



## Review legal and insurance law and its effects on economic development

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### ABSTRACT

This study under rubric of "The juridical and legal investigation of insurance" intends to raise some generalities as to insurance contract and the sorts of it, and also with due attention to various viewpoints probes the general viewpoints of the lawyers and juris consults. To achieve this purpose, first of all the necessary references were selected and studied that accompanied with note taking. In this study, the analysis of findings is based on inductive-analytical method. This study consists of three parts, chapters, and sections and some defects have been revealed that recommendations have been suggested to ameliorate the present circumstances. The most important achievements of this study pertains: a- from legal viewpoint, insurance is a contract whereby, for specified consideration, one party undertakes to compensate the other for a loss relating to a particular subject as a result of the occurrence of designated hazards in lieu of receiving certain amount. b- Insurance contract on the strength of "binding principle" is obligatory, that is, when the parties enter into a contract it is valid and binds the parties, that is, one of them cannot terminate the contract without an agreement.

**Keywords:** prayers, manner, religious jurisprudence, Shiite & Sunni Muslims, Azan, Salaam.

### INTRODUCTION

Accompanied with the rapid changes in human societies and the development of internal and external relationships, and the enhancement of science and technology, new subjects with new legal, economic, and juridical concepts have appeared. Nowadays, new issues are raised that insurance deal is one of them. Insurance contract is one of the serious subjects that cover a vast realm of individual and social aspects of human life. The jurisconsults have different viewpoints regarding insurance deal.

Today our country is hungry for healthy economic activity and job creation for young people and is a safe investment. All this requires space in which the investor and industrialist and inventor of the active ingredient in agricultural and scientific and job seekers. And all segments of the health and integrity of communications, government officials and make economic and financial sense of security and calm.

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To cite this article: Jamalian, O., Akrami, F., Rahmanpour, H. (2016). Review legal and insurance law and its effects on economic development. *Academic Journal of Accounting and Economic Researches*, 5 (2), 49-54.

Security issues, especially economic security is very important and sensitive issue that can not be overnight, with the approval of a plan or proposal to achieve it. But this is a reflection of the different behaviors of political, economic, military, cultural and social. The conditions should be the country's people and authorities have changed over time and social behavior in different areas as defined. Finally everything is in its rightful place and be compatible with nature. And this requires the efforts of all segments of society and government and compulsory liability insurance to the most important scientific tools and methods, are available.

The insurance risk. Operating performance and business risks affect the economy of the optimal allocation of resources and economic development imposes limitations. The risk that people take common decisions.

Therefore, in addition to income and property and business of each factor may be at risk due to the existing risks, Actually faced with incidents that cause damage to property or personal damage to others, will be legally responsible. Identification of the plaintiff suffered damage is often difficult and in some cases even be irreversible. Therefore, if a business or individual wants to accidents and dangers they face virtually out of the race and can not survive. That is undeniable that the growing role of insurance in economic activity appears stable.

Given this, it is necessary to investigate in order to know whether Islamic law in place for insurance contracts and whether these contracts are explained in compliance with legal standards and conformity is it? Finally, insurance contracts what Islamic contracts have been put in?

### **THE IMPORTANCE AND NECESSITY OF THIS RESEARCH:**

In our Islamic society itself bound by the principles of jurisprudence and legal and moral, many issues every day we make is to research and analysis, On the other hand familiarity with the legal provisions for living in an Islamic society, especially the daily needs of all members of society are issues that appear to be necessary.

The insurance contract is the most practical system of human social contracts and therefore in our community.

The importance of this research is to examine the legal resources and permissibility or impermissibility of insurance contracts in the mining law. And then the relations of modern society based on the legitimacy of such contracts based on the verses of the Holy Quran and Islamic law and the principle of freedom of contract verdicts in law explained to be the result for those seeking guidance.

### **HYPOTHESES:**

1. The source of emulation and contemporary scholars of jurisprudence and comments, see where we are on this subject.
2. The insurance contracts comply with the legal standards in the contemporary jurisprudence.
3. The consensus of jurists insurance contract is confirmed.

Research goals:

The main purpose:

Legal study of insurance contracts.

The specific objectives:

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The views of jurists on insurance contracts and the law.

The approval or rejection within the insurance contract jurisprudence.

### **METHODOLOGY**

The common method of research in the fields of humanities, library research techniques to follow and then go to the library and search Web sites and taking notes issues, and in the end achieved results And to improve the status quo has been proposed.

#### **The literal definition of the term insurance:**

Insurance contract in which the imminent danger that may arise to personal finance and life insurance companies transferred to the to compensate for the risk of loss resulting from the material.

In the process of transferring the person who accepted the risk insurers say. The insured amount to the insurer pays the premium and the subject matter for which the insurance contract is concluded or the insurance claim.

