiny, consultations, and

scholarly deliberation, the Islamic Fiqh Academy concluded that commercial insurance, irrespective of its formulation, is inherently forbidden within Islamic jurisprudence, given its entanglement with usury, wrongful appropriation of wealth, and gambling.

At present, insurance stands as an indispensable contract, especially within commercial transactions where insurance coverage is often mandated in the context of international trade. This compelling need underscores the urgency for an alternative to commercial insurance. Scholars and practitioners have proposed Islamic cooperative insurance known also as *Takaful*, a concept that aligns seamlessly with Islamic Sharia principles, as a potential solution. This transition demands a resolute commitment to avoiding usury, wrongful appropriation of wealth, gambling, and a fundamental restructuring of contractual agreements in alignment with Islamic legal principles.

Islamic cooperative insurance (*Takaful*), founded upon the principles of mutual support and solidarity among a collective of individuals, emphasizes cooperation over profit. Some nations, including Malaysia, Kuwait, Saudi Arabia, Sudan, Jordan, the United Arab Emirates, and Egypt, have witnessed remarkable progress in this domain, underscoring its significance and influence within the insurance sector. Responding to the evolving landscape of Islamic finance and contemporary transactions, the Algerian legislature promulgated Executive Decree No. 21/81, outlining the regulations and practices governing Islamic cooperative insurance (official Journal, 2021. P, 07).

This decree constitutes a seminal moment in the progression of this type of insurance in Algeria. Though nascent, the Islamic cooperative insurance industry in Algeria is beginning to take root, with provisions for its operation either as autonomous entities or specialized windows within traditional insurance companies. The effective operation of these Islamic windows necessitates stringent adherence to Islamic Sharia principles, albeit complicated by their coexistence with commercial insurance practices within the same premises.

The absence of official announcements regarding companies engaging in *Takaful* insurance since the issuance of Executive Decree 21/81, as mentioned earlier, has cast a negative shadow over the *Takaful* insurance market. Islamic windows, due to their streamlined operational processes and their embedded status within conventional institutions, are positioned to potentially assume a leading role in the *Takaful* insurance industry. Islamic windows originally found their footing within traditional banking institutions, primarily in the realm of Islamic banking. In a bid to catalyze the expansion of contemporary Islamic financial markets, Executive Decree 21/81 was enacted, explicitly authorizing the

establishment of Islamic windows dedicated to Islamic cooperative insurance. However, this integration within the same physical space as conventional insurance operations presents a set of distinct challenges for Islamic windows.

This is further compounded by the fact that, unlike the traditional framework, there exists no specific legal, legislative, financial, or accounting framework to demarcate the activities of Islamic windows engaged in Takaful insurance from those of conventional financial entities. Consequently, this situation presents a substantial challenge to the viability of these Islamic windows. Adding to these complexities is the notable lack of personnel equipped with the requisite expertise in Islamic transactions. This dearth of expertise could potentially exert an adverse influence on the functionality of these windows and, by extension, the entire Takaful insurance industry. Amidst these complexities, a fundamental question emerges: **How can Islamic windows serve as a mechanism for fostering growth within the Takaful insurance?**

This research is grounded in the intersection of Islamic jurisprudence (Fiqh) and Institutional Theory, providing a comprehensive analysis of the functioning of Islamic windows within conventional institutions that provide Takaful insurance. Against the backdrop of the cooperative insurance episode in Algeria, characterized by the introduction of Executive Decree 21/81 in 2021 to regulate the cooperative insurance sector, specific institutions have received authorization to engage in cooperative insurance through specified avenues. However, the commencement of cooperative insurance operations through Islamic windows in Algeria is still pending, despite the regulatory guidelines established by the aforementioned decree.

Research Objectives:

- Explore Islamic windows for practicing cooperative insurance within the modern context of Takaful insurance in Algeria.
- Understand the stance of jurists regarding the practice of cooperative insurance through Islamic windows, considering both opposing and supporting perspectives.
- Identify the factors contributing to the success of the cooperative insurance industry through Islamic windows.

Methodology

In addressing the matter at hand comprehensively, an analytical descriptive approach has been employed. The exploration begins with an examination of Sharia perspectives governing Islamic Windows, offering a nuanced understanding of the religious rulings influencing their operation.

