CHAPTER – I

HISTORICAL RETROSPECT OF INSURANCE

A. UNDER COMMON LEGAL SYSTEM
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Chapter - I

HISTORICAL RETROSPECT OF INSURANCE LAW

A. Under Common Legal System

Everyone is familiar with the quotation “man proposes and God disposes”. The element of uncertainty in human life is one of the favourite topics of poets and philosophers across the world in all ages. The moment life begins until it ends; uncertainty remains the hallmark feature of every human life. Thus, uncertainty is a fundamental fact of life.

With the presence of uncertainty in every moment of life, people have strong desire for protecting their lives and their belongings. People take all possible measures to avoid uncertainty. Inspite of all these measures, accidents do occur for example, the time of death of a person is not certain and in case of his premature death a man’s dependants may find themselves deprived of all means of existence. For instance, a car owner driving very carefully and yet may be knocked down by another vehicle whose driver loses control. The titanic, a ship, which was built to be an ‘unsinkable’ ship, sank on her very first voyage. The earthquakes, floods and cyclones occurs frequently causing loss of lives and property.

Thus, it is clear that the amount of due care and precaution taken by men is not adequate to make sure of the results of future uncertainty. So it becomes mandatory to adopt more comprehensive tools and techniques to deal with the problem of risk in the present society.\(^1\) To deal with the problems of risk and uncertainty, insurance was born.

ORIGIN OF INSURANCE:

The very word “insurance” is derived from the latin word ‘Security’. It is not possible to fix the exact date when the practice of insurance has

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commenced in the world order, but there are various activities, which give us an idea that the practice of insurance was prevalent even in ancient period.\textsuperscript{2}

The Babylonians, the Greeks and the Romans first used insurance. In the beginning of 14\textsuperscript{th} century, practice of marine insurance started in Italy. In the year 1393, one company in Genoa took up 80 insurance contracts. Most of the phraseologies of insurance have been given birth by Italy.

Marine insurance spread from Italy to Spain in 1435 and for regulating business of insurance a law was passed in Barcelona. Chamber of Insurance was established in Bruges, Belgium in 1310. In late 14\textsuperscript{th} century, marine insurance reached Bruges when wool was being sent from Italy and was frequently insured. Lombard brothers during 15\textsuperscript{th} and 16\textsuperscript{th} century brought marine insurance to England from Italy. There are no records, which will provide information when the first English Insurance Policy was written. Year 1536, is remembered for writings of first life insurance policy.

In 1574, Queen Elizabeth gave permission to Richard Candler, a merchant to make and register all kinds of insurance policies on any Shipment, goods or merchandise in London or anywhere in the country. Richard named it “The Chamber of Insurance”. Unfortunately, the Great fire of London in 1666 destroyed all the records made and registered by the Chamber of Insurance.\textsuperscript{3}

\textbf{UNDERWRITERS}

The term ‘under writer’ means a person who personally agrees to insure particular goods against specific perils and signifies his assent to the risk by writing his name under the terms of agreement. Before the end of 18\textsuperscript{th} century, underwriters became famous as they did all insurance business at that time. The person who wanted to get insurance had to visit group of merchants or other wealthy persons of repute who were willing to insure all


or any portion of risk. Each person from the group of merchant decided the quantum of risk he was willing to take at what condition and at what rate of premium. Lloyds was one of the most significant individual underwriter at that time from London.

In early 1700's Lloyds established a bundle of marine insurance underwriters who used to meet at Edward Lloyds Coffee House in Lombard street to interchange information on shipping news.

In 1720, two insurance corporations were established in England i.e. the London Assurance Corporation and the Royal Exchange Assurance Corporates. They held monopoly in the marine insurance against all other companies and societies until 1824. In 18th century, many life and fire insurance companies came into picture but no one had power to write marine insurance except these two corporations. The effect of monopoly granted to these two corporations protected the poor underwriters from facing shift competition in the field of marine insurance.

In 1721, amendments was made in the Charter of the Royal Exchange and the London Assurance to work and write fire and marine insurance along with marine insurance without any monopoly in the area of fire and life insurance. Both companies are still operative in England.

ORIGIN AND HISTORY OF INSURANCE IN INDIA

In India, insurance is a heritage from England and has a deep-rooted history. In India, the practice of insurance can be traced back to almost 6000 years when Aryans evolved village and community life. The writings of Manu (Manusmriti), Yagnavalkya (Dharamshastra) and Kautilya (Arthashastra) talked about practice of insurance. The writings talked in terms of pooling of resources, which can be distributed in times of natural calamities like fire, famines, floods and epidemics.

4. Ibid, p.22.
5. Id.
The story of inception of insurance is hidden in the mists of antiquity. The codes of Hammurabi and Manu are the only available resource of some form of insurance. The term Yogakshema Vaharyaham, i.e. your welfare is our responsibility the famous words of Lord Krishna’s discourse at Kurukshetra are used in Rigveda providing an idea that certain form of community insurance was practices by Aryans in India over 3000 years ago.\(^7\)

The Historical Development of insurance in India is divided into five phases, which are as follows:

**FIRST PHASE (1818-1870)**

Insurance law in India had its origins in the United Kingdom with the establishment of a British firm, the Oriental Life Insurance Company in 1818 in Calcutta. Unfortunately, in 1834, this company failed in its operations and was changed in “New Oriental”. With the span of time, certain other companies from United Kingdom started the business of insurance in India. By the end of 1871, seven Indian and Eight foreign companies were working in India. In this period, insurance was only given on the lives of Europeans or descendants of Europeans born in India. The Premium charged from Indians on life insurance was much greater in comparison to Europeans. This period witnessed the all possible attempt to propagate insurance in India on the lines of British Model. It was a period of trial as many Indian and English Companies came for doing insurance business in India.\(^8\)

**SECOND PHASE (1870-1900)**

This phase is highlighted by the slow and steady progress of life insurance business in India. This period witnessed the establishment of two life insurance companies i.e. the Bombay Mutual Life Insurance Society in 1871 and Oriental Government Security Life Insurance Company Limited in 1874. This period is embarked by the growth and development in trade,

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communication and increase in number of industries preparing a good platform for the running of insurance business in India. Press also played a pivotal role in the development of insurance business during this period. During this period, government applied no control over foreign companies and no rules and regulations were laid down for the working of foreign companies in India. These companies were governed by the regulations of their own countries. This aspect caught the attention of various foreign companies and they started their business in India.

This period will be remembered for the infancy of the Indian Life Insurance. In this period the roots of insurance business was firmly laid down and was gradually ripening for a strong edifice to be erected. With the vast improvement in medical and sanitation facilities, the life of people in India rapidly improved. However, unfortunately, the plague of 1896-97 put a strain on the life insurance business but all Indian insurers successfully got their claims because of caution policy followed by them.

THIRD PHASE (1900-1912)

Maximum development of insurance took place during 1900-1912. During this phase insurance business attracted the middle class of the country i.e. clerks, doctors, lawyers, teachers, etc. because it provided them protection after retirement. Endowment policy was in demand during this period as it provides them land for agriculture, when they returned to the village at a very low cost and provided them protection against the risk of immature death. This factor led to increase in insurance business in the country. The Swadeshi Movement provided the much needed tonic to the Indian insurance Companies and gradually their sales volume grew up. Many of the important companies working at present in India were the outcome of this period. Division of Insurance was one of the most significant features of Indian insurance during this period. In order to monitor insurance business in the country Government in public interest passed two legislations in 1912, firstly the Indian Insurance Companies Act and secondly, Provident Insurance Act
on the lines of Acts in England. In this period, General Insurance took birth in the country. In 1907, Indian Mercantile Insurance Ltd. was set up the first company to transact all classes of general insurance business.  