#### **Article 1 defines insurance insurance law passed in 1926:**

"Insurance is a contract whereby one party undertakes, in return for payment or funds the other hand, the event or incident, damages to compensate him or look a certain way. Committed to the insurer, the insured obligation, the insurer pays the insured amount to the insurance premium and what the topic is called insurance. "

The insurance may be subject to the provisions of Article 5 of the said property (whether of the same or profit), the right financial and legal responsibility for any accident or the occurrence of the insured risk that it is affected. In other words, the insured must survive than what the insurance is concerned. The insurance contract with the prospective insured losses caused by the impending risk and pay a premium to the insurance compensation.

#### **Insurance lexical definition in the dictionary Dehkhoda:**

A special guarantee of life or property that has increased in modern civilization, it is for the person or the property of their monthly fee to the insurance company and the risk to life or property in the event of impact, the company set amount. Ensure against risks that are contingent.( Iranian Academy.)

Insurance (banks) responsible for the action that people pay with their lives for the goods or capital or the other when you leave and insurance against loss should pay<sup>1</sup>.

Committed to the insurer, the insured and the commitment fee paid by the insurer insurance premium and what the topic is called insurance.

In conjunction with the increase in risk insurance has been spread all over the world, due to the substantial risk has long been recognized that financial traders have been shipped by sea.

Marine insurance typically among ethnic businessman is the world's first insurance and marine insurance still has not lost its importance. Nevertheless, the conventional contract of insurance as one of the business that is no longer so much and it seems that the Italian or Hispanic insurance innovations have been in the fourteenth century<sup>1</sup>.

In history it is very low and only some contracts similar to mutual insurance Persian Gulf sea among coastal tribes before Islam was common. After the advent of Islam, the Islamic legal principle that I have little impact today are similar to insurance contracts. Contact a "lifetime maintenance contract" whereby a usufruct contract for a period of his life or the life of the owner or a third party beneficiary is established. And when slavery was permitted when the man I wanted to free himself could have decreed that I'll take you to his inheritance and all debt that

you will receive as a result of the crime to pay I will. The contract of its kind like "liability insurance" is.

Insurance in Iran in 1926, SSI has established "Iran Insurance Company," the effort was Ali Akbar Davar. Prior to this date about 52 years ago, the famous Russian Institute Nad zeva and Kaf kaz Mercury for the first time to conduct insurance operations. In addition, Allianz Insurance Company, an insurer is English.

About 36 years ago, opened its representation in Tehran and the subsequent establishment of the company representing many branches or subsidiaries of foreign insurance companies founded in Iran and other Iranian insurance companies have been established in Asia, such as insurance, insurance agents, hope Insurance, Commercial Insurance, Insurance barking, East Insurance, National Insurance and so on.

### **The definition of insurance in insurance law (Article 1):**

#### **Article 1 of the Law on insurance class:**

"Insurance is a contract whereby one party agrees in return for payment or funds on the other hand, in the event of an accident or damages to compensate him or look a certain way."

Trust is committed to the insurer by the policyholder to the insurer's obligation to pay insurance premiums and insurance is what is called the insurance issue.

#### **According to the above insurance can be defined as follows:**

"Insurance is an act whereby one party (the insurer) open up the group (policyholders) in a regular organization called the Insurance Institute, the commitment in exchange for money or funds (premium) that each of them deals with the organization, in the event of an accident or disaster or specific to each of them, compensate all damages or certain aspects of it.

This definition, which in fact are organizational and regular organization and relies on the laws of statistics, can encompass all types of business insurance.

### **Insurance history in Iran and the world:**

Was known in the Old Testament insurance (fourth to seventh centuries AD) in ancient Rome ship owners and shipping operators were obliged to pay damages due to storm enemy combat operations. In terms of the major risks facing the merchandise marine, marine insurance was established as the first type of insurance.

The insurance is currently the most important type of insurance is too old. Thus, maritime insurance and other types of insurance related to the Middle Ages to the nineteenth century. This insurance in which country first came into existence, is controversial.

Some people believe that insurance for the first time in Flanders (a region in the north of Belgium) and the year 1310 AD there was a man named Kenneth Dubtven insurance office established at the request of residents of the city of Bruges.

It has some innovations insurance in the 24th century AD, has been Italian and Hispanic. However, we know that the insurance policy obtained in 1247 and 1370 years AD in the cities of "gene" and "Brugge" is set. Non-life insurance, long-term records. A kind of marine insurance was used about 3,000 years ago. Life insurance companies have a long history. This type of insurance for the first time came when the Roman soldiers were part of their wages in fund-raising has been killed in the battle, the money paid to their families

In the Middle Ages it was common among the Greeks and Romans traders to bail the ship and cargo loan, with great interest, mariners and shipping of goods they used to. Terms of repayment of principal and interest on loans was the sale of goods and return boat trip And if the ship was sunk in the sea waves and storm lender had the right to demand your loan

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and was paying him fuel. On the contrary, if they were to ship and cargo safe and goods sold to your lender to receive not only the loan but, to compensate for the risk that was taken, he was awarded an interesting contribution and interest. At a minimum interest of 15% and it was 40 percent. However, this insurance is considered to be a brief, but in fact this is a kind of exchange and insurance is very different.

