Establishing a Legal and Regulatory Framework for the Takaful Industry in Iraq: A Reform-Based Approach

Shamsalden Aziz Salh
Soran University, Faculty of Law, Political Science and Management, Law Department

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Abstract

Establishing a legal and regulatory framework for the takaful industry in Iraq is essential. Thus, this study concentrates on the takaful industry of Iraq within the current Iraqi conventional legislation. There are, however, several problems with the Iraqi takaful industry. Firstly, legal and regulatory issues, such as the lack of a comprehensive takaful act. Therefore, the enactment of a special takaful law is necessary. Thus, analyzing the takaful laws of some countries, such as Malaysia and Indonesia, is a proper method for Iraq to enact a comprehensive takaful act. Secondly, Sharia compliance issues, such as a shortage of Sharia experts with sufficient knowledge in takaful and a lack of qualified Sharia scholars who have sufficient knowledge, might be a significant challenge to the Iraqi takaful industry. In this context, the CBI should establish a training center for the current Sharia scholars and staff to be trained in takaful products. Furthermore, according to the current Takaful regulation guideline 2019 issued by the CBI and referenced by the IFSB, each takaful firm is required to establish a Sharia supervisory committee. In addition, establishing a standardized sharia supervisory committee is necessary for the takaful industry in Iraq. Thirdly, limited public awareness poses an additional challenge for the takaful industry in Iraq. Most Iraqi people lack knowledge about takaful; they do not differentiate between conventional insurance and takaful. A comparative and analytical approach is the main method for achieving the purpose of this study. Thus, Malaysia, Indonesia, and the UAE, as three developed countries in respect of the takaful, are concentrated on establishing a legal framework for the Iraqi takaful industry. Hence, current takaful firms, with the assistance of the CBI, should provide information about takaful through the media and mosques., The limited number of institutions in Iraq that provide takaful products is a challenge to the takaful industry. Additionally, the shortage of skilled staff in these institutions is regarded as a significant issue for the takaful industry in the country. Finally, it is worth mentioning that this study contributes by proposing a Sharia-compliant legal framework, addressing regulatory gaps, enhancing governance, improving scholar expertise, and fostering Iraq's takaful industry for inclusive financial development.

***Keyword**: Takaful Insurance, Takaful Industry of Iraq, Legal Issues, Sharia Issues, Operational and Institutional Issues.*

1- Introduction

Takaful, or Islamic insurance, is a unique form of insurance that complies with Sharia law, which forbids activities prevalent in conventional insurance, including riba (interest), gharar (extreme uncertainty), and maysir (gambling). In the takaful system, participants allocate a fraction of their resources to a shared pool, which is applied to assist members who incur loss or harm. Under current takaful legislation and Sharia principles, the takaful operator is accountable for overseeing contributions and claims. (Obaidullah, 2005). Takaful is based on the principle of risk sharing, in contrast to conventional insurance, which entails risk transfer through a business contract between the insurer and the insured. Participants serve as both providers and beneficiaries of coverage. mudarabah (profit-sharing) and wakalah (agency) are common types of takaful; however, some takaful operators practice a mixed model, which consists of different methods, such as wakalah-mudarabah and wakalah-waqf. (Zuki et al., 2024). Contingent on the operational model, wakala (agency), mudaraba (profit-sharing), or a hybrid method, the takaful operator may receive a fixed fee or a share of the surplus and investment returns produced from the pooled funds. (Khan & Bhatti, 2008). This context ensures that incomes come from permissible investments in the Islamic viewpoint and that risks are shared mutually, under Sharia law.

Takaful has grown significantly, particularly in Muslim countries like Indonesia and Malaysia. Furthermore, recently, takaful has also entered non-Muslim markets due to its ethical principles and focus on fairness and transparency. The global takaful sector is expected to continue its development as financial institutions and regulators increasingly recognize its capacity to promote fair financial systems. (Ernst & Young, 2013). Furthermore, initial observations of takaful suggest it is highly suitable for advancing sustainable growth and social protection goals. Takaful encourages mutual assistance and avoids exploitative practices, supporting financial inclusion while respecting religious and principled values. (El-Gamal, 2006).

The purpose of this study is to evaluate and analyze takaful insurance in Iraq. Additionally, it aims to identify the challenges faced by the Iraqi takaful industry and propose solutions for these issues. Hence, the research problem in the paper lies in the absence of a comprehensive legal and regulatory framework for the Takaful industry in Iraq, which creates uncertainty for regulators, operators, and consumers. Despite a mostly Muslim population, the sector does not operate fully under Islamic law and does not fully align with Sharia principles. This creates legal ambiguities, compliance gaps, and operational inefficiencies. Moreover, the shortage of qualified Sharia scholars, limited public awareness, and lack of skilled human capital further hinder the development of the industry. The study seeks to address these issues by proposing a reform-based framework, drawing from international best practices, to establish a robust and Sharia-compliant Takaful system in Iraq. Moreover, the study seeks to suggest a legal framework for regulating the takaful industry in Iraq.

Although the main emphasis of this study is the establishment of a legal and regulatory framework for the Takaful industry in Iraq, such a framework cannot operate in isolation. Its efficiency is essentially tied to Sharia compliance mechanisms, institutional strength, and public awareness. Consequently, this study examines four interrelated categories of issues: legal, Sharia, institutional, and public awareness. Nevertheless, each issue directly influences the development and sustainability of a robust Takaful framework in Iraq.

Regarding the research methodology approach of this study, a qualitative method is applied. Hence, the main methods include comparative, as Malaysia, Indonesia, and the UAE are three developed countries in respect of the takaful; analytical; and critical approaches. Primary resources, including laws and regulations, as well as secondary resources like textbooks, academic journals, and websites, are included in the data collection for this study.

Therefore, the rendering of the foundation of this study is that the Iraqi takaful industry faces several issues, which comprise legal, institutional, and Sharia issues. Therefore, the Central Bank of Iraq (CBI), in cooperation with financial regulators, could find a solution for these issues by enacting a specific act and establishing a standardized central Sharia committee with qualified Sharia scholars.

Aims of the Study

The aim of this study is to recommend a comprehensive legal and regulatory framework for Takaful in Iraq. The specific aims are listed below:

1. Classify the main legal, regulatory, and operational challenges hindering the growth of the Takaful industry in Iraq.

2. Evaluate the current takaful industry and financial regulations in Iraq and assess their compatibility with Sharia principles.
3. Examine comparative models from takaful regulation of other countries such as Malaysia, Indonesia, and the UAE to select and indicate viable practices.
4. Assess the role of Sharia regulation and the obtainability of qualified Sharia scholars in ensuring compliance of the takaful.
5. Evaluate public awareness for implementing takaful transactions in Iraq.
6. Provide policy guidelines for maintainable implementation of takaful to enhance the financial system and economic development in Iraq.