**FOURTH PHASE (1912-1930)**

During this phase many English Companies wrote off their insurance business from India because the passing of above two Acts, made it mandatory to submit their working report to the Government of India. Another impact of these two Acts was that it made it obligatory for the companies to pay dividends to shareholders out of actual profits earned during an accounting year. Before this, they used to pay dividend irrespective of profits actually earned by them. Submissions of annual return were made mandatory for the companies working in insurance business in the country. In 1916, insurance business was at the lowest level due the effect of first world (1914) and there were no other worse consequences of First World War on the insurance business. Many insurance companies emerged after the conclusion of First World War. The Non-Cooperation Movement in 1920-21 also played a significant role in the financial development of Indian insurance companies. In 1928 Government made amendment in the Indian Life Insurance Companies Act of 1912 to collect statistical information on both life and non-life insurance business in the country. In 1930, the civil disobedience movement and spirit of Swadeshism paved way for the further overall development of Indian insurance companies.

During this period, endowment insurance was at its peak in the country. Further, the Indian insurance companies provided near about 90% of their surplus to the policyholders in the form of bonus. This period is highlighted by the stiff competition between Indian and Foreign Companies. Soon Government came up with legislation in 1927 to protect Indian

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9. Ibid, pp. 419-420
Companies i.e. the Indian life Insurance offices Association. This Association helped the Companies by telling their defects and providing them remedies.\textsuperscript{10}

FIFTH PHASE (1930-1938)

In this period, a vast number of Indian insurance companies were established. This period also witnessed a very tough and unfair competition between Indian and foreign companies, though Indian companies had many weak points. After witnessing all this, credit must be given to old and established Indian companies for controlling over 85% of the total business and creating good reserves by working on a sound business policy. Even feelings of nationalism and regular development were not able to provide much needed help against unfair foreign competition and national agitation grew for legislative protection.\textsuperscript{11}

INSURANCE LEGISLATION IN INDIA

Before 1912, insurance companies in India were governed by the provision of the Indian Companies Act, 1882, as there was no exclusive and exhaustive statute to deal with it. For the first time in 1912, Government came up with two statutes, i.e. the Indian life Insurance Companies Act and Provident Insurance Societies Act to control and monitor the insurance companies in India. The lecuna, which remained after passing of these two Acts, was that both dealt with life insurance only and still there was nothing to regulate non-life insurance business (general insurance). At that time, only few Indian Companies were engaged in non-life business. Therefore, foreign companies got absolute freedom in non-life business operations. In addition to this, Indian companies were required to furnish every information regarding their business, whereas foreign companies were at liberty to furnish information regarding their business in India or anywhere else and they were exempted to furnish information regarding business done in India. Therefore,

\textsuperscript{10} Ibid, pp. 420-422.
\textsuperscript{11} Id.
it reflects that the Act of 1912 lacked to cater this and was suffering with various infirmities, which were as follows:

1. Foreign companies got absolute freedom in their business operation and they had no responsibility towards the government of India.

2. There was no check in the floatation of Indian Companies.

3. There was no capitation fee to be deposited by the foreign companies before starting business operations in India.

4. No power on Investigation was conferred on government as regard to the operators of the company.

The above mentioned defects reflected that insurance law in India was not of the same standard as of the other countries of the world. Therefore, there existed an imminent necessity for a statute, which would cope up with the above mentioned defects and provide for a comprehensive legislation to control insurance business in India. In the wake of this in 1925 Government of India drafted Bill of the proposed new Act which intended to provide for exhaustive legislation on insurance business in India but this bill was postponed as Government of India was keeping the hawk eye on the new piece of legislation on Insurance law in England. The Clanson Committee was appointed to review insurance legislation but Government of England took no action on the recommendations of the committee. So at last in 1928 Government of India passed the long awaited new proposed piece of legislation with the object of collecting statistical information on both life and non-life insurance business in the country.

Further, the Government of India was waiting for United Kingdom’s legislation on insurance, which was expected to be taken up in 1929 to make it a base for insurance law in India. Unfortunately, that legislation could never be passed in Britain. Due to continuous agitation for changes in the insurance law in India and huge amount of public pressure, the Government of India in 1935 went ahead with the reforms of insurance law in India without waiting for the British legislation. Mr Sushil C. Sen, an eminent lawyer of Calcutta was
entrusted with a special duty to make much needed and necessary amendments in insurance law to make it a comprehensive code in India. The Government of India having representatives from all branches of insurance across the country considered his report. The committee incorporated some changes in it and the Government of India introduced the bill in Legislative Assembly in 1937. After much heated debate and innovations, the Bill emerged as the "Insurance Act of 1938". It came into force on 1st July 1938.

The Insurance Act of 1938 based on English principle of "minimum interference with maximum publicity". The Act provided for a complete and comprehensive piece of legislation of insurance business in India, governing both life and non-life (general) branches of Insurance.12

GROWTH AND DEVELOPMENT OF INDIAN INSURANCE INDUSTRY SINCE 1938

With the passing of Indian Insurance Act, 1938, the complete insurance business was consolidated under a unified system of control and its framework was strengthened by statutory regulations.

Insurance Act of 1938 embodied the principle of uniform Government control over all insurers, both foreign and Indian.

The Act incorporated the significant provisions relating to the following:

1. Mandatory registration of insurers and statutory deposits.
2. Creation of the post of controller of the Insurance.
3. Compulsory licensing of agents.
4. Prohibition of rebating to the assured.
5. Fixation of Commission rate.

The Second World War (1939-1945) caused irreparable loss to the Indian insurance industry in its early stage. Due to this large number of

insurance policies were surrendered and loans were taken to the maximum permitted limits. There was no expansion of insurance business in India during 1940-42. The positive aspect of Second World War was that the economic condition of India became good as India was made a base to supply all sorts of material in the Eastern theatre of war. This led to increase in employment, increase in profits of industries and huge increase in the salaries of employees. The negative aspect of Second World War on insurance was that income of insurance companies gone down due to increase in salaries, high cost of office accessories, etc. These elements accompanied by heavy wartime tax system disturbed the equilibrium between income and investment of insurance companies in India. Further, during the time of war the competition among old and new insurance companies was at the peak for securing insurance business aggravating the situation.

The Partition of the Country in 1947 created many problems for insurance sector such as dislocation of business, loss of large areas of operation, heavy lapses etc. The large number of riots claims preferred against insurers ignited the problem. The maximum of refugee policyholder had left with no means of paying premiums. Loss of records, which were destroyed in riots, led to unsettlement of claims. To overcome with this loss Indian insurance industry explored opportunities in other countries of the world and to some extent, they got success.

The above situations led to creation of Cowarjee Jahangir Committee whose recommendations lead to the amendment of the Insurance Act of 1938 in 1950. The major changes were

a) Management expenses to be limited.

b) Ceiling on the commission of Principal Agents and Ordinary Agents.

c) Establishment of Insurance Association of India.