Building on the Sharia insights, the subsequent section provides a clear and concise definition of Islamic Windows, elucidating their role within the broader context of financial and insurance practices. This step serves as a foundational element in establishing a comprehensive understanding of the subject matter.

Proceeding with a legal perspective, the position of Islamic Windows within the regulatory framework established by Executive Decree 21/81 is scrutinized. This examination aims to delineate the legal parameters and implications associated with the operation of Islamic Windows in the context of Takaful insurance.

Transitioning to practical aspects, an exploration of the factors contributing to the success of Takaful Insurance when facilitated through Islamic Windows is conducted. This analysis encompasses operational, financial, and market-related considerations, providing valuable insights into the mechanisms driving success in this specific domain.

Concluding the study, an investigation into the factors that may lead to the failure of Takaful Insurance when conducted through Islamic Windows is undertaken. This examination is crucial for a comprehensive understanding of potential challenges and pitfalls in this specific operational context. Collectively, these segments form a cohesive framework for the in-depth exploration of Islamic Windows in the context of Takaful insurance.

1. The Sharia Ruling on Islamic Windows

Islamic windows, a contemporary phenomenon, lack explicit Sharia-based rulings regarding their permissibility. This has ignited a contentious debate within financial and conventional commercial institutions.

1.1. Advocates of Islamic Windows

Scholars in support of the establishment of Islamic windows within commercial entities engaged in conventional or traditional insurance, as well as in the creation of branches within conventional banks, provide a substantive argument supported by several key points:

- They assert that these Islamic windows might act as a catalyst for a more extensive adoption of Islamic financial transactions, adhering to Sharia-compliant regulations.
- They emphasize the transformative influence these windows could have on the insurance industry, envisioning a gradual shift away from interest-based practices and fostering the growth of Islamic cooperative insurance.

- They argue that the introduction of Islamic windows within conventional corporate entities might impact the harmonious coexistence of these two financial systems.

Additionally, these Islamic windows are seen as active promoters of Islamic financial transactions by discouraging engagement in activities prohibited by Islamic law, such as usury, gambling, and unjust acquisition (Gharar) (Al-Murtaan, 2005.P,09). Advocates firmly believe that the gradual introduction of Islamic windows can significantly contribute to the development of the cooperative insurance sector. This role becomes particularly crucial considering the complexities in establishing traditional insurance companies. Furthermore, some contend that the opening of these windows within conventional financial institutions is warranted, especially in the absence of dedicated Islamic cooperative insurance companies. In such circumstances, it is deemed suitable to engage with these windows on a need-based basis.

1.2. *Opponents of Islamic Windows:*

Conversely, detractors question the legitimacy of these Islamic windows, asserting that their operations merely offer the veneer of Islamic compliance within a conventional framework. Their main arguments center on :

- **Deceptive Facade:** Detractors argue against the permissibility of these Islamic windows, asserting that they present a deceptive facade, feigning adherence to Islamic principles while essentially operating within a conventional, interest-based system.
- **Regulatory Challenges:** Concerns arise regarding the potential complexities involved in effectively regulating Islamic windows within the existing framework of conventional financial institutions.
- **Misalignment with Sharia:** Opponents suggest that these windows may not genuinely adhere to Islamic legal principles, engaging in practices that may contradict Shariah, all while being associated with conventional entities (Al-Sharif, 2005.P, 8).

The crux of the debate revolves around the true intentions behind these Islamic windows, with critics contending that they may be primarily profit-driven, using the allure of Islamic transactions as a marketing ploy, potentially resulting in confusion and conflation between these windows and traditional insurance providers.

2. **Definition of Islamic Windows**

Islamic windows are distinct financial entities that emerge within conventional institutions, primarily non-compliant with Islamic Sharia principles. These entities serve as segregated units or branches operating within

these established companies. Their primary focus is the provision of Islamic financial services, including insurance and banking, in strict adherence to Islamic Sharia guidelines. A notable feature of these windows is their operational autonomy from the parent company, allowing them to operate independently (Al-Baroud, 2017, P. 253). Furthermore, these Islamic windows can be defined as specialized units or branches that are created within traditional financial institutions, including banks and conventional insurance companies.