Significance of the Study

1. **Promotes Financial Inclusion**
   By offering Sharia-compliant solutions, takaful can attract individuals and companies that do not deal with conventional insurance due to religious concerns.
2. **Assurances of Sharia Compliance**
   Developing a suitable legal framework proves that takaful contracts follow Islamic rules, which increases investor trust.
3. **Supports Legal and Regulatory Structure**
   providing a basis for integrating takaful into Iraq's financial laws, contributing to a diversified financial legal system.
4. **Expands Economic Sector**
   A properly regulated takaful industry can attract investment and contribute to sustainable economic development in Iraq.
5. **Enhances Investor and Market Confidence**
   Establishing specific instructions and regulatory standards will increase credibility and transparency, making the Iraqi takaful market more attractive to both local and international stakeholders.

Research Outline:

1-Introduction
2-concept of takaful (Islamic insurance)

2- Concept of Takaful (Islamic Insurance)

Takaful is a form of Islamic insurance based on Shariah principles, where members contribute to a common fund to protect each other against loss or damage. The Arabic root word "kafala," which means "mutual guarantee," is where the word "takaful" comes from. It is an alternative to conventional insurance, which is not allowed by Islamic law because it includes riba (interest) and gharar (severe uncertainty). Cooperation (ta'awun) and shared responsibility are the main ideas of takaful. Participants agree to put some of their money into a risk-sharing pool called the takaful fund. This fund is designated to indentify any member who experiences a particular loss, including death, accident, or property damage. (Dikko, 2019). The takaful operator, who manages the fund, operates under Sharia rules and receives either an administration fee (wakala) or a share of the investment profits (mudaraba), depending on the model used. (Bank Negara Malaysia, 2024).

Takaful avoids elements of conventional insurance through several mechanisms. First, no interest is involved in the pooling or investment of funds. Investments are made only in Sharia-compliant segments, excluding industries like alcohol, gambling, and conventional banking. Second, the uncertainty (gharar) present in traditional insurance contracts is reduced by clearly defining the coverage terms and emphasizing the mutual nature of contributions. Third, the element of gambling is avoided because takaful relies on charitable donations and shared risk rather than profit-driven speculation.

There are different types of takaful, such as the wakalah model, where the operator charges a fee to manage the fund; the mudaraba model, where the operator shares the profits of the investment; and hybrid models that use both parts. In some places, a waqf (endowment) model is used, which sees the fund as an Islamic charitable trust. Surplus management is another key difference between takaful and traditional insurance. (Zuki et al., 2024). In Takaful, any surplus remaining after claims and expenses is either returned to participants or retained for future needs, depending on the contract. It is not kept as profit by the operator, which promotes fairness and transparency. (Obaidullah, 2005).

Furthermore, takaful is supervised by a Sharia Advisory Committee, which ensures all operations comply with Islamic principles. This includes reviewing contracts, investment strategies, and operational practices.

It is worth mentioning that the global takaful market has been growing steadily, particularly in countries like Malaysia, Indonesia, and the United Arab Emirates (UAE). It is also gaining interest in non-Muslim countries due to its ethical nature and emphasis on transparency and mutual support.

3- Takaful Industry of Iraq

In Iraq, takaful progressed following the establishment of a takaful insurance firm by the CBI, which is seen as a component of takaful regulation for the industry in the nation. The CBI has promulgated laws for the establishment of takaful firms in Iraq to facilitate Islamic finance. The takaful industry in Iraq is essential because most of the population is Muslim. Takaful insurance in Iraq should be developed alongside conventional insurance within the existing financial framework of the country. (Middle East Insurance Review, 2019). Nonetheless, the Iraqi government intends to advance the Islamic financial sector, as evidenced by the enactment of the Islamic Banking Law in 2015.

Consequently, recent years have witnessed a heightened interest in Islamic finance, particularly takaful. This interest is motivated by multiple factors: a substantial Muslim demographic, a demand for Shariah-compliant financial services, and economic reforms intended to rejuvenate the economy post-conflict. The Iraqi government has initiated the development of a regulatory framework that facilitates Islamic finance, encompassing takaful. Nevertheless, the sector is still in its beginning compared to other nations in the Middle East, such as the UAE and Saudi Arabia. In this regard, the CBI has established guiding principles to promote the development of Islamic financial products. (Mahmoud, 2025). A robust legal framework expressly for takaful businesses remains under development. This regulatory advancement is essential for fostering trust among consumers and investors, as well as for guaranteeing that takaful organizations function transparently under Sharia law.

However, Iraq’s insurance industry remains weak compared to global standards. Takaful can assist in meeting the needs of individuals and companies looking for risk protection that follows their values. The Iraqi takaful company has begun exploring takaful options, including general takaful and family takaful. These products aim to offer ethical alternatives to conventional insurance, focusing on risk-sharing rather than risk transfer. (Mahmoud, 2025). The future of takaful in Iraq looks promising, provided that regulatory frameworks continue to improve and awareness campaigns effectively educate the public.

Investing in professional training, strengthening regulatory oversight, and developing tailored products for different population segments will be essential to unlocking takaful's full potential in Iraq. As Iraq’s economy grows and expands, takaful could become a vital part of the country’s financial system, promoting greater financial inclusion and economic resilience.

Therefore, takaful in Iraq marks a significant step toward integrating Islamic financial principles into the country’s insurance industry. With ongoing regulatory enhancements, educational initiatives, and market development, takaful could play a significant role in addressing the insurance needs of Iraqi people in a socially and ethically responsible manner. (Abood & Ibrahim, 2019).

4. Issues Facing the Takaful System of Iraq

Takaful in Iraq faces several issues, which are legal, Sharia, and institutional.

4.1. Legal and Regulatory Issues

A lack of a proper and comprehensive legal and regulatory system for takaful in Iraq is considered one of the essential challenges. A comprehensive legal framework specifically for takaful does not exist in Iraq. (Ali, 2021). Currently, there is only the CBI Regulation guideline to manage takaful operations in Iraq. The guideline does not cover all aspects of takaful in Iraq; therefore, the takaful industry should operate by the Islamic Financial Services Board (IFSB) and the Accounting and Auditing Organization for Islamic Financial Institutions (AAOIFI). (Middle East Insurance Review, 2019) Therefore, the conventional insurance regulation covers takaful's management in the country, as stated in the CBI regulation guidelines 2019. “It is noteworthy that this company is subject to the Regulation of Insurance Law No. 10 of 2005." In this context, takaful operators must follow conventional insurance regulations, which may not align with Shariah principles. As stated in the CBI regulation guidelines 2019:

> "The central bank confirms that this step would pave the way for its recent move to Islamic capital markets through the issuance of the Investment Instrument Law to complement the Islamic economy in Iraq. It is noteworthy that this company is subject to the Regulation of Insurance Law No. 10 of 2005 and the Islamic Banks Law No. (43) for the year 2015."