The most significant feature of the amendment of 1950 was that it puts a check on the development of insurance business in India with the
introduction of Five Year Plans. The period from 1951 onwards was marked by rapid and significant development of insurance business. During this period, a huge amount of responsibility was put on the state to safeguard the interest of policyholders in India.\textsuperscript{13}

It is evident from the above discussion, that some form of insurance had always been practised in India, though not of formal nature. The Britishers established the formal insurance business, as we know it today in both the life as well as non-life sector in India. Over a span of time, the insurance business spread but not as per the expectations of the insurance industry. The Life Insurance business was nationalized in 1956 and the general insurance business in 1973 to make them free from corrupt and malpractices.\textsuperscript{14} The legislative framework and important milestones in the two sectors are discussed below:

**LIFE INSURANCE**

Life insurance in its present form came in India from United Kingdom (UK) with the advent of British firm, Oriental Life Insurance Company in Calcutta in 1818. This company however failed in 1834 and in 1823, the Bombay Life Assurance Company was formed in Calcutta. This was followed by the establishment of the Madras Equitable Life Insurance Society in 1829 and the Oriental Government Security Life Assurance Company in 1874.

For the first time in 1912, the Indian Life Assurance Companies Act was enacted as the first statute to regulate the life insurance business in India. This was followed by the enactment of the Indian Insurance Companies Act in 1928. The main objective of this Act was to enable the government to gather statistical data regarding the life and the non-life insurance business operations in the country. In 1938, with a view to protect the public interest, all the earlier insurance legislations were consolidated and later amended by


the Insurance Act, 1938 with detailed provisions for keeping an eye over the activities of insurers in the country.\textsuperscript{15}

**NEED FOR NATIONALIZATION OF LIFE INSURANCE BUSINESS**

Nationalization of life insurance became a necessity due to the malpractices occurred in the industry causing serious losses to the public at large. There was misutilization and mismanagement of funds at its peak. This led to a situation where the insurance company were not able to keep their promises and commitment to their customers. The measures which government used to control and regulate insurance industry were not very much effective.\textsuperscript{16} Dr. C.D. Deshmukh (former Finance Minister) said in Parliament:

"The Industry was not playing the role expected of insurance in a modern state and efforts at improving the standard by further legislation we felt, were unlikely to be more successful than in the past. The concept of trusteeship which should be the corner stone of life insurance seemed entirely lacking. Indeed most managements had no appreciation of the clear and vital distinction that exists between trust moneys and those which belong to joint stock companies."\textsuperscript{17}

Again quoting Dr. C.D. Deshmukh:

"Misuse of power, position and privilege that we have reasons to believe occurs under existing conditions is one of the most compelling reasons that have influenced us in deciding to nationalize life insurance."

So the nationalization of life insurance business became necessary with a view to protect the public interest, to provide a safeguard to the country, and to make inroads for the economic development of the country. These were the reasons, which compelled the government of India to go for nationalization of this industry.\textsuperscript{18}

\textsuperscript{15} Ibid, pp. 25-26.
\textsuperscript{16} Ibid, p. 27.
\textsuperscript{17} See Legislative debates 1956 on the Life Insurance Emergency Provisions Bill, 1956.
\textsuperscript{18} Palande, P.S., Shah, R.S., Lunawat, M.L., op.cit., p. 28.
NATIONALIZATION OF LIFE INSURANCE BUSINESS

In 1955, Congress Party at its Aradi session demanded for the nationalization of the life insurance business. Accordingly the Government of India in 1956, brought together as many as 154 Indian insurers, 16 non-Indian insurers and 75 provident societies (in all 245 companies) then working in India under the Life Insurance (Emergency Provisions) Ordinance, 1956. The Ordinance was changed into an Act of Parliament known as the Life Insurance (Emergency) Provisions Act, 1956. The Bill to provide for nationalization of the life insurance business. It was introduced in the Lok Sabha in Feb. 1956, and the same became the Act on July 1, 1956.19

ESTABLISHMENT OF LIFE INSURANCE CORPORATION

For taking care of the life insurance business in the country, the Life Insurance Corporation of India (hereinafter LIC) was created on September 1, 1956 by an act of Parliament i.e., the Life Insurance Corporation Act of 1956, with a capital contribution of Rs. 50 million from Government of India.

The LIC has been enjoying monopoly status and earning great profits at the expense of consumers in the life business in the country. At present LIC has a network of 7 zones, 100 divisions and over 200 branches. The current business investment in LIC is over $23 billion. The Life Insurance funds amounts to approximately 10% of gross household saving in financial assets in India, and a little over 1% of G.D.P. of India.20 Objectives of LIC are itself laid down by Dr. Deshmukh which are as follows:

1. To conduct the insurance business in the country with utmost good faith.
2. Not to charge higher premium rates than required by actual considerations.
3. To invest funds for the maximum benefit of policyholders.
4. To give effective and efficient services to the policyholders.21

19. Id.
GENERAL INSURANCE

The birth of general insurance is owed to the Industrial Revolution in the west and the subsequent growth and development of sea-faring trade and commerce in the 17th century. General insurance came to India as a legacy of British Occupation. Triton Insurance Company Ltd., is the first general insurance company established in Calcutta in 1850 by the Britishers. Mercantile Insurance Company Ltd. was the first general insurance company established by the Indians in Bombay in 1907. In 1957, General Insurance Council was set up, as a subsidiary of Insurance Association of India. The General Insurance Council drafted a set of rules and regulations for fair conduct and effective business practices in the insurance industry in the country.

In 1968, the Insurance Act of 1938 was again amended to provide for regulation of investments and to setup reasonable solvency margins. The Tariff Advisory Committee (TAC) was also setup under the Chairmanship of the Controller of Insurance. These amendments came into force on June 1, 1969.22

NATIONALIZATION OF GENERAL INSURANCE AND ESTABLISHMENT OF GENERAL INSURANCE CORPORATION

The managerial control of non-life insurance was taken over by the Union government on May 13, 1971 as a step to nationalize general insurance business. Nationalization of general insurance became a necessity because general insurance had become by a large city-oriented catering mainly to the needs of organized trade and industry in the country. The General Insurance Business (Nationalization) Act 1972 nationalized the general insurance business in India with effect from January 1, 1973.

The General Insurance Corporation (hereinafter GIC) was established as a holding company in 1972 to take care of non-life insurance business in the country, and it has started business operations from January 1, 1973. This was
done by consolidation of 107 insurers, including subsidiaries of foreign companies operating in India. These were classified into four companies, i.e.

1. The National Insurance Company Ltd.
2. The New India Assurance Company Ltd.
3. The Oriental Insurance Company Ltd.
4. The United India Insurance Company Ltd.

The GIC got the capital contribution of Rs. 2.15 billion from the Government of India. All the five entities of general insurance are the government companies registered under the Indian Companies Act, 1956.²³

The aim of GIC as per the preamble of GIC Act was:-

"To serve better the needs of the economy by securing the development of General Insurance business in the best interest of the community and to ensure that the operation of the economic system does not result in the concentration of wealth to the common detriment."

With the above objectives, GIC prepared the guidelines and monitored the functioning of the subsidiary companies in order to extend the general insurance (non-life insurance) cover to a variety of risks over larger geographical areas of the country.²⁴

**REFORMS IN INDIAN INSURANCE SECTOR**

As we know, India has initiated liberalization, globalization and Privatization process in 1991 and Insurance sector is no exception to it. From 1991 onwards, the Indian government has introduced various reforms in the financial sector paving way for the liberalization of the Indian economy.

