Pelaksanaan Ketentuan Hukum Islam Dalam Asuransi Takaful Di Kotamadya Medan= The Implementation Of Islamic Law Provision On Takaful Insurance In Municipality Of Medan (Comparative Study With General Insurance)

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Abstract

The insurance institution is a new institution which is not exist at the beginning of Islamic fiqh development, therefore difference of opinion arose between the fiqh expert, ulama (scholar of Islam) on the legal basis of insurance. There is opinion which expressly prohibit the insurance because of the anxiety about the gharar (uncertainty), maisir (gambling) and riba (interest) character upon it; but there is also opinion which allowed the insurance and opinion which permitted particular insurance. Takaful Insurance is alternative for general insurance system which already known so far. However, the existence of that insurance has not yet been socialized because the relatively small number of community which recognized and become the participant of the insurance, particularly the Islamic community.

The research was carried out to know about the implementation of Islamic Law, the mechanism of Takaful Insurance management, also the difference and the peculiarity or the special feature of Takaful Insurance compare to general insurance. This research has analytical descriptive characteristic with juridical sociological approach. Respondent or sample in this research was determined by purposive sampling, whereas the data was collected by questionnaire and interview, afterwards the data was analyzed by qualitative mean.

Result of the research shown that the implementation of Takaful Insurance is based on syariah principle, make all the participants are mutually responsible, give mutual assistance which is obtained from the tabarru fund. Cooperation between the participants and the company is based on mudharabah (profit and loss sharing) principle.

There is some difference between the Takaful Insurance and general insurance, that is:

1. There is takafulli contract in Takaful Insurance whereas in general insurance is tabadulli contract.
2. There is tabarru fund in Takaful Insurance, whereas there is no such fund in general insurance.
3. The insurance company act as trustee to manage the fund in Takaful Insurance whereas in general insurance the company is free to determine the investment.
4. In Takaful Insurance the profit is distributed based on mudharabah (profit and loss sharing) principle whereas in general insurance the profit is distributed based on bonus (interest system)
5. There is Syariah Surveillance Board whereas there is no such board in general insurance.
It could be said that Takaful Insurance has special feature or peculiarity which is more safe in term of syariah and also has extra value in term of economic.

Key word:  
- Takaful Insurance  
- Islamic Law provision  
- General Insurance