Therefore, the takaful company, established by the CBI, is subject to three national laws: Iraqi Banking Law 2004, Regulation of Insurance Law No. 10 of 2005, and the Islamic Banks Law No. (43) for the year 2015. (Mahmoud, 2025). Except for Islamic Banking Law 2015, the other two laws and regulations are conventional rules established by the CBI and are subject to three national laws. The Iraqi Banking Law of 2004 does not mention takaful in its provisions, which means this law deals with the takaful industry the same as conventional insurance. Therefore, to avoid conflict with the sharia principles, the CBI requires takaful companies to follow sharia standards of the AAOIFI and IFSB. Looking at the Islamic Banking Law 2015, according to this law, each Islamic bank should have a Sharia supervisory body to monitor all transactions of the bank. (Article 7). Accordingly, a takaful company needs to have a sharia supervisory board, as the company operates according to the sharia principles. However, the Central Bank issued the takaful controls of the company in accordance with the standards of the IFSB and the AAOIFI, considering that the takaful insurance company represents the second strategic objective of the comprehensive strategic plan of this bank in developing Islamic financial services and its dealings for the period between 2016 and 2020. (www.cbi.iq).

4.2. Sharia Compliance Issues

Unclear fatwas or interpretations could be a core issue for takaful in Iraq. Therefore, differing opinions among scholars create uncertainty. The lack of qualified scholars to issue fatwas is a challenge for the Islamic finance and takaful industry in Iraq. Additionally, a shortage of qualified Sharia advisors and scholars affects the system, and limited local expertise in Islamic finance weakens the credibility and structure of takaful products in Iraq. (Salh & Hyland, 2021). Many Sharia scholars lack extensive knowledge about the Islamic financial system in general and takaful in particular. While they may have a general understanding of Sharia and related issues, most are not experts in the specific field of takaful and its products. Furthermore, staff at takaful companies may also lack sufficient knowledge about takaful, which differs from conventional insurance. (Mahmoud, 2025). Nevertheless, the CBI regulation guidelines require the established takaful company to follow the standards of the AAOIFI. (Ali, 2021). However, Sharia scholars in Iraq may not be familiar with these two institutional rules.

4.3. Limited Public Awareness

Many Iraqis are unfamiliar with the concept of takaful; they do not distinguish between takaful and conventional insurance. (Ali, 2021). Additionally, a lack of trust in the Iraqi financial system makes Iraqi people uninformed about both conventional insurance in general and takaful in particular. The main reason for the limited public awareness of takaful in Iraq is low financial knowledge and inadequate marketing. (Trade Arabia, 2022). Consequently, the Iraqi public continues to favor conventional insurance over takaful because they lack information about this specific type of product. Furthermore, because of the political issues and financial instability in Iraq, people are reluctant to know about any financial products, including takaful products. (Mahmoud, 2025).

4.4. Operational and Institutional Issues

The number of companies that offer takaful in Iraq is limited compared to conventional insurance firms, and most of them are Islamic banks, except the takaful company that was established by the CBI in 2019. (Alshammari et al., 2022). The takaful firm in Iraq faces limitations in terms of both customer and staff numbers. In addition, a shortage of skilled employees trained in Islamic finance and takaful operations is considered an issue in the takaful industry in Iraq. Most of the staff in Iraq have experience in working with conventional insurance rather than in the takaful industry. (Salh & Hyland, 2021). Consequently, these staff are not qualified to run a takaful business, which needs Sharia information besides the conventional insurance information.

5. Resolving Current Issues of the Takaful System of Iraq

Legal and regulatory issues are the most significant challenges of the takaful industry in Iraq. In this context, the lack of a complete and comprehensive legal framework that is in line with Sharia principles is considered one of the current issues of the takaful industry in Iraq. (Ali, 2021). Therefore, the enactment of a special takaful law that operates separately from conventional insurance rules is a viable method for resolving the lack of a comprehensive legal framework. This new legal framework should operate in accordance with the international standards, especially the IFSB and the AAOIFI. Furthermore, the new law must comply with Iraq's legislative framework. (CBI Regulation Guidelines, 2019). Moreover, the capabilities of regulatory specialists must be improved. Hence, the staff of the CBI and other financial bodies should improve their knowledge in the regulation of takaful transactions by education on its compliance with Sharia rules and principles.

Thus, legal management is vital for takaful regulations to follow Iraq's inclusive financial regulation. This process enables the incorporation of takaful into the national legal system. In addition, enhancing communication among the public, legislators, and Sharia scholars promotes understanding of the reform of the takaful products.

Additionally, the existing CBI regulation guideline for regulating takaful enterprises should be extended to better associate with the current regulatory system of the financial sector of Iraq. In this regard, the takaful product needs to be included in amendments to Insurance Law No. 10 of 2005 and Islamic Banks Law No. 43 of 2015. Therefore, licensing takaful companies should be managed independently from licensing conventional insurance companies. After addressing the legal and regulatory challenges, the CBI can design supportive legal surroundings for the takaful industry that benefit the financial sector of the country. Without the mentioned reforms, takaful operators will face limitations in growth, and their ability to run the takaful industry as an alternative to conventional insurance, which is based on riba, will be limited.

Sharia compliance is an additional challenge for the takaful industry in Iraq. It is known that the Sharia aspect is an important part of takaful products; however, it presents significant challenges in developing the Islamic finance sector of Iraq. One of the main Sharia compliance issues is the lack of a centralized Shariah supervisory committee to supervise and standardize the practices of takaful operators in Iraq. (Salh & Hyland, 2021). Hence, without such a standardized committee, individual companies depend on their own Sharia supervisory committee, and each committee has different fatwas, interpretations, and rulings, which leads to inconsistency in the market. In that context, establishing a standardized supervisory committee with qualified Sharia members who can issue fatwas could be the best solution for resolving this issue.

Moreover, a lack of takaful expertise influences the approval of takaful contracts and the development of Sharia-compliant investment strategies. Moreover, most of the current insurance staff in Iraq have a conventional insurance background rather than a takaful background, which makes it difficult for takaful operators to fully adhere to Sharia principles, particularly in areas like surplus distribution, risk sharing, and the use of interest-bearing financial instruments. Therefore, Iraq, through the CBI, must open a training center for developing human capital in Islamic finance, including training programs for Shariah scholars, employers, and employees. Establishing a central Sharia committee under CBI supervision would also help unify fatwas and interpretations for the takaful industry, as can be found in the UAE, according to Article 71 of the Federal Decree Law No. 48 of 2023 of the UAE. Additionally, changes in regulations should make it easier to use Sharia-compliant investment options and ensure that all takaful activities, like managing funds and handling claims, follow Islamic ethics.