For fans of insurance premiums and start to realize the risk between the two sides will be determined and agreed upon. However, according to this tradition, the right to guarantee and cost of taking risk (interest) after the threat was received And perhaps because of the sinking was not altogether addition to the receipt of payments received for the guarantee risk either did not fit the accepted risk.

### **Elements of insurance**

Elements of insurance are risk premiums and damages.

#### **The danger:**

Subject to all forms of insurance risk and the probable and imminent event. The risk characteristics can be of indefinite duration may occur and damage in the event of name.

Civil liability insurance, civil liability arising from accidents, insurance issue that can be caused by action or behavior associated person or persons or property owned or occupied by the objects he created.

Therefore, the insured in return for payment of civil liability insurance of their behavior, affiliated entities or objects that may cause harm to others and their property to be insured and possible compensation payments is transferred to the insurer.

The insurer undertakes to recognize the responsibility to pay the damages sustained by the insured in his place. This action (ie insurance) the insured person's property and assets from loss due to the responsibility to protect him.

In modern life, most people against the risks of civil liability against one another, and the best way to protect assets and compensation expense of victims at minimal cost "insurance" is.

#### **Premium:**

Premium to the insured amount for purchasing insurance, or in other words the transfer of risk to the insurance payment. By paying premiums and buy insurance, civil liability, obligation to compensate the insured and the insurer undertakes transferred.

#### **Damage:**

Damage word literally means in terms of insured losses, but not confined only to these specific definitions for the insurance experts have provided science. But most of them more or less acknowledge the fact that the compensation provided for in insurance and risk of loss claimed by the victim.

The damage suffered by the defendant and defendant admitted using the insurance policy actually is called for support Enter here the insurer about the insurance policy issue and to pay the damages sustained action.

Civil liability insurance, the damage can be seen as an event that causes the responsibility of the insured against the person who is the victim<sup>2</sup>.

### **Among jurists about insurance:**

Islamic scholars disagree about insurance in general has rejected it, as some And engaged in gambling and usury considered And others have adopted it with all its forms and it means For cooperation and assistance, and others saw some of it and allow other types of falsehood and wrong. The Islamic jurists differ on the question of the importance of insurance and its

complexity. How is this issue, which some regarded as null and illegitimate and engaged in usury and gambling.

And others see it as a means of cooperation.

All this actually makes a researcher who studied more insurance to be distorted.

Because of differences of opinion and perspective scientists in the world of Sunni and Shiite world of insurance is different in the sense that the vast majority of the world's Shia clerics and jurists have accepted the insurance issue and it is permissible to consider all its forms. But in the Sunni majority discretion of individual and collective dignity and respect to the insurance contract are invalid. Therefore, the issue of insurance separately and briefly in the Sunni and the Shiite world study and research approaches to provide better insurance services mentioned.

## **CONCLUSION**

Importance of insurance and the need for Muslims to cause pollen that Islamic jurists in the analysis and implementation of the provisions and principles of Islamic insurance sum

And according to the current insurance contract for conventional contracts at the time of the Prophet (peace be upon him) and the Infallible Imams (as) was, thereby opening discretion and judgment in the insurance dignity.

The following results were obtained from the study of jurisprudence and legal insurance:

1. In Article 1 of the Insurance Law, the insurance contract under which one party agrees on one side On the other hand, in return for payment or funds in the event of an accident and compensate for his losses. The obligation to pay for or committed to its insurer and insurance funds And those who paid the premiums and what is discussed in the insurance contract, eg financial loss, physical, fire and called the insurance issue.
2. The majority of Sunni scholars as illegitimate and invalid insurance and that the insurance is similar among certain contracts, insurance due to non-compliance with a certain contracts, other legal or void for reasons such as eating and ... it is considered unlawful.
3. In contrast, Sunni, Shiite scholars have always tried to resolve the legal problem of insurance, thanks to the diligence and concluded the arguments aid rules, to find some solutions and some insurance contract to a certain contracts to compare and justify its legitimacy have.
4. Another group of scholars believe that, compared with certain contracts Islamic insurance is not necessary, For any contract that is most common among people is necessary, Unless there are clear texts prohibition And to prove the legitimacy of an insurance contract as an independent contract for reasons such as general and predications reasons they cite Quran And that the insurance contract shall be subject to fulfill that contract. The contract is valid and binding.

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