Consequently, in 1993, the Government of India set up an eight member committee chaired by Mr. R.N. Malhotra, a former Governor of India’s apex bank, the Reserve Bank of India and former finance secretary to

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²⁴ Ibid, p. 47.
review the prevailing structure of insurance industry and to make recommendations for strengthening and modernizing the regulatory system.

The core idea behind these reforms was to build up more powerful and competitive financial system as per the requirement of the economy with due respect to the changes taking place in the insurance industry. The committee submitted the report in 1994 and some of the important recommendations are as follows:

1. **Structure:** The Government stake in the insurance companies to be brought down by 50%. Government should take over the holdings of GIC and its subsidiaries so that these subsidiaries can come out as independent corporations. All the insurance companies should be given greater freedom to operate.

2. **Competition:** The Private companies with a minimum paid up capital of Rs. 1 billion should be allowed to enter the sector. No company should deal both Life and General Insurance through a single entity. Foreign companies may be allowed to enter the industry in collaboration with the domestic companies. Postal life insurance should be allowed to operate in the rural market. Only one state level Life Insurance Company should be allowed to operate in each state.

3. **Regulatory Body:** The committee recommends that with regard to the regulations the Insurance Act should be changed. An Insurance Regulatory Body should be set up. Controller of Insurance apart of the finance ministry should be made independent.

4. **Investments:** Mandatory Investments of LIC Life Fund in government securities to be reduced from 75% to 50%. GIC and its subsidiaries are not to hold more than 5% in any company (these current holdings to be brought down to this level over a period of time).

5. **Customer Service:** LIC should pay interest on delays in payment beyond 30 days. Insurance companies must be encouraged to set up
unit linked pension plans. Computerisation of operations and updating of technology to be carried out in the insurance industry.

Reforms in the insurance sector were started with the passing of the Insurance Regulation Development Authority (hereinafter IRDA) Bill in Parliament in December 1999. The IRDA since its inception, as a statutory body in April 2000 has played a vital role in preparing the code of conduct for private insurance companies.  

GROWTH OF INSURANCE IN INDIA

The growth of insurance in India can be witnessed by the Insurance density and Insurance potential parameters. Insurance density is defined as the ratio of premium underwritten in a given year to the total population (measured in USD for convenience and comparison) whereas Insurance penetration is defined as the ratio of premium underwritten in a given year to the Gross Domestic Product (GDP). The table below shows study of insurance density and penetration in India from 2000-2010.

Table

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<th>Year</th>
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Source: Insurance Regulation Development Authority Report 2010-2011

### Table

**Insurance Penetration in India**

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<th>Non-Life Penetration (%)</th>
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*Source: Insurance Regulation Development Authority Report 2010-2011*
The Insurance penetration was 2.3% (Life 1.77% and Non-life 0.55%) in the year 2000 when the Insurance sector was opened for private sector. It has increased to 5.10% in 2010 (Life 4.40% and Non-life 0.70%). The insurance density in India stood at USD 64.4 in 2010 (Life USD 55.7 and Non-life USD 8.7) from USD 9.9 in 2000 (Life USD 7.6 and Non-life USD 2.3).

India’s ranking in World Insurance Market has dropped from four places from number 11 in 2010 to number 15 in 2011 because of a sharp drop in life insurance business in 2011-12. As a result of a drop in life insurance premium, India’s share of the world insurance market has declined to 1.58% in 2011 from 1.8% in 2010. India’s best performance was in 2009 when a surge in premium generated by life insurance companies through Unit-Linked Insurance Plans (ULIPs) resulted in India’s ranking rising to number 9 position. When life insurance industry was opened for competition in 2000, India ranked number 20 among life insurance markets and accounted for a mere 0.5% of the world premium. By 2009 the share has improved to 2.45%, overtaking developed markets in the West such as Spain, the Netherlands, Switzerland, Sweden, Belgium, Ireland and Finland, South Africa, Australia.
and Canada. However, now some industry persons say that the surge in premium in 2009 cannot be taken as an increase in life insurance penetration as it was investment driven with Unit-Linked Insurance Plans (ULIPs) being marketed as a channel to invest in stock markets.

In the last two years, the Insurance Regulatory and Development Authority (IRDA) came out with guidelines that required life insurance companies to reduce charges and provide a minimum level of insurance cover with every policy. This has resulted in a sharp drop in premium collections even though sum insured has jumped because of the change in focus to term insurance. The drop in life insurance business in 2011-12 in India has been partly responsible for dragging down growth of the overall insurance numbers for emerging markets.

According to a report by Swiss Re, in 2011 total insurance premiums in emerging markets grew only 1.3% in 2011 to $700bn largely due to the poor performance of the two biggest emerging markets- China and India. Premiums in China and India, which account for over 42% of total emerging market premium volume, declined to 6.4% and 5.5% respectively. However, in the other two BRIC countries (Brazil and Russia), growth remained solid, keeping the share of emerging markets share of global premium at 15%. Together the BRIC countries (Brazil, Russia, India, and China) continue to dominate insurance growth in the emerging markets accounting for about 60% of total emerging market premium, up from 37% in 2000.

In India the shrinkage in premium was because of tighter regulation on distribution of unit linked insurance plans while in China life premiums fell after the authorities set in stringent rules regarding banacassurance. This resulted in life insurance premium falling 15% in China and 8.5% in India. The Global insurance premiums contracted 0.8% in 2011. However, because the US dollar depreciated against other major currencies in 2011, premiums increased 6% in nominal terms to $4597bn. Life insurance has accounted for 57% of total premiums. The country's life insurance penetration decreased in
2010-11 from a year ago, although non-life insurance penetration rose marginally.

The life insurance penetration has decreased from 4.60 in 2009-10 to 4.40 in 2010-11, whereas the non-life insurance premium has increased from 0.60 in 2009-10 to 0.71 in 2010-11. The insurance penetration was impacted by several macro-economic factors such as growth, inflation, interest rates; small savings return and return of competing financial products offered by banks and mutual funds. However, the total insurance penetration, which is the ratio of insurance premium as a percentage of GDP, has increased from 2.32 in 2000-01 to 5.10 in 2010-11. It may be noted here that life insurance premium is decreasing day by day whereas non-life insurance premium has increased. The Researcher would like to conclude by saying that this is because there is lack of awareness in the people of the country with regard to the life insurance policies that is why in the current financial year India's ranking in the World Insurance Market dropped. In order to improve awareness among people about insurance policies, the Insurance Regulatory and Development Authority (IRDA) runs an education campaign under the brand name 'Bima Bemisaal'. As the awareness with regard to the insurance will increase definitely it will lead to increase in the number of policies taken by the people leading towards increase in the premium received through the insurance business and soon India will be in a position to get back once again within the top ten premium generated countries of the world.

B. Under Islamic Legal System

It is difficult to determine when insurance has first introduced in the Islamic Civilization. It is again difficult to determine when insurance has taken birth in the world civilization. The word ‘insurance’ came into being during the 13th or 14th centuries in Europe. Historians claim that the ‘bottomry loan’ which was used for sea voyages in Babylonia in the third B.C., first fulfilled the requirement of Insurance.