Their main objective is to offer financial services, such as investment management, financing, and insurance, that are consistent with Islamic Sharia laws (Natiq Saleh, 2022). Their establishment is contingent on stringent adherence to Islamic financial regulations and the oversight of a Sharia supervisory body to ensure full compliance with these laws. The Council of Islamic Financial Services interprets Islamic windows as integral components of conventional financial institutions. These components can manifest as either specialized units or branch offices, each focused on providing financial and insurance services in line with Islamic Sharia laws (Khudair, 2021.P, 193).

In the context of the Takaful insurance, Islamic windows are pivotal in advancing and expanding Islamic insurance. Operating as autonomous entities, they maintain financial and accounting independence. Their core tenet is the unwavering adherence to Islamic Sharia laws. The introduction of Islamic windows into the Takaful insurance sector can yield positive results, provided strict commitment to Islamic Sharia laws is upheld. It is imperative that the individuals operating within these windows adhere to the legal opinions (fatawa) issued by Sharia supervisory committees.

This commitment extends to refraining from engaging in activities that contravene Islamic principles, such as usury, fraudulent financial dealings, and gambling. It also entails avoiding dealings with financial institutions and companies involved in practices contrary to Islamic teachings, such as those engaged in usurious activities, alcohol sales, or gambling (maysir). Furthermore, abstaining from insuring establishments associated with unlawful activities, such as brothels, is of paramount importance. The provided definition allows us to delineate several salient attributes of Islamic windows:

- Islamic windows are housed within traditional insurance companies.
- They conduct their transactions in accordance with the precepts of Islamic Sharia.
- These entities are subject to regulatory oversight by Sharia authorities.
- They operate as distinct units, independent of the parent company.

- Islamic windows abstain from engaging in activities that contravene Islamic law, including usury, gambling, and unjust appropriation of individuals' assets.

To sum up, the effectiveness of Islamic windows hinges on unwavering commitment to Islamic Sharia laws. Under such commitment, the Takaful insurance industry stands to reap the positive outcomes of their operation in the future.

3. Islamic Windows in in Light of Executive Decree 21/81

The structure of Islamic windows relies significantly on Islamic jurisprudence to facilitate Takaful insurance within traditional financial institutions. As per the Executive Decree 21/81, Article 06 mandates the formation of a Sharia Supervisory Board before commencing Takaful insurance activities (official Journal, 2021). The stipulation is that board members possess comprehensive knowledge of Islamic Sharia, transactional jurisprudence, and substantial experience in Islamic finance. According to Article 227 of the Insurance Law, an application for practicing Takaful insurance requires a certification confirming adherence to Islamic Sharia principles (Official Journal, 1995). Takaful insurance can operate within Islamic windows in two distinct formats: Family Takaful Insurance and General Takaful Insurance. These windows are granted the authority to provide either format, but the condition is strict compliance with the overarching principles of Takaful insurance (Official Journal, 2021).

Hadj Muhammad Ahmed highlighted the inauguration of the first Islamic window offering Takaful insurance by the General Mediterranean Insurance Company. This initiative includes over 40 general Takaful insurance contracts, encompassing various domains such as vehicles, residences, businesses, investments, transportation, and agricultural activities. These service offerings extend across 172 branches of the General Mediterranean Insurance Company nationwide, marking it as the pioneer national entity to engage in Takaful insurance through Islamic windows (Hadj Ahmed, 2022). The practice of Takaful insurance via these Islamic windows demands complete autonomy concerning management, administration, funds, and investments, distinctly separating their operations from the traditional institution. Adherence to Islamic principles and the absolute avoidance of activities prohibited under Sharia, such as usury (Riba), gambling, and wrongful appropriation of wealth, is imperative.

4. Success Factors for the Takaful Insurance via Islamic Windows

The functioning of Islamic windows, particularly in the domain of Takaful insurance, rests upon strict adherence to Islamic Sharia laws in all operational facets. These windows are expected to steer clear of any activities or dealings that contravene the fundamental principles of Takaful insurance. The prohibition includes engagement with traditional banking institutions and companies involved in producing items that are considered non-compliant with Islamic law, such as alcoholic beverages. The essence of Takaful insurance stands in stark contrast to conventional insurance, hence necessitating a deliberate avoidance of practices that conflict with Islamic tenets.