Public awareness is a further challenge to the takaful industry in Iraq, which impacts the country's economic sector. (Ali, 2021). Therefore, investors in takaful firms should implement comprehensive awareness programs using social media and public centers in Iraq, including local organizations. Educational creativities can emphasize the benefits of takaful products and their permissibility according to the Islamic principles, which helps to build trust among people. Furthermore, providing information about takaful products that cover common risks, such as property or health, can encourage better participation of the public, as most of the people in Iraq do not have sufficient information about how takaful operates. Additionally, mobile apps and current platforms such as Facebook and Twitter can help expand takaful information, especially among young people and those living in the countryside. Providing information about takaful on social media is important, as most people today follow social media, especially current mobile apps such as Facebook and TikTok.

Furthermore, takaful companies shall provide funds for any connection method to reach the public so that they know more about takaful products. In addition, takaful companies should introduce takaful to the public and provide them with full information about takaful products via a magazine or special publication. By improving public awareness and understanding, Iraq can significantly increase the number of takaful customers and strengthen the ethical fundamentals of its takaful industry in line with Sharia values.

Operational and institutional challenges are considered a major challenge of the takaful industry in Iraq. Thus, the two noticeable reasons behind the challenge are the limitations of customers and the shortage of skilled staff. (Alshammari, et. all, 2022). Due to the many years of wars and unstable political issues in the country, Iraqi people do not trust financial institutions, including takaful companies. Most people do not deposit their money in banks due to a lack of trust in the financial sector. (Salh & Hyland, 2021). Additionally, the current staff of the takaful companies are not knowledgeable in Sharia products, as most of them have a conventional background.

The Iraqi government must thus fund capacity-building initiatives to educate experts in takaful products to address the operational and institutional problems. The CBI could establish a takaful training center, offering university courses and creating certification programs that can help fill the human resource gap. Furthermore, institutional support through government incentives, regulatory clarity, and strategic partnerships with international takaful firms can enhance operational efficiency. Hence, the CBI should play its role in assisting current takaful companies by helping them to open workshops and training courses for their staff.

6. Analysis of the Takaful Regulation Guidelines of Iraq

A takaful company was established by the CBI in 2019, which was supported by all the banks in the country. (Alshammari et al., 2022). Thus, based on this company, the CBI issued guidelines for regulating takaful firms in Iraq. The takaful guideline represents a strategic regulatory move aimed at promoting Sharia-compliant insurance services in the country. As Iraq continues to reconstruct its financial sector and expand its Islamic finance industry, the enactment of a proper legal and regulatory framework for takaful is a crucial step toward enhancing financial inclusion, ethical finance, and risk protection for individuals and businesses within the framework of Sharia law. (CBI Regulation Guidelines, 2019).

Thus, the regulation guideline ensures that all takaful operations are conducted by Islamic principles. It concentrates on the Sharia aspects of the takaful company to align with Sharia rules. In such a case, the standards of AAOIFI and IFSB are mentioned as two international financial institutions to be followed. According to the rules of these two organizations, the takaful companies should follow Sharia rules in detail. Hence, according to their standards. A risk-sharing approach is compulsory, which is fundamentally different from conventional insurance. Thus, this cooperative risk-sharing mechanism distinguishes takaful from conventional insurance, which is based on risk transfer between the policyholder and insurer. (CBI Regulation Guidelines, 2019).

The regulation guideline requests takaful companies to establish a Sharia Supervisory Committee in line with the AAOIFI Sharia standards. The committee should be active and responsible and ensure that all contracts, operations, products, and activities of the company comply with Sharia law. (Ali, 2021). The CBI requires that all takaful operators submit reports and receive fatwas from their Sharia supervisory committee, which serves as an active assurance mechanism for both regulators and policyholders. (CBI Regulation Guidelines, 2019).

Moreover, the CBI regulation guideline's effective operation depends on the regulatory capacity of the Central Bank and the willingness of financial institutions, especially Islamic banks, to invest in takaful products. The full potential of Iraq's takaful industry may remain unrealized without strong institutional support and strategic public engagement.

In general, the takaful guideline of Iraq is a well-structured, Sharia-compliant framework that positions the country to grow its takaful market. This guideline shall be developed to be a special act for the regulation of the Takaful industry in Iraq.

7. Recommendation: New Takaful Law for Iraq

The CBI regulation guideline could serve as a beneficial starting point for developing a specific and complete takaful law in Iraq to regulate takaful companies. In this context, many countries, particularly in the Middle East, stepped forward and followed Sudan to operate

Islamic insurance, and they developed the regulation system to enhance the Takaful industry. (Shibu & Kahf, 2022).

In this context, the UAE takaful regulation could be useful since the UAE has advanced its takaful sector. Therefore, the UAE has a clear regulatory framework for takaful insurance overseen by the Central Bank of the UAE. According to this regulation, takaful companies must comply with the Takaful Regulations of 2010 and the Federal Decree-Law No. (48) of 2023 Regulating Insurance Activities, which establishes rules for Sharia compliance, fund separation, and governance. Chapter Fourteen of the Federal Decree-Law No. (48) of 2023, Regulating Insurance Activities, from Articles 69 to 73, regulates the Takaful industry in the UAE. According to the Federal Decree-Law No. (48) of 2023, Regulating Insurance Activities, each takaful company must establish an independent Sharia supervisory committee to ensure that its operations comply with Sharia rules as stated in Article 72 (1):

> "An independent internal Sharia supervisory committee shall be formed in every Takaful Insurance Company called 'the Internal Sharia Supervisory Committee,' comprising experts and specialists in Islamic financial transactions jurisprudence. Such a committee shall supervise and approve all business, activities, products, services, contracts, documents, and charters of the company's business and shall set the necessary Sharia controls for the same under rules, principles, and standards set by the Supreme Sharia Authority in order to ensure their compliance with the provisions of the Islamic Sharia. Fatwas, or opinions, issued by the committee shall be binding on the company."

Besides the internal Sharia supervisory committee of the takaful company, there is a Higher Sharia Board in the UAE, as stated in Article 71 of the Federal Decree Law No. 48 of 2023, that:

> "1. The Supreme Sharia Board shall set the Sharia rules, standards, and principles for Takaful Insurance Companies' business and shall control and supervise internal Sharia supervisory committees referred to in Article (72).
> 2. Takaful Insurance Companies shall bear the expenses of the Higher Sharia Authority, including the allocations, remunerations, and expenses of its members, pursuant to the articles of association of the Supreme Sharia Board.
> 3. Takaful insurance companies and the internal Sharia supervisory committees shall comply with fatwas and opinions issued by the Higher Sharia Authority."