In the same way “tamim” is an Arabic term used for insurance in 20th century, when Ibn Abidin (1784-1836) a Hanafi scholar, who came up with the meaning, concept and legal entity of the Islamic insurance. He was the first to introduce insurance as “sukra” (security), influenced by the Italian term ‘siguare’ and the Turkish term “sigrota”.27 It is hard to believe that Muslims were unaware of the insurance practice before the 19th century as they were already engaged in Marine activities in the Mediterranean and the Indian Ocean from 7th century onwards.

Contacts between Islam and Christianity existed in Spain, Sicily, Italy, Cypris and Malta. Thus, Muslims must at least have an idea of European Marine Insurance if not to the other type of insurance, which was the part of usual conduct of trade in the Middle Ages.

Now it would be safe to presume that the institution of insurance started around the 13th or 14th centuries in the Italian cities. As the ancient and medieval civilization formulated various means to secure the individual against a huge loss (which is the basic definition of all insurances), so Islamic civilization too developed its own procedures to secure the individual against a huge loss. In other words, the non-existence of the terms ‘insurance’ or

'tamim' prior to 13th or 14th or 20th centuries is not an indicator that the Muslims did not know aspects of insurance.28

A modern Muslim writer in his book “Banking and Insurance” writes that Merchants of Mecca used to form a mutual fund to help the victims of natural hazards during their trade into Syria, Iraq and other places. Prophet Muhammad (PBUH) himself while doing trade contributed to such a fund. This system gave an idea of Marine insurance system of that time.29

The Sharia itself gives recognition to several transactions and institutions having similar functioning to different types of insurance. The prominent are as follows:-

1. **GUARANTEE (Daman):** Daman is a guarantee which one gives to the other with regard to the risks one bears to the extent of property from which one enjoys profit. The essential feature is that it requires a transfer of liability from debtor (Madmum anhu) to the guarantor (damin) for a specified period. The guarantor is the third party in the transaction taking place between the lender (Madmum lahu) and the debtor to make sure that debtor will fulfill his obligations.30

2. **GUARANTEE AGAINST TRAVEL HAZARD: (Daman-Khatar al Tariq)** - It provides guarantee against travel hazards to a person who secures certain amount of money to another person before going on a journey. While on journey if the former suffers a loss, than the latter would compensate him. The sum of money secured with other person could be viewed as premium.

Example: X, before going on journey gives certain amount of money to Y, so that if X suffers any loss in the way, Y would compensate him.

3. **TRUSTEE TRANSACTIONS: (Wala-al-Muwalat)** - It is a transaction in which one person reposes trust in another person who is not his

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30. Supra note 1 at p. 144.
family member by saying that - "Bail me out when I unintentionally commit a crime, in return you will receive my property when I die."\(^{31}\)

Example: P says to Q (who is not P's family member) you are my waliyy (Trustee) if I unintentionally commit a crime bail me out and in return you will receive my property when I die.

4. **BLOOD MONEY TRANSACTIONS (Diya):** It is a compensation paid by the "Aqila" (a pool of people with common interest in the defendant) to the victim or victim's family for an unintentional killing or bodily injury suffered by the plaintiff by an act of defendant.

Diya has fixed amount of money value. It is comprised of 1000 dinars, 10,000 dirhans, 200 head of cattle, or 100 head of sheep or 200 garments or 100 camels. The aqila of the victim receives the diya because of the victim. Family of victim gets only $1/3^{rd}$ portion of the whole. The remaining $2/3^{rd}$ goes to the other members of aqila to cover any other time when they had to pay diya to the other victim. Diya gives us an idea that there existed a form of mutual liability insurance.\(^{32}\)

5. **PRACTICE OF MUDARABAH:** In Mudarabah, one party (rabb-al-Maal) provides the capital for trade and other party (Mudarib) provides the skills of working. Both the parties share the profit in the agreed ratio at the end of the venture, while a loss has to be born by the capital providing party alone.\(^{33}\)

6. **ZAKAT:** Zakat is a religious levy imposed upon every Muslim. It constitutes one of the 5 pillars of Islam. It is obligatory for every Muslim to give 2.5% of his annual income to the poors. Thus it is equivalent to the modern concept of social insurance.\(^{34}\)

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31. Ibid, pp. 146.
7. **PRACTICE OF WAQF:** Waqf literally means ‘detention’, ‘stoppage’ or ‘typing up’. Waqf is defined as “dedication in perpetuity of some specific property for a pious purpose or succession of pious purposes.” The Waqf property was intended to help the poor, staff of mosques, religious schools, orphanages, old age homes, hospitals etc. Therefore, Waqf partly functioned as social insurance.\(^{35}\)

8. **POLL TAX (Jizya):** Jizya was the poll tax, which was levied on non-Muslims living in the Islamic state. It provided them with security for their lives and property. Jizya was collected only from free male adults. Women and children were exempted. The annual Jizya payment functioned as an annual premium.\(^{36}\)

From the above practices, we may conclude that insurance in different forms was practiced by the Muslims in 7\(^{th}\) century itself. These illustrations give a fair amount of idea that concept of insurance was already prevalent there but practiced under different names similar to different types of insurance such as social insurance, security insurance, mutual insurance, contractual insurance, etc.

**Development and Growth of Islamic Insurance (Takaful)**

The Muslim Arabs for expanding their trade in Asia introduced the concept of Islamic Insurance. They mutually agreed to form a pool to cover anyone in the pool who might have incurred misfortunes like robberies, theft etc. on sea voyages.

The idea of collective compensation and group responsibility had its basis in the tribal custom from the very time of Prophet Mohammed (PBUH) specially in the concept of blood rites.\(^{37}\)

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Islamic Insurance has gone through different phases during its progressive development and growth, which are as follows:

1. Custom of Aqila
2. The Practices of the Holy Prophet (PBUH)
3. The Practices of the Companions
4. Development in the 14\textsuperscript{th} to the 17\textsuperscript{th} centuries
5. Development in the 19\textsuperscript{th} century
6. Development in the 20\textsuperscript{th} century
7. From 1979 to 2007

1. Custom of Al-Aqila - The word ‘Aqila’ means asaba, which denotes paternal relatives of the killer. Al-Aqila means a mutual agreement between the tribes that if a person is killed by a person of different tribe unintentionally, the paternal relatives of accused will take over the responsibility to make the compensation for the purpose of paying the blood money to the victim’s family or relatives.\textsuperscript{38}

This custom shows the wholehearted willingness of the ancient Arabs to pay compensation to the victim’s family. It marks one kind of insurance practice and such compensation is just like a financial assistance to the heirs of the deceased.\textsuperscript{39}

2. The Practice of the Holy Prophet (PBUH) - There are two phases from which we can witness the growth and the development of Islamic Insurance (takaful) during the time of Holy Prophet (PBUH):

(i) Rectification of Custom of Aqila by the Holy Prophet (PBUH), which was practiced by ancient Arabs, gave rise to the concept of Islamic Insurance (takaful) among the people at large.

(ii) Constitution of Medina: In the first Constitution of Medina in 622 B.C. numerous statutes were made which were directed to be drafted by the

\textsuperscript{38} Islamic Financial Services Board draft on “Issues in regulation and supervision of Takaful”, August (2006), p. 5.
Holy Prophet (PBUH). They contained a type of social insurance for the people of Medina. These are classified into three branches:

(a) Custom of Blood Money (Dayat)

(b) Custom of Ranson (Fidya)

(c) Incorporation of various forms of social insurance in the Constitution of Medina in 622 B.C.