Prescribed by the Executive Decree 21/81, the methodology employed for Takaful insurance companies involves a strict adherence to specific provisions set forth for commercial entities. These provisions are in accordance with both commercial law and insurance regulations. Algerian legislation underscores the pivotal role of a Sharia Supervisory Board for overseeing the operations of Takaful insurance companies. The operation of these entities is contingent upon strict compliance with Islamic Sharia laws, a primary criterion for the establishment and operation of Takaful insurance entities (Selami, 2022, P. 145). Moreover, in line with Article 04 of the Executive Decree 21/81, Algerian law emphasizes the incorporation of Takaful insurance via Islamic windows within traditional companies (official Journal, 2021).

An active supervisory role is considered a key factor for the success of Takaful insurance facilitated through Islamic windows. Therefore, the Sharia Supervisory Board is instrumental in ensuring the efficacy and adherence to Sharia compliance in operations conducted via Islamic windows in Takaful insurance. Any deviation from Islamic principles could prompt intervention from the Board, resulting in the nullification of associated contracts and activities, irrespective of their nature. These Islamic windows are mandated to refrain from engaging in transactions with commercial entities, particularly in activities that are against Islamic principles, like usury.

Supporting these activities is deemed impermissible under the regulations set forth (Ben Nehar, 2020, P. 164). By maintaining a firm commitment to Islamic Sharia principles, a sense of trust and security among citizens can be fostered. This commitment, in turn, holds promise for augmenting the Takaful insurance industry by increasing participation and expanding investments in line with Islamic principles.

5. Failure Factors for the Takaful Insurance via Islamic Windows

The declaration of an Algerian executive decree concerning Takaful insurance has opened doors for firms engaging in this specialized field. This avenue includes the establishment of dedicated Takaful insurance entities or the introduction of Islamic windows within traditional institutions. However, implementing Takaful insurance through these Islamic windows within established companies might introduce certain complexities and hurdles, potentially impacting the effectiveness of these alternative channels.

5.1. *Economic Globalization*

Globalization's inherent risks lie in the unobstructed opening of global markets, prompting states to align their policies with the global regime. Such alignment could present challenges for Islamic windows in traditional companies, especially regarding adherence to international laws and transactions. The imposition of globalization leads to uniform global markets, standardizing systems like stock exchanges and international commercial transactions. This standardization could significantly influence the Islamic Takaful insurance sector, notably concerning adherence to Sharia principles vis-à-vis Western laws. Additionally, economic globalization can challenge Islamic windows through the privatization of economic and commercial entities, necessitating their access to foreign markets, especially within the insurance sector (Al-Ruwishid, S. 2012). This dynamic might generate competition from foreign entities, hence requiring a cautious approach aligned with Islamic precepts.

5.2. *Competition Among Insurance Companies:*

The introduction of Islamic windows for Takaful insurance within traditional insurance firms might escalate the commercial competition among these entities. This shift necessitates stringent prerequisites and the approval of a Sharia Supervisory Committee. Traditional insurance companies leverage vast financial resources, technological competencies, and profitable market-entry strategies, conferring them a competitive edge (Al-Qaradaghi, 2004). Moreover, the managers of these commercial insurance entities possess extensive expertise in the insurance domain, which could pose challenges for Islamic windows operating within traditional institutions. These entities offer distinct insurance services, making them formidable competitors in the Takaful insurance market. In this regard, Takaful insurance companies operating through Islamic windows need to refine their operations, leveraging competition as a catalyst for industry evolution. The aim should be to attract customers and foster the growth of Takaful insurance in Algeria through these windows.