Furthermore, based on the rules and regulations in the UAE, the takaful businesses must separate participants' funds from shareholders' funds to maintain transparency and accountability. Takaful firms also need to adhere to capital adequacy, solvency, and investment regulations like those for conventional insurers but within Sharia-compliant limits. Ensuring the financial stability and Sharia compliance of takaful companies is essential.

Therefore, as for Iraq, each takaful company shall establish a sharia supervisory board, and this board should be independent. In addition, there should be an external sharia supervisory board to monitor all takaful companies and the decisions of the internal sharia supervisory board. In respect to fatwa, there should be a united fatwa board in Iraq, the same as the Higher Sharia Authority of the UAE. Otherwise, the establishment of the central sharia supervisory board could be a good solution, and this board should consist of qualified sharia scholars who can issue fatwas when Islamic financial institutions need them.

Malaysia is another country that could serve as a practical example for Iraq to follow when enacting a takaful law. Malaysia has a developed takaful industry to improve the country's financial sector. (Riad et al., 2024). Takaful in Malaysia is governed by the Islamic Financial Services Act (IFSA) 2013, which replaced the Islamic Banking Act 1983 and the Takaful Act 1984 to improve the oversight and regulation of Islamic financial institutions. (Jamil & Jamal, 2016). Hence, in Malaysia, the IFSA 2013 is a regulatory body to regulate both Islamic banks and the takaful industry. (Daud & Arifin, 2018). Besides, the IFSA 2013 provides a comprehensive legal framework specifically structured for takaful and Islamic finance in Malaysia. The Act ensures that all financial institutions, including takaful firms, operate under Sharia principles. It requires the takaful funds to be separate from shareholders' funds, as stated in section 91 of the IFSA 2013, promotes strong governance, and establishes mechanisms for Sharia compliance.

Takaful operators must establish a Sharia supervisory committee to oversee operational decisions, contracts, and product development. The Act also emphasizes consumer protection, risk management, and transparency within the takaful industry. Looking at Malaysia's IFSA 2013, the law regulates all Islamic financial institutions, including the takaful industry (Jamil & Jamal, 2016), which could be a viable example for Iraq. Like the UAE, Malaysia has an enhanced Islamic financial law that regulates all Islamic institutions. Thus, in Iraq, like Malaysia, it should be required for the takaful companies to follow sharia principles under supervision of the specific board. In addition, the takaful funds should be separated from shareholders' funds for the takaful to be in accordance with the sharia rules.

Therefore, Iraq's CBI and regulators could replace the Islamic Banking Law 2015 with a new law that regulates all financial institutions, including takaful, like Malaysia. Alternatively, some provisions or chapters could be added to the Islamic Banking Law 2015 to govern the takaful industry. In this context, the Islamic Banking Law 2015 should be amended to reflect Iraq's current financial situation.

Indonesia may serve as a relevant model for Iraq to consider concerning takaful regulation. The takaful industry in Indonesia is regulated by Law Number 40 of 2014 on insurance, which establishes a legal framework for both conventional insurance and takaful. (Daud & Arifin, 2018). The law formally acknowledges takaful and differentiates it from conventional insurance regarding its operation and structure. It requires takaful companies to function on the principles of risk sharing, mutual aid, and adherence to Sharia law. The takaful industry requires a Sharia supervisory committee to ensure that all contracts and investments follow Sharia rules. (Mohd. et. all, 2021).

Moreover, Indonesia has a specific body that issues fatwas about matters related to the takaful contract. In this context, the Indonesian Ulema Council (MUI) provides fatwas that direct the interpretation and implementation of Islamic rules in Takaful. (Zein, 2018). In addition, Indonesia takaful is ruled by Insurance Law No. 40 of 2014, which covers both conventional insurance and takaful, with provisions addressing the takaful industry in the country.

The Indonesian takaful industry is as developed as Malaysia's and the UAE's. The development of the takaful in these countries depends on the relevant laws and regulations that each country enacted for the regulation of the takaful industry. (Daud & Arifin, 2018) (Jadalhaq & Russi, 2020). In addition, compared to Iraq, these three countries have more experience in regulating Islamic finance and enacting laws for the financial sector. Furthermore, the political situation of Iraq may not be suitable for the lawmakers and regulators to enact a proper legal framework for the takaful industry.

Generally, the recommended takaful law for regulating takaful firms in Iraq should follow Sharia principles, as in the laws of the other mentioned countries. Therefore, as stated in the regulation guideline of the CBI regarding takaful, establishing an independent Sharia supervisory committee responsible for ensuring all takaful operations comply with Sharia law is necessary. Members of this committee should be experts in the Islamic financial system and qualified to issue fatwas. Alternatively, the Council of Fatwa, which exists in Iraq, can issue fatwas like the Indonesian model. However, Iraqi Fatwa Council members should be qualified to interpret and issue fatwas related to financial issues.

It is important to mention here that the political situation of Iraq is different from the mentioned countries, as the situation is unstable. Therefore, for establishing a fatwa council, there should be some rules and guidelines, as there are different religious views in Iraq. In this context, the fatwa council should consist of several qualified members from all religion branches. In addition, there should be a general guideline for the fatwa council to follow. (Salh & Hyland, 2021). Thus, the CBI is responsible for issuing a special guideline for the fatwa council to be followed. However, in case of disputes and conflict among members of the fatwa council about any transactions, there should be a higher council to settle these disputes. Therefore, the central Sharia board, which is necessary to be part of the CBI, can be this higher council.

On the other hand, the economic situation of Iraq should also be considered in regulating the takaful industry. The economic and financial situation of Iraq is unstable because Iraqi income depends on oil. In case the oil price is decreased, the economic situation will be unstable. Therefore, the CBI should be a last resort in case of usability of the economic and financial situation between the takaful issuers and the investors. In this context, the CBI shall issue a specific guideline for the takaful companies to control the economic and financial situation.

In addition, the law that has been advocated ought to mandate the separation of money belonging to shareholders and that belonging to participants to guarantee fairness and transparency. Specifically, transparency is an essential component that must be articulated in a way that is unambiguous in the legal system. It is important for individuals who participate in takaful schemes to understand how the organizations function.

Lastly, it is worth mentioning that the Islamic Banking Law No. (43) 2015 could assist regulators in enacting a specific takaful law. This law could include sections dedicated to regulating the takaful industry, like the Malaysian model. According to the current regulation of the CBI, takaful companies are licensed according to this regulation as it is stated: “The Central Bank of Iraq announced the start of the establishment of the Takaful insurance company for Islamic banks in cooperation with the Board of Insurance with a capital of (15) billion dinars with the participation of all Islamic banks.”

