Insurance

Insurance has become one of the prevalent practices in all areas of human life today. It has entered the realms of trade, industry, agriculture, and most aspects of economic activity, whether voluntarily or mandatorily by law. Insurance is not limited to economic activities; it also encompasses many means that humans use, such as the cars they drive, the homes they live in, and the belongings they possess. Moreover, insurance does not stop with a person's life; it extends beyond death so that their children and heirs can benefit from its fruits.

The linguistic meaning of the word insurance:

Comes from security against fear, which means the stillness of heart and confidence and trust.

Definition of insurance:

It is a contractual system based on the principles of compensation or donation, or a mixture of both. In this system, one party commits to provide monetary compensation to another party in the event of an incident or similar occurrence. This term has become widespread and is applied in all countries around the world.

The Philosophy of Insurance:

At its core, insurance is founded on collective risk-sharing to prevent or mitigate financial loss. While an individual might be overwhelmed by the total cost of a disaster, pooling relief expenses across a large group makes the burden manageable for each member. However, this cooperative ideal has become compromised. As insurance shifted from a mutual-aid model toward a commercial enterprise, major corporations driven by profit and greed have transformed a humanitarian system into a lucrative business.

Types Of insurance :

- Collaborative insurance / social insurance
- Commercial insurance / Profitable insurance

1- The Collaborative Insurance

<u>Original textual evidence of it's legitimacy:</u>

Allah said :(وتعاون‍وا على البر والتقوى)

"And cooperate in righteousness and piety, but do not cooperate in sin and aggression. And fear Allah ; indeed, Allah is severe in penalty."

Forms of collaborative Insurance in Islam:

Islam has introduced numerous forms and systems that embody the concept of an insurance system, among which we mention:

A) The people of Zakat:

They are people who were affected by a major harm, which they could not be avoid. i.e. Those who are in due debt and cannot pay it, or the people who are very poor etc. These people could be helped by the aid of rich people who pay Alms (Zakat).

Allah says in Surah *Al-Tawbah* -Verse 60

):{إنما الصدقات للفقراء و المساكين والعاملين عليها والمؤلفة قلوبهم وفي الرقاب والغارمين وفي سبيل الله وابن السبيل فريضة من الله والله عليم حكيم}.

(Zakah expenditures are only for the poor and for the needy and for those employed to collect [zakah] and for bringing hearts together [for Islam] and for freeing captives [or slaves] and for those in debt and for the cause of Allah and for the [stranded] traveler - an obligation [imposed] by Allah . And Allah is Knowing and Wise)

B- Kinship system:

The kin are the tribesmen who support the man. This system stipulates distributing the blood money (diyah) for accidental homicide among the paternal male relatives of the killer. The amount is then paid by his kin to the family of the killed person.

C-Social solidarity system:

Exemplified by the tradition of the Ash'arites, who, whenever their supplies ran low or faced food shortages, would gather all their food in a single place and distribute it equally among themselves. When the Prophet ﷺ learned of their practice, he praised them and said:

"May Allah have mercy on the Ash'arites; they are of me, and I am of them."

Types of Collaborative Insurance Systems:

The collective insurance is an agreement between people to partake in relieving the risk, which may happen to any of them.
It has three types:

1- Retirement System:
The State provides the employee with a monthly pension upon reaching a specified retirement age—reaching fifty-five years in some countries—or after completing a specified tenure of service (reaching up to twenty years), in exchange for deducting a portion of their monthly salary.
Apparently, there is no deception (gharar) in that, as deception discomposes the contracts, as long as it is donation contract and not compensative, besides the labors are the insured and the insurers at same time.

2- **Social Security System**:
An insurance assigned by the government for the benefit of the laborers who depend on the handcraft to earn their living. It provides compensation/benefits to the registered employee or worker in cases of illness, disability, or old age, in return for deducting a portion of their monthly salary. The gross of the Social Security fund is comprised of the collecting of the Zakah, and direct support of the government treasury.

3- Reciprocal insurance:

A non-profit solidarity model managed by charitable or mutual associations where members contribute regular donations into a pooled fund to support any member facing financial distress or misfortune.

Ex. A company staff that organizes an emergency fund - Town or village emergency funds that compensate members for major crises.

Legal Ruling:

The scholars have agreed that social/cooperative insurance is deemed fully lawful across all forms because it fulfills the Islamic objective of mutual solidarity rather than commercial profit.
Because the collaborative insurance is a **donation contract**, it is purely mutual cooperation intended to alleviate the impact of disasters and repair their effects to the best of one's ability, without seeking to generate profits, and this type of insurance is free of any usury.