(a) **Custom of Blood Money** - Under this custom compensation was paid by the near relatives of the accused to the heirs of the deceased to save the accused from a legal liability.

Article 3 states “The immigrants among Quraish shall be responsible for their ward and shall pay their blood money in mutual collaboration.”

(b) **Custom of Ransom (Fidaya)** - Under this custom a group of prisoners contributed to a ransom to be paid to the enemy in order to free the captive prisoner who had been captured by the enemy during the war. Such compensation could be recognized as another form of social insurance.

Article 3 states “The immigrants of the Quraish shall be responsible for releasing the prisoners by way of paying their ransom, so that the mutual collaboration among the believers be in accordance with the principles of goodness and justice.”

(c) **Incorporation of Various Forms of Social Insurance in the Constitution of Medina** - The Constitution of Medina contains various provisions which talk about imposing liability on the society for establishing a common venture with esteemed

40. Id.
41. Ibid, pp. 389.
42. Constitution of Medina 622 B.C. Emphasize on The Payment of Blood Money Relying on The Doctrine of Aqila.
44. Constitution of Medina, 622 B.C.
mutual understanding for giving much needed aid to the poor and needy persons in the society.\textsuperscript{45}

These were the three different aspects through which the concept of social insurance was introduced and practiced in the light of the relevant provisions in the first Constitution of Medina.

3. \textbf{Companions Practices} - The period of second Caliph, Sayedina Umar (R) witnessed the development of Islamic Insurance (Takaful). During his period doctrine of ‘aqila’ was recognized by the government to be followed by the people. Sayedina Umar (R) ordered that there will be establishment of “Diwan of Mujahideen” in various districts, people whose names were there in the diwan owed a moral duty to pay blood money for crimes committed by one of the members of their tribes. So this period of II\textsuperscript{nd} Caliph of Islam reflects that the concept of Islamic Insurance had been practiced and developed during the period.\textsuperscript{46}

4. \textbf{Development During 14\textsuperscript{th} to the 17\textsuperscript{th} centuries} - This period is hallmarked by the sufi order of Kazeruhiyya. This order was found especially in the cities of Malabar and in China. It provided a new dimension to the concept of insurance as this order worked as a travel marine insurance company. It got the recognition from the tomb of Abu Ishaq Ibrahim Ibn Shahariyahb (963-1035 CE) whose blessings were believed to be a protection against loss during sea voyage.\textsuperscript{47}

5. \textbf{Development and Growth During 19\textsuperscript{th} century} - Ibn Abidin (1784-1836) a hanafi scholar was the first person to talk about the concept of Islamic insurance and its legal dimensions. He also discovered that Islamic

\begin{footnotesize}
\begin{itemize}
\item \textsuperscript{45} See Billah, Mohd. Masum, \textit{supra note} 15 at p. 389.
\item \textsuperscript{46} See Billah, Mohd. Masum, \textit{Applied Takaful and Modern Insurance, Law and Practice, IIIrd edition, Sweet and Maxwell. Asia, Malaysia, 2009, p. 8.}
\item \textsuperscript{47} See Billah, Mohd. Masum, \textit{op.cit., pp. 8-9.}
\end{itemize}
\end{footnotesize}
insurance was not merely a customary practice but it was a legal institution in itself.48

This discovery of Ibn Abidin on Islamic Insurance being a legal institution worked as an eye opener for those Muslims who did not accept the legality of Islamic insurance. This encouraged the Muslim community to work in Islamic Insurance business.49

6. **Development In the 20th century** - Mohammad Abduh, a known Islamic jurist issued two fatwas between 1900-1901 recognizing Islamic insurance. One fatwah states that Islamic insurance is like Al-Mudarbha (guaranteeing each other). On the other hand, the second fatwah provides that life insurance is legal.

The growth and development of Islamic insurance is satisfactory both in Muslims as well as non-Muslim countries during 20th century, still there are certain aspects, which need overhauling in this area to meet the requirements of the present society.50

7. **From 1979 to 2007** - These years are remarkable for the growth and development of Islamic insurance. For the first time in 1979 Islamic insurance (takaful) undertaking was established in Sudan namely as “The Islamic Insurance Company”. The rational behind the establishment of this undertaking lies in an answer by a Sudanese Sharia’h scholar of a juristic question How Sharia’h in trading of Islamic insurance be overcome?

The answer lies in the adoption of mutual structure for underwriting insured risks. The participants mutually insure one another on a non-profit basis as per the principles of Islamic insurance (takaful). Another aspect of the answer lies in the policy contributions (premiums) to the risk fund as incorporating the fundamental of conditional and irrevocable donation

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49. Id.
(tabarru), the donor contributing to the risk fund subject to being entitled to benefit from mutual protection against insured losses.\textsuperscript{51}

Growth and development in the Islamic insurance (takaful) industry has been quite sensational in recent years. No doubt, the industry is still in early stages of development in relation to the other sections of Islamic financial services. The industry estimates takaful contributions globally at about $3.4 billion in 2007. There are now about 150 takaful operators worldwide, including those in non-Muslim countries.\textsuperscript{52}

**Evolution and Development in Africa**

**Sudan** - Sudan occupies a unique place in the history of Islamic insurance (takaful), as it is the country where first takaful company was established i.e. it is the birthplace of Islamic insurance. Islamic Insurance Company (IIC) was the first Islamic insurance (takaful) Company of the world established in 1979 in Sudan. Sudan is also blessed by the fact that it is the first third world country to implement the concept of insurance for public advantage. In 1978, system of takaful was approved by the Shariah Council in Faisal Islamic Bank in Sudan and was first implemented by the Islamic Insurance Company. Later on more and more Islamic insurance Companies opened in Sudan and across the world.\textsuperscript{53}

**Evolution and Development in Gulf Countries**

**Saudi Arab** - For a long time the concept of insurance was not recognized under the law in Saudi Arab, as a result, no insurance company was registered within the country, but companies, which were registered outside, could function in Saudi Arab. In 1981 Saudi Insurance Technical Committee was formed. Its prime objective was to monitor various insurance activities in the Saudi Arab.\textsuperscript{54}


\textsuperscript{52} Id.

\textsuperscript{53} Kassar, Khaled, *op.cit.*, p. 92.

At last, in 1986, takaful business was initiated by the National Company for Cooperative Insurance (NCCI) in Saudi Arab.\textsuperscript{55}

It is now known as Al-Tawuniya. The demand for takaful products in Saudi Arab is enormous. The contemporary Islamic insurance market in Saudi Arab is around $1.07 billion with motor insurance sharing 32%, medical insurance contributing 22%, property insurance at 17% and other amounting to 29%. Jeddah chamber of commerce analyzes that Islamic insurance market will triple from $2.13 billion to $6.4 billion within the next decade. The total contribution of Islamic insurance is 0.7% in the Gross Domestic Product (GDP) of Saudi Arab and in next 5 years, it is expected to climb to 2.2%.

The Saudi Arabian Monetary Agency (hereinafter SAMA) lays down the regulatory framework for the functioning of Islamic insurance companies, on the other hand Health Care Council (HCC) monitors their services. SAMA rules that products that contain saving element and which are similar to banks financial products can only be distributed through banks. At present there are 13 companies engaged in Islamic insurance business in Saudi Arab.\textsuperscript{56}

\textbf{United Arab Emirates}

In the UAE, the first company which worked upon the principles of Islamic insurance was established in 1980. From that day, Islamic insurance market has rapidly developed in the UAE.