In addition, the CBI mandates the takaful companies to follow the guidelines of the AAOIFI and IFSB as stated in the regulation:

> “The Central Bank issued the company's Takaful regulations according to the standards of the Islamic Financial Services Board (IFSB) and the Accounting and Auditing Organization for Islamic Financial Institutions (AAOIFI), considering that the Takaful Insurance Company represents the second strategic objective of the comprehensive strategic plan of this bank in the development of the Islamic banking industry and transactions (2016-2020).”

Furthermore, the CBI regulations mentioned that a takaful company should operate under the Regulation of Insurance Law No. (10) 2005 and the Islamic Banks Law No. (43) 2015 as stated:

> “The central bank confirms that this step would pave the way for its recent move to Islamic capital markets through the issuance of the Investment Instrument Law to complement the Islamic economy in Iraq. It is noteworthy that this company is subject to the Regulation of Insurance Law No. 10 of 2005 and the Islamic Banks Law No. (43) for the year 2015.”

Therefore, the CBI regulations can be fundamental for a new takaful law that licenses takaful companies according to the Insurance Law 2005 and operates according to the AAOIFI and IFSB Sharia standards.

In addition, each takaful company should establish a Sharia supervisory body in accordance with the Iraqi Islamic Bank Law 2015, as stated in article 7. In Malaysia each takaful company shall have a Sharia supervisory committee with Sharia experts that is to ensure the transactions operate under Sharia principles. (BNM Licensing and Regulatory Framework for Digital Insurers and Takaful Operators, 2024). However, in the UAE, Takaful operators in the UAE must obtain a license from the central bank of the UAE. In addition, the company must comply with Federal Decree Law No. (48) of 2024 Regulating Insurance Activities.

According to Federal Decree Law No. (48) of 2024 of the UAE, each takaful company should have an internal Sharia supervisory board, and this board is monitored by the supreme Sharia board, which is the higher Sharia board in the UAE. (Article 71-72).

The surplus distribution should be part of a new takaful law of Iraq. Surplus distribution, which is one of the takaful benefits that can be collectively agreed upon by the participants. Hence, regardless of the contributions charged, any surplus typically flows back to the participants in proportion to their individual contributions. This aligns with the principle of fairness and equity in Takaful operations (Usmani, 2002). Agreement on how surplus is to be distributed is explicitly included in the Takaful contract. In Malaysia, the surplus distribution to both the takaful operator and the participants would be in accordance with an agreed sharing ratio (Mokhtar et al., 2015). Therefore, it must be clearly stated in the law about surplus destitutions in tankful.

As for dispute resolution mechanisms, there are three mechanisms for resolving takaful disputes: litigation through the courts and alternative dispute resolution, which includes arbitration and mediation. (Nazri et al., 2025). The new Iraqi takaful law should explicitly state the takaful mechanisms. However, it is necessary for the court to have judges that are experts in Sharia rules to settle the disputes in takaful cases. Otherwise, the court can request advice from the Sharia supervisory committees of the Islamic financial institutions when there is an issue in a takaful case, as can be seen in Malaysia. (Rafdi et al., 2024). It is important here to mention that the Iraqi society is complicated due to the political situation; therefore, the mediation could be the first step for dispute resolution when there is a conflict between parties in any financial matter. (Salh, 2021) However, the new law shall clearly mention the step of dispute resolution when there is a conflict between parties.

As an alternative to the new takaful law, some provisions or articles on takaful regulation could be added to the Iraqi Insurance Law No. 10 of 2005. Licensing requirements, Sharia regulations, surplus distributions, and dispute resolution mechanisms could be part of the Iraqi Insurance Law of 2005.

In conclusion, Iraqi regulators can either enact a dedicated takaful law or incorporate relevant sections into the existing Insurance Law No. 10 of 2005. The UAE model is also a viable model for the takaful industry of Iraq. According to the Federal Decree-Law No. (48) of

2023, Regulating Insurance Activities, there is a Higher Sharia Board in the UAE to monitor the internal Sharia supervisory committee. Thus, establishing a higher Sharia supervisory council in the CBI could help Iraqi takaful companies and assist Sharia supervisory committees.

8. Conclusions

Since the takaful industry is new in Iraq, it faces several challenges. While some challenges are legal, others stem from Sharia or institutional issues. The first problem is an incomplete legal framework for takaful. Although Iraq has laws governing conventional insurance, as well as the Insurance Law No. 10 of 2005, there is no takaful act. Therefore, not having a dedicated takaful law is a legal issue. To address this, Iraqi financial regulators should pass a specific takaful law based on the current CBI regulations guidelines. The new takaful law shall clearly consist of all aspects of the takaful contract. In this context, the law should require each takaful firm to establish a sharia supervisory board. In addition, the qualifications of the Sharia scholars should be determined by the law. Furthermore, the license requirements should be explicitly mentioned in the law in accordance with the Sharia principles. In addition, the types and categories of the takaful shall be stated in the law. Moreover, the law should select the method of resolving the case of dispute resolution.

Sharia compliance is another challenge for the takaful industry in Iraq. A shortage of qualified Sharia scholars contributes to this problem, as each takaful company has its Sharia supervisory committee, leading to differing fatwas and interpretations. Standardizing a Sharia supervisory committee is therefore essential. Additionally, the CBI should organize training courses for Sharia scholars to improve their knowledge of takaful.

Another issue is the shortage of human capital; the CBI, in cooperation with takaful companies and Sharia supervisory committees, could provide training for existing staff. Operational and institutional challenges also hinder the industry, as the number of takaful providers in Iraq is very small compared to conventional insurance companies. Most takaful products are offered by Islamic banks, which limits customer options. The main reasons for this are the limited customer base and the shortage of skilled staff. Many Iraqis do not trust the financial system, including both takaful and conventional insurance. To improve this, the CBI should work to increase the number of takaful firms and educate the public about takaful to expand customer awareness. Ultimately, it is the responsibility of the CBI, takaful companies, and Islamic banks in Iraq to work together to develop the industry.

References

Legislation

- Indonesia Insurance Law No. 40 of 2014
- Iraqi Insurance Law No. 10 of 2005
- Islamic Banking Law No. 43 of 2015
- Islamic Financial Services Board 2006.
- Malaysia Islamic Financial Services Act (IFSA) 2013
- The Central Bank of Iraq Regulation Guidelines 2019
- UAE Federal Decree-Law No. (48) of 2023 Regulating Insurance Activities
- UAE Takaful Regulations of 2010
- Accounting and Auditing Organization for Islamic Financial Institutions (AAOIFI)
- Islamic Financial Services Board (IFSB).