2. Commercial insurance:(contract)

It is considered a <u>compensation contract</u>, rendered usually by profit-making companies, not for social or human service.

Definition: It is a contract signed between the insurance company and an insured person. Upon this contract, the insurance company is legally bound to pay an amount of money – the insurance amount- to cover any risk or damage that befalls the insured person. In return, the insured person has a commitment to pay a regular sum of money called installments or premium payments.
The company seeks to gain profit from the difference between the total premiums collected from subscribers (the insured) and the payouts made to resolve claims.

The emergence of commercial insurance:
It began in northern Italy as a marine insurance in the 15th century then it transferred to The Islamic countries in the 19th century AD (named Saukarah).

Elements of the insurance contract:
1- The insurer
2- The insured
3- The specific risk(has five conditions)
4- The insurance installment given by the insured to the company
5- The insurance amount given by the company

The conditions of the risk are:
1. The uncertainty of the risk happening.
2. The risk should not be intentional.
3. The risk must not be prohibited by law.
4. The risk must be a future event
5. The risk must be a regular danger.

Types of Commercial Insurance:

1- Insuring people , and it has two types:

a) Life:

Life insurance provides a monetary benefit to a decedent's family or other designated beneficiary, and may specifically provide an income to an insured person's family, burial, funeral and other final expenses. Life insurance policies often allow the option of having the proceeds paid to the beneficiary either in a lump sum cash payment or an annuity.

b) Casualty :

Insures against accidents, not necessarily tied to any specific property. It is a broad spectrum of insurance that a number of other types of insurance could be classified, such as auto, workers compensation, and some liability insurances.

2- **Property Insurance:**

It is the insurance of physical assets against damage and losses that may befall them—such as insuring a commercial establishment against fire, goods against sinking/water damage, cash held by a money changer/cashier against theft, livestock against death, crops against damage/spoilage, and the like.(1)

3-**Liability Insurance**:

It is where a person insures themselves against the financial losses or legal consequences that may befall their own wealth/estate as a consequence of causing harm to a third party. An example is a car owner insuring against their liability toward others for damages caused by their vehicle.

Its Legitimate Rule:

Islamic Law prohibits commercial insurance for the following reasons:

A- Excessive Uncertainty:

It is a deceptive contract that includes a great deal of uncertainty. Every compensation contract containing deception is an incorrigible contract. The prophet, God's peace and prayers be upon him forbids the deceptive sale (Al Gharar) in his Hadith.

B- Elements of Gambling:

The arrangement mirrors wagering and speculative gain. One party gains at the direct, unearned expense of the other based purely on chance: an insured individual may pay a single premium and collect a massive indemnity, or pay premiums indefinitely and receive nothing. Consequently, the insurer assumes liability without having caused the underlying damage, creating an inequitable exchange of financial risk.

C- Involvement of Both Forms of Usury (*Riba*):
It resembles both types of prohibited interest (*ribâ al-fadl, and A-Nasi'ah*).
If the company paid to the beneficiary -or the insured – more than what he already paid, it is considered the Al fadl Usury.
But if the company paid the same total amount of the installments, which were paid already by the beneficiary, it would be only considered (Reba Nasi'ah).
And if the company did not pay anything to the beneficiary because no risk occurred. so in this case the company took his money illegitimately.

Commercial insurance exempted from the prohibition:

1. If the commercial insurance is dependent on the contract and is not original, and the insurance offered by the company is a service, not cash, like someone who buys a plane ticket and the insurance comes with it, or rents a car with insurance.
2. If the insurance contract is such a necessity as someone living in a country whose health system is based on commercial health insurance, or if it is in a country that is obligated to insure the car and there is only commercial insurance.
3. If the insurance is free, such as the insurance given to employees as a concession provided by the company

Collaborative insurance contract:

Done by collaborative associations or companies that were established for this purpose. Their work plan focused on collecting the donated subscriptions from the subscribers, to be invested in the trade and whatever activities. They aim at covering the risks that affect the subscribers by this collected money and its investment profits. If any funds remain after settling all claims, that surplus belongs entirely to the participants, who can either take it back or put it toward future payments. The company may dispose of the surplus, including the interest, provided that <u>the managing company does not acquire any of that surplus.</u>

Difference between Commercial and Collaborative Insurance

- Commercial insurance is prohibited, but collaborative is encouraged.

- Commercial or profitable insurance is a compensative contract, but collaborative contract is donation contract.

- Commercial insurance's target is profit, but the target of collaborative insurance is collaboration and solidarity.

- Commercial insurance does not imply recalling the surplus money, though collaborative insurance implies that.

- Commercial insurance is personal, but collaborative is a common one, which could be for a person in the group.