There are 70 Islamic insurance companies (including private as well as national companies) working in Dubai and in Abu Dhabi 40 companies are engaged in Islamic insurance business. On July 1, 1984, insurance law came into operation in the UAE. It comprehensively deals with all the requirements of insurance. It makes it mandatory for insurance companies to deposit minimum capital of DH10 million with banks in UAE.\textsuperscript{57}

\begin{footnotesize}
\begin{itemize}
\item[56.] Kassar, Khaled, \textit{op. cit.}, p. 100.
\item[57.] Mankabady, Samir, \textit{supra note 60} at p. 203.
\end{itemize}
\end{footnotesize}
Salma is the biggest leader in the field of Islamic insurance in UAE, managing 6 takaful undertakings. Salma has recorded profit of $40.87 million for 2007 and predicts that takaful premium review reached up to $253.4 million at the end of 2007. Salma expects that takaful business in the UAE is expected to reach around $11 billion by 2015. The Dubai Islamic Insurance and re-insurance Company (AMAN) made a significant increase in profits in 2007 rising by 402.7% to reach $11.32 millions. In 2008 two new takaful undertakings were established in the UAE, Mehtaq takaful and Emirates takaful with paid up capital of $40.87 million each. Motor or life insurance forms the largest share of takaful market in the UAE.58

Qatar - In 1994, Islamic insurance (takaful) business started in Qatar by Qatar-Islamic Insurance Company (QIIC). It is a renowned Islamic insurance Company of Qatar. The contemporary takaful market in Qatar is estimated at 3.4 million. QIIC has made a net profit of $43.9 million in 2007 in comparison to $42.3 million in 2006. There are at present 3 companies authorized to do takaful business in Qatar.59

Kuwait - Islamic insurance (takaful) business stated in Kuwait for the first time in July 2000. At present there are 9 Islamic insurance companies actively performing works in Kuwait. Global Investment House (GIH) has launched Al-Fajer Re-takaful Company in 2008 with a paid up capital of $1.78 million. The takaful industry is estimated to claim almost 20% of the $614 million worth gross premium in the Kuwait market.60

Bahrain - In 1986, Bahrain Islamic Insurance Company started Islamic insurance business operations for the first time in Bahrain. This undertaking is now known as Takaful International Solidarity hereinafter TIS). Another important player of takaful market in Bahrain was established in 2003 with a capital of $100 million and has opened its branches in Qatar and Malaysia.

58. Kessar, Khaled, op.cit., p. 97
59. Ibid, p. 98.
60. Ibid, p. 97.
TIS has signed an agreement with Shamil Bank of Bahrain in order to distribute life insurance takaful products in Bahrain.

Recently, the Central Bank of Bahrain (CBB) granted license to American International Group (AIG) to start takaful services in Bahrain. American International group (AIG) comes with takaful product known as "Enaya" or "care" in Arabic with capital worth $15 million.\(^{61}\)

**Evolution and Development in Asia**

**Malaysia** - Islam occupies a special place in the Constitution of Malaysia. The Malaysian Constitution declares Islam to be the religion of the Federation. Islam has played a pivotal role in the overall development of Malaysian commercial law such as interest based regulations of banking and insurance in the country. The Malaysian government in 1983 passed Islamic Banking Act. This was followed by The Takaful Act of 1984, which introduced the Islamic system of insurance; an alternative to the Conventional insurance system based on western concept of insurance.\(^{62}\)

In 1985, the first takaful company in Malaysia named Syarikat Takaful Malaysia (STM), was set up under the concept of Mudarbah. Syarikat Takaful Malaysia (STM) was a composite entity providing both family and general takaful services to the people. The initial capital of the company was approximately $2.6 million.\(^{63}\)

In 1996, Malaysian National Insurance (MNI) established Takaful National (TN). In 2003, Takaful Ikhlas was established as third takaful company in Malaysia based on the principles of Wakalah concept. In 2006, HSBC Amanah started providing takaful services to its clients in Malaysia.

\(^{61}\) Ibid, p. 95.


\(^{63}\) Kasim, Mohd. Abidin Zainal, "Islamic way of Insurance" Contingencies, Jan-Jeb (2005), p. 36.
Takaful industry plays a major part in the overall development of economic growth of Malaysia. Takaful contributes nearly a quarter of the country’s Gross National Product (GNP).

By 2010, the Malaysian insurance market has been approximately between $7.7 billion and $10.4 billion with Islamic insurance providing approximately $1 billion.\(^{64}\)

There is no doubt that Malaysia is the father of modern day takaful. The reason behind this fact is that Malaysian government has played a significant role in establishing Islamic insurance regulations and legal framework. The following features have played a crucial role in the growth and development of takaful sector in Malaysia:

1. Shariah’s Council of Syarikat takaful Malaysia Berhad issued a rolling that takaful operators are allowed to cede the risks only to takaful and re-takaful companies.
2. In the absence or lack of above facilities they should strive to retain as much of the risks as possible.
3. Its re-insurance is still required; it is preferable that this is conducted with re-insurance companies that are owned by the Malaysians.

Further, it is worth mentioning that the growth rate of the Islamic insurance industry in Malaysia is the largest worldwide, as it has more than 16% of gross insurance premiums in the world arena.\(^{65}\)

**Indonesia** - In 1995 Islamic insurance business started in Indonesia. It is known as “Syariah” in Indonesia. In 2001, the Indonesian government provided Syariah (takaful) with all facilities like competent managerial team for its free flow operations in the country.\(^{66}\) In the last 10 years, conventional insurance operators are engaged in takaful business.

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64. Kessar, Khaled, *op.cit.*, p. 93.
66. Id.
The country has more than 40 takaful providers. However, out of these only three are full fledged, with remainder being Islamic windows in Conventional insurance Companies. Indonesia has a huge potential market for Islamic insurance with 87% of the population being Muslim.\(^\text{67}\)

**Singapore** - In 2004, Millea Asia established Tokio Marine Nichido Re-takaful entity (TMN Re-takaful) in Singapore. It provides family takaful services. In Singapore, two takaful operators are providing takaful products i.e. life and general takaful products. Around US $ 350 million is invested in takaful fund of the country. In Singapore, the overall takaful business is estimated around $ 1.98 billion, while overall Islamic insurance penetration is 7.47% of the all insurance sector.\(^\text{68}\)

**Brunei** - Syarikat Takaful Brunei Darus. Salam started takaful business in Brunei in the year 1992.\(^\text{69}\) In Brunei Muslims constitutes 70% of total population and it has three takaful undertakings. In Brunei \(\frac{2}{3}\) of the business was of mortgage on financing related products like Malaysia. So, takaful business is expected to grow at an encouraging rate.\(^\text{70}\)

**Evolution and Development of Islamic Insurance (Takaful) in Non-Muslim Countries**

**United States of America**

In 1996, for the first time “Takaful USA” launched takaful business in USA. Unfortunately, in 2000 it ceased its operations in this field.\(^\text{71}\)

Recently, a subsidiary of American International Group (AIG) announced that it is introducing a takaful homeowner’s policy product through Lexington takaful solutions, which will provide various kinds of Islamic products for the US public at large. This product has been released in

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71. Ibid, p. 114.
collaboration with AIG Takaful Enaya, a Bahrain based Company. The Company has committed to the public to provide products “based not only on needs, but also on social preference of the society at large.”