Books

- El-Gamal, M. A. (2006). *Islamic Finance: Law, Economics, and Practice*. First edition, Cambridge University Press, New York. Cambridge University Press

Journals

- Shibu, Aman & Kahf, Monzer (2022) Development of Takaful Industry in Turkey: Challenges and Prospects (2022) *Journal of Islamic Economics* 2.
- Alshammari, Ahmad, Altarturi, Basheer & Altwijry, Othman *(2022)*, How Takaful Started in the Middle East. *Journal of Legal, Ethical and Regulatory Issues*, 25(4).
- Ali, H. A. (2021). Takaful Insurance Regulations in Iraq in Light of the Standards of the Accounting and Auditing Organization for Islamic Financial Institutions. *Journal of University of Human Development*, (7) 3.

- Bank Negara Malaysia, Broader Application of Ta`awun in Takaful, 2024, Issued on: 28 June 2024.
- Mahmoud, Basheer (2025). Takaful (Islamic) insurance and its marketability in the Iraqi insurance market: A future study applied in the Iraqi insurance market, *Indonesian Journal of Business Analytics* (5) 3.
- Daud, W. N. W., & Arifin, N. M. A Comparative Study of the Takaful Rules and Regulations for Malaysia and Indonesia Act, *International Journal of Academic Research in Business and Social Sciences* 8 (12).
- Zein, Fitriyani (2018) Legislation Fatwa National Sharia Board-Indonesian Council of Ulama (DSN-MUI) In the State Economic Policy, *Jurnal Cita Hukum* (6) 1.
- Mokhtar, Hamim, Abdul Aziz, Izwayu, and Hilal, Noraziyah (2015). *ISRA International Journal of Islamic Finance* (7) 1.
- Ali, Hiwa (2021) Takaful Insurance Regulations in Iraq in the Light of the Standards of Accounting and Auditing Organization for Islamic Financial Institutions, translated by the researcher, *Journal of University of Human Development* 7 (3).
- Jadalhaq, Iyad and Russi, Luigi (2019). Finding direction at the edge of law and life: Islamic Fiqh, correspondence, and UAE Takāful insurance regulation. *Canadian Journal of Law and Society* (3) 34.
- Khan, M. F., & Bhatti, M. I. (2008). Development in Islamic banking: A financial risk-allocation approach. *The Journal of Risk Finance*, 9(1), 40–51.
- Maryam Dikko (2019) An Examination of Shari'ah Compliance in Takaful Window Operations. International *Journal of Economics, Commerce and Management* (VII) 1.
- Raid, Mohamed, Hasasan, Rusni, Salman, Syed, and Yusoff, Adnan (2021). Development of Takaful Industry in Malaysia. Journal *of Islamic Banking and Finance*.
- Hussin, Mohd, Rahman, Asmak, Wan Marhaini Wan Ahmad, Ririn Tri Ratnasari, and Zuriadah Ismai, Takaful as an Islamic Alternative to Conventional Insurance: A Thematic and Bibliometric Review (2024) *International Journal of Religion* 5 (10).
- Muhammad Zuki, M. F., Ishak, M. A. F., & Roja, M. I. H. Takaful Business Model and Business Performance: A Comparative Evidence from the Global Takaful Industry (2024). *International Journal of Islamic Business*, 9(1).

- Abood, Muthana and Ibrahim, Faeza (2019). Prospects for adopting Takaful Insurance and its role in developing insurance services: Applied research in the Iraqi insurance sector, *Journal of Accounting and Financial Studies* 14.
- Nazri, Norsyazwani, Shukri, Saidatun, Ali, Syuhaeda, and Samsudin, Pairus (2025) Dispute Resolution in Malaysian Islamic Banking and Finance: Litigation or Arbitration? *International Journal of Research and Innovation in Social Science* (IX) IV.
- Jamlus, Nurauliani, Miskam, Surianom, Puad, Noor (2015). Reference to the Shari'ah Advisory Council in Islamic Finance: Preliminary Analysis on Civil Court Decisions.
- Obaidullah, M. (2005). *Islamic Financial Services*. Islamic Economics Research Center, King Abdulaziz University.
- Salh, Shamsalden & Hyland, Mark (2021) Sharīʿah Regulation and Supervision of the Iraqi Islamic Banking System, *Arab Law Quarterly* (35) 1.
- Salh, Shamsalden (2021) Dispute Resolution of Islamic Financial Institutions, Court Litigation and Negotiation, *Journal of International Affairs and Global Strategy* 90.
- Jamil, Siti & Jamal, Jasri (2016) Importance of Islamic Financial Services Act 2013 in Takaful Industry After the Repealed Takaful Act 1984 *Diponegoro Law Review* 1(1).

Report

- Central Bank of Iraq, Department of Monetary and Financial Stability, *Financial Stability Report 2019*. <www.cbi.iq).

Online Materials

- Ernst & Young. (2013). *Global Takaful Insights 2013.* {Online} Last Accessed 28 August 2025 at: https://www.ey.com.
- Fitch Ratings office, finance & capital market, Iraq Islamic banks growth to continue; structural issues remain. {Online} Last Accessed 25 August 2025 at: https://www.tradearabia.com/News/398341/Iraq-Islamic-banks-growth-to-continue;-structural-issues-remain.
- Middle East Insurance Review (2019), *Iraq: Islamic banks establish takaful company* {Online} Last Accessed 15 July 2025 *at:*

https://www.meinsurancereview.com/Magazine/ReadMagazineArticle/aid/42545/Iraq-Islamic-banks-establish-takaful-company.

دامەزراندنی چوارچێوەیەکی یاسایی و ڕێکخراوەیی بۆ پیشەسازی تەکافول لە عێراق: ڕێبازێک لەسەر بنەمای چاکسازی