5.3. *Non-Compliance with Islamic Principles*

The prevalence of commercial insurance, as a fundamental contract in international transactions, poses challenges for Takaful insurance, especially in interactions with foreign companies. A fatwa issued by the Muslim Scholars' Association forbidding commercial insurance due to non-compliance with Islamic Sharia – particularly regarding usury, wrongful appropriation of wealth, and gambling – has added to this contention (Mansour, 2009). Adherence to Islamic principles is pivotal for Takaful insurance operations. Transactions diverging from these principles are deemed invalid. The inception of Islamic windows for Takaful insurance within traditional companies poses several challenges (Al-Baroud, 2017, P. 156):

- Complexities in Sharia oversight over the financial and accounting systems of Islamic windows operating within traditional institutions.
- Difficulties in Sharia supervision over transactions involving Islamic windows.
- Challenges in segregating financial and accounting responsibilities between the traditional company and Islamic Takaful windows, as an established mechanism for this segregation is absent.

Non-compliance with Islamic principles might potentially undermine Takaful insurance transactions facilitated through Islamic windows. In summary, addressing the challenges posed by economic globalization, competition with traditional insurance entities, and the adherence to Islamic principles is essential for the successful operation and expansion of Takaful insurance through Islamic windows in Algeria.

Conclusion

The introduction of Algeria's Islamic Banking Act carries the potential to significantly bolster the country's financial landscape. This is primarily due to its adherence to Islamic Sharia principles in financial and banking operations. The subsequent enactment of Islamic Takaful insurance legislation represents a pivotal step towards the promotion of Islamic finance transactions, underscored by its stringent prohibitions against usurious practices, gambling, and illicit wealth appropriation. This alignment with Islamic Sharia gives rise to substantial challenges within the Takaful insurance in Algeria, especially when conducted through Islamic windows. The Takaful insurance sector, operating via Islamic windows, encounters a series of challenges within the Algerian context. These hurdles range from the absence of an accommodating environment for this insurance modality to the prevailing dominance of commercial insurance entities

within the national market. Compounding these challenges is the scarcity of human resources and the inadequacy of financial and accounting systems, exacerbated by the lack of specific accounting regulations catering to the Islamic financial paradigm. Furthermore, market constraints and apprehensions among prospective clients constitute further impediments to the adoption of these Islamic windows, particularly when housed within conventional banking institutions. The practice of Takaful insurance through Islamic windows carries the potential to invigorate the Takaful insurance landscape in Algeria, given the paucity of enterprises offering this particular type of insurance.

In the Algerian context, the Takaful insurance industry, when facilitated through Islamic windows, confronts the specter of competition from commercial insurance counterparts. Nonetheless, this rivalry, when conducted transparently and in strict adherence to Islamic tenets, may ultimately serve to enhance the standing of the Takaful insurance market. The caveat, however, pertains to the necessity for these companies to refrain from misleading clients by falsely purporting to be Sharia-compliant, a practice stemming from past experiences that have eroded public trust in such entities. Consequently, the triumph of the Takaful insurance industry through Islamic windows in Algeria pivots on the unwavering fidelity to Islamic rules and regulations. In light of this, the growth of the Takaful insurance sector in Algeria, facilitated through Islamic windows, necessitates the rigorous observance of several criteria:

- Adherence to the tenets of Islamic Sharia.
- The personnel entrusted with the administration and operation of Islamic windows must strictly abide by Islamic principles.
- Training of staff members within Islamic windows in Islamic finance and contemporary financial practices in consonance with Islamic principles.
- The segregation of financial and accounting systems between the conventional insurance company and the Islamic windows offering Takaful insurance within these corporate structures.
- The imperative separation of employees between conventional insurance entities and Islamic windows.
- The selection of personnel on the basis of their moral rectitude and unwavering commitment.
- The oversight of all facets of operations relating to Takaful insurance through Islamic windows, encompassing contractual agreements with external parties, financial transactions, profit and loss distributions, investments, and the management of Islamic windows, should be vested in a Sharia Supervisory Committee.

- Adherence to the directives and counsel proffered by the Sharia Supervisory Committee.
- The provision of a distinctive identity or segment within conventional insurance corporations for Islamic windows.
- The conduct of operations by Islamic windows characterized by honesty and sincerity.
- The refraining from engaging in any manner of transactions with conventional insurance companies, with a concomitant commitment to seeking guidance from the Sharia Supervisory Committee.
- The avoidance of dealings with entities engaged in usurious practices in the realm of investments, coupled with a steadfast refusal to entertain borrowing from such entities, thereby burnishing the reputation of Islamic windows.

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