Europe - British Islamic Insurance Company announced launching of takaful product in December 2006 for 2 millions plus Muslims living in the United Kingdom.

The FWU Group, an independent financial service’s provider in Germany signed an agreement with Dubai Islamic Insurance Re-insurance Company (AMAN) to provide life insurance takaful products in United Arab Emirates (UAE).

Trayg Group in collaboration with BEST group is providing Re-takaful services in Denmark.

In Sweden, Folksam General Mutual Insurance Society is providing takaful products in joint venture with Swedish Muslim Council.

In France, AXA the leading insurance company is providing takaful services to people after it began operations at the Qatar financial centre.

Lastly, in Luxemburg Takaful SA Subsidiary of Faisal Finance, a Member of Dar al-maal Al-Islami Group (DMI) is offering life insurance takaful products to the people living in Europe.

Growth of Islamic Insurance (Takaful)

The growth of Islamic Insurance (Takaful) in the world arena is divided into two parts:

1. Global Takaful Contributions Growth including the leading country Saudi Arabia

2. The countries coming under Gulf Corporation Council (GCC)

1. **Global Takaful Contributions Growth:**

(values in billion $)

<table>
<thead>
<tr>
<th>Year</th>
<th>Saudi Arabia</th>
<th>GCC</th>
<th>South East Asia</th>
<th>Africa</th>
<th>Levant</th>
<th>Indian Sub-continent</th>
</tr>
</thead>
<tbody>
<tr>
<td>2005</td>
<td>1065</td>
<td>173</td>
<td>544</td>
<td>181</td>
<td>17</td>
<td>8</td>
</tr>
<tr>
<td>2006</td>
<td>1850</td>
<td>238</td>
<td>695</td>
<td>256</td>
<td>18</td>
<td>11</td>
</tr>
<tr>
<td>2007</td>
<td>2289</td>
<td>557</td>
<td>901</td>
<td>276</td>
<td>22</td>
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<td>2008</td>
<td>2912</td>
<td>842</td>
<td>1110</td>
<td>295</td>
<td>33</td>
<td>123</td>
</tr>
<tr>
<td>2009</td>
<td>3896</td>
<td>990</td>
<td>1480</td>
<td>377</td>
<td>39</td>
<td>193</td>
</tr>
<tr>
<td>2010</td>
<td>4370</td>
<td>1313</td>
<td>1951</td>
<td>413</td>
<td>79</td>
<td>202</td>
</tr>
</tbody>
</table>


Compound Annual Growth Rate (CAGR) during 2005-2009 = 29%

The Actual Growth in 2010 = 19%

The above data can be seen in the form of bar diagram below showing Global Takaful Contributions Growth
## CAGR* 2005-2009

<table>
<thead>
<tr>
<th>Region</th>
<th>Growth Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>Indian Sub-continent</td>
<td>122%</td>
</tr>
<tr>
<td>Levant</td>
<td>23%</td>
</tr>
<tr>
<td>Africa</td>
<td>20%</td>
</tr>
<tr>
<td>South East Asia</td>
<td>28%</td>
</tr>
<tr>
<td>GCC (excluding Saudi)</td>
<td>54%</td>
</tr>
<tr>
<td>Saudi cooperative</td>
<td>38%</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Year</th>
<th>Saudi Arabia</th>
<th>Kuwait</th>
<th>UAE</th>
<th>Qatar</th>
<th>Bahrain</th>
</tr>
</thead>
<tbody>
<tr>
<td>2005</td>
<td>1065</td>
<td>83</td>
<td>42</td>
<td>34</td>
<td>15</td>
</tr>
<tr>
<td>2006</td>
<td>1850</td>
<td>90</td>
<td>65</td>
<td>50</td>
<td>34</td>
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<tr>
<td>2007</td>
<td>2289</td>
<td>95</td>
<td>369</td>
<td>53</td>
<td>41</td>
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<tr>
<td>2008</td>
<td>2911</td>
<td>101</td>
<td>542</td>
<td>128</td>
<td>71</td>
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<tr>
<td>2009</td>
<td>3896</td>
<td>128</td>
<td>640</td>
<td>136</td>
<td>87</td>
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<tr>
<td>2010</td>
<td>4370</td>
<td>133</td>
<td>818</td>
<td>260</td>
<td>102</td>
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</tbody>
</table>

* CAGR - Compound Annual Growth Rate

2. Gulf Cooperation Council (GCC) Takaful Contributions Growth:


Compound Annual Growth Rate (CAGR) during 2005-2009 = 41%

The Actual Growth in 2010 = 16%

The above data can be seen in the form of bar diagram below showing Gulf Cooperation Council (GCC) Takaful Contributions Growth
<table>
<thead>
<tr>
<th>Country</th>
<th>2010 Growth</th>
<th>2010 Growth</th>
</tr>
</thead>
<tbody>
<tr>
<td>Bahrain</td>
<td>17% DOWN</td>
<td></td>
</tr>
<tr>
<td>Qatar</td>
<td>91% UP</td>
<td></td>
</tr>
<tr>
<td>UAE</td>
<td>28% DOWN</td>
<td></td>
</tr>
<tr>
<td>Kuwait</td>
<td>4% DOWN</td>
<td></td>
</tr>
<tr>
<td>Saudi cooperative</td>
<td>12% DOWN</td>
<td></td>
</tr>
</tbody>
</table>

*CAGR*- Compound Annual Growth Rate
After analyzing the above, two tables and graphs it can be assessed that, the Takaful industry continued to show double digit growth in 2010 albeit at a relatively slower rate of 19% as compared to previous years. Amongst key markets, Malaysia and UAE again achieved growth rates of over 24%, whilst Saudi Arabia saw its gross contributions increase by US$0.5b. The challenge is once again, maintaining growth with profitability in the current economic climate. There are positive developments in the Gulf Corporation Council (GCC) with more operators showing profitability than previous years. The Saudi Cooperatives have continued their growth performance yet struggled in generating shareholder returns. Overall return on equity for the Takaful industry was lower than conventional counterparts, both in the GCC as well as in Malaysia. However, a significant contributing factor to this was the lower investment returns for the industry relative to returns yielded by conventional insurers. The industry has now obtained significant market share then conventional insurance in most GCC countries. There are a number of drivers behind this growth, but one that is becoming increasingly important is regulatory support through appropriate amendments in legislature to provide a level playing field with conventional insurance companies.

From this, it is highlighted that there is a strong need for introducing greater standardization in regulatory frameworks in the operation of Takaful across different countries in the world. Standardization will enhance clarity around Takaful, its business models and its unique selling proposition, hence allowing the industry to strive towards its true growth potential.
A brief history of Takful (7th Century-1995)
<table>
<thead>
<tr>
<th>Year</th>
<th>Action</th>
</tr>
</thead>
<tbody>
<tr>
<td>1996</td>
<td></td>
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<tr>
<td>2000</td>
<td>Establishment of Takaful Insurance Cooperative Society</td>
</tr>
<tr>
<td>2002</td>
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<td>2011</td>
<td>Establishment of Takaful Insurance Cooperative Society</td>
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<td>2012</td>
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</table>

A Brief History of Takaful (1996-2012)