پوختە

دامەزراندنی چوارچێوەی یاسایی و ڕێکخستنی بواری تەکافول لە عێراق گرنگە. بۆیە، ئەم توێژینەوەیە فۆکەس دەخاتە سەر بواری تەکافول لە عێراق لەچوار چێوەی یاسا تەقلیدیەکانی ئێستای عێراق. لێرەدا هەندێک کێشە لە بواری تەکافول لە عێراق لەبەردەم ئەم پیشەسازیەدا هەیە کە ئەمانەن. یەکەم، کێشە یاساییەکان و ڕێکخراوەییەکان، وەک نەبوونی یاسایەکی گشتگیرو تەواو بۆ تەکافول. بۆیە دەرکردنی یاسایەکی تایبەت بە تەکافول پێویستە بۆ عێراق. بۆ ئەم مەبەستە، هەڵسەنگاندنی یاساکانی تەکافوڵی وڵاتانێک وەک مالیزیا و ئەندەنوسیا ڕێگایەکی باشە بۆ عێراق بۆ دەرکردنی یاسایەکی گونجاو بۆڕێکخستنی تەکافول. دووەم، کێشەی گونجاندن لەگەڵ شەریعەت، وەک کەمی شارەزاینی شەریعەت و زانا لە بواری تەکافول. کەمی شارەزایان لەو بووارە کێشەیەکی تری پیشەسازی تەکافولە. بۆیە بۆ چارەسەرکردنی ئەو کێشەیە، بانکی ناوەندی عێراق دەبێت ناوەندێکی فێرکردن بۆ شارەزایانی ئێستای شەریعەت وەهەروەها بۆ کارمەندان بکاتەوە بۆ فێربوونی دەربارەی پیشەسازی تەکافوڵ. هەروەها، بەپێی ڕێنمایی ڕێکخستنی تەکافوڵی ساڵی ٢٠١٩ کە لەلایەن بانکی ناوەندی عێراق دەرکراوە کە تێدا هاتووە هەر کۆمپانیایەکی تەکافول پیویستە لێژنەیەکی شەرعی تایبەت بەخۆی هەبێت. لەپاڵ ئەوەشدا، دامەزراندنی لێژنەیەکی شەرعی ناوەندی پێویسە لە عێراق بۆپیشەسازی تەکافول. سێیەم، نەبوونی ئاشنایی خەڵک دەربارەی تەکافول کێشەیەکی تری ئەم پیشەسازیەیە لە عێراق. زۆرێک لە هاوڵاتیانی عێراق زانیاریان نیە دەربارەی تەکافول و جیاوازی ناکەن لە نێوان بیمەی تەقلیدی لەگەڵ تەکافول. دەربارەی ڕێبازی توێژینەوە، ڕێبازی بەراوردکاری و شیکاری شێوازی سەرەکییە بۆ گەیشتن بە ئامانجی ئەم توێژینەوەیە. بەم شێوەیە،وڵاتانی وەک مالیزیا، ئەندەنوسیا و ئیمارات، وەک سێ وڵاتی پێشکەوتوو لە بواری تەکافول ئاماژەیان پێکراوە.

بۆیە ئەو وڵاتانە بنچینەیەک و نمونەیەکی باشن بۆ دامەزراندنی چوارچێوەیەکی یاسایی بۆ پیشەسازی تەکافول لە عێراق. ژمارەی سنووردداربوونی ئەو دامەزراوانەی لە عێراقدا کە بەرهەمی تەکافول دابین دەکەن، کێشەیەکی ترە بۆ پیشەسازی تەکافول. سەرەڕای ئەوەش، کەمی کارمەندی لێهاتوو لەم دامەزراوانەدا وەک پرسێکی بەرچاو بۆ پیشەسازی تەکافول لە وڵاتەکەدا دادەنرێت. لە کۆتاییدا شایەنی باسە کە ئەم توێژینەوەیە بەشداری دەکات بە پێشنیارکردنی چوارچێوەیەکی یاسایی پابەند بە شەرع، چارەسەرکردنی بۆشاییە ڕێکخراوەییەکان، بەرزکردنەوەی چاودێری کردن، بەرزکردنەوەی ئاستی شارەزایی شارەزایانی دارایی، و پێشخستنی پیشەسازی تەکافولی عێراق بۆ گەشەپێدانی دارایی گشتگیر.

وشە سەرەکیەکان: بیمەی تەکافول، پیشەسازی تەکافولی عێراق، پرسە یاساییەکان، پرسە شەرعیەکان، پرسە دامەزراوەییەکان

تأسيس إطار قانوني وتنظيمي لصناعة التكافل في العراق: نهج قائم على الإصلاح

الملخص

إن تأسيس إطار قانوني وتنظيمي للتكافل في العراق أمر مهم, لذلك تركز هذه الدراسة على مجال التكافل في العراق في إطار القوانين التقليدية العراقية الحالية. هناك بعض المشاكل التي تواجه قطاع التكافل في العراق. أولاً، المشاكل القانونية والتنظيمية، مثل عدم وجود قانون شامل لذلك، فإن سن قانون التكافل ضروري لتنظيم التكافل فى العراق. ولهذا الغرض فإن تقييم قوانين التكافل في دول مثل ماليزيا وإندونيسيا هو وسيلة جيدة للعراق لسن القوانين المناسبة لتنظيم التكافل. ثانيًا، مشكلة التكيف مع الشريعة الإسلامية، مثل نقص خبراء الشريعة والعلماء في مجال التكافل. نقص الخبراء في هذا المجال هو مشكلة أخرى لقطاع التكافل. لذلك، لحل هذه المشكلة، يجب على البنك المركزي العراقي فتح مركز تدريب لخبراء الشريعة الحاليين وكذلك للموظفين للتعرف على كيفية ادارة التكافل. فضلاً عن ذلك ، وفقًا لتعليمات تنظيم التكافل لعام ٢٠١٩ الصادرة عن البنك المركزي العراقي، يجب أن يكون لكل شركة تكافل لجنة شرعية خاصة بها. بالإضافة إلى ذلك، فإن إنشاء لجنة شرعية مركزية ضروري في العراق لصناعة التكافل. ثالثًا، يُعد نقص الوعي بالتكافل مشكلة أخرى تواجه قطاع التكافل في العراق. العديد من العراقيين ليست لهم معلومات كافيةعن التكافل ولا يميزون بين التأمين التقليدي والتكافل. فيما يتعلق بمنهج البحث، فإن المنهج المقارن والتحليلي هو الطريقة الرئيسية لتحقيق هدف هذه الدراسة. وبالتالي، تم تحديد دول مثل ماليزيا وإندونيسيا والإمارات العربية المتحدة على أنها الدول الثلاث الأكثر تقدمًا في مجال التكافل.

لذلك، تعد هذه الدول أساسًا جيدًا ومثالًا لإنشاء إطار قانوني لقطاع التكافل في العراق، وينبغي على شركات التكافل الحالية بمساعدة البنك المركزي العراقي توفير معلومات حول التكافل عبر وسائل الإعلام والمساجد. يُشكل العدد المحدود للمؤسسات التي تُقدم منتجات التكافل في العراق تحديًا لقطاع التكافل. إضافةً إلى ذلك، يُعدّ نقص الكوادر المؤهلة في هذه المؤسسات مشكلةً جوهريةً تواجه قطاع التكافل في البلاد. وأخيرًا، تجدر الإشارة إلى أن هذه الدراسة تُساهم في اقتراح إطار قانوني متوافق مع الشريعة الإسلامية، ومعالجة الثغرات التنظيمية، وتعزيز الحوكمة، وتحسين الخبرات العلمية، ودعم قطاع التكافل العراقي لتحقيق تنمية مالية شاملة.

الكلمات المفتاحية: التأمين التكافلي، قطاع التكافل في العراق، القضايا القانونية، القضايا الشرعية، القضايا المؤسسية