

## **Dissent of Dr. Mustafa Al-Zarqa**

My dear brothers, members of the Islamic Fiqh Council

I differ with you over your stand to consider the insurance which you have called as commercial insurance with its different kinds and forms as prohibited.

It is my view that insurance as an organized cooperative means to make up the damages incurred by owners of the capital money due to risks which they are exposed to, is lawful with all its three forms; insurance on commodities, insurance of liability (third party insurance) and the insurance which is mistakenly called life insurance.

My arguments are based on the Qur'an, Sunnah, the rulings of Islamic Shari'ah, its general objectives, its examples in Fiqh through proper inference. There is a notion that insurance comes under gambling or betting which are prohibited. On the other hand, there is suspicion that insurance is usury. All of this is fully explained in my book published with the title (*Insurance Contract and Stand of Islamic Shari'ah*). You are aware of it while people in the world need it to be explained to them.

I have also explained in this session that differentiation between the cooperative and commercial insurance has no basis, because every insurance is based on the concept of cooperation and its purpose is to make up the damages and distribute them among the maximum possible number; among the people who are combined by a small profession or market, and are exposed to certain risks. They contribute to form a joint fund until one of them is faced with danger and damage they compensate him from the fund in which he is also a contributor. Such kind of fund

which is termed as joint fund and which you have called as cooperative whose administration need neither full-time employees nor expenses of administration, organization, accounting, etc.

If desires for such insurance grow more and more people join it in tens, hundreds and thousands, then it takes up a large number of diversified risks and there would be a need for full-time management, organization and huge expenses such as wages, employees, other mechanized and non-mechanized resources. In that case, it would be inevitable that the full-time employees will have to live on the account of this large administration, as lives any trader, industrialist, professional or employee at the cost of his work.

Hence, it would be inevitable to differentiate between the installments collected from the insurance policyholders and between the payments of expenses and compensations for damages so that the full-time management can benefit from that difference and live on it as a trader lives on the benefit of difference in prices of purchase and sale.

To get this benefit, the insurance which you have called as commercial must be based on proper calculation to fix the installment that the policyholder would pay for various kinds of danger. This is the real difference between the two kinds. As regards the cooperative aspect, so there is no difference at all.

I would like to add also that the first session of this auspicious Council, which was attended by half of its members only while others could not attend the session due to their circumstance, should not adopt a resolution to prohibit something like insurance which is one of most important and serious issues today, because one way or other, people's interests throughout the world are involved in it. All the countries are imposing it as a

compulsory measure in cases such as third party car insurance in order to protect the life of victims in the car accidents if the car's owner or driver happens to be a poor person.

If the intension is to adopt such a serious resolution about an issue in which Muslim scholars have major difference whether it is Halal or Haram, in my view, it is necessary that such a resolution should be adopted in a session that would be attended by all the members of the Council or majority of them, and also this issue should be referred to scholars of the Muslim world who are not the members of the Council, however, they have their academic weight, then in the light of their responses, such an important issue should be decided to facilitate things for the people instead of making things more difficult for them, particularly when Muslim scholars have different views.

Finally, I must state that if the insurance companies in their contracts with the policyholders impose certain conditions which are not approved by the Islamic Shari'ah or they fix prices of installments very high for the sake of excessive profit, then the concerned authorities must intervene to enforce the appropriate price in order to prevent exploitation. The various schools of Islamic Fiqh have asserted the necessity of pricing and fighting against monopoly for the necessary needs of the people. Its remedy is not to prohibit insurance. Therefore I would like to register my dissent as well as my respect for your views.

*Dr. Mustafa Al-Zarqa*