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The Non- Financial Factors Influencing The Performance of Islamic Insurance In Kenya: A Case Study of Takaful Insurance of Africa

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ABSTRACT
It has been two years since the first Islamic insurance began operations in Kenya making the first of its kind in the whole of east and central Africa, although the growth potential and performance of Islamic insurance abroad have been remarkable, in Kenya it has proven either wise hence the study was conducted to determine, what are the non-financial factors influencing the performance of Islamic insurance in Kenya. And the independent variables' being studied was: legal and regulatory framework, unethical practices while the dependent variable being studied was performance of Islamic insurance.
The first objective of the study was the legal and regulatory framework and out of the secondary findings it was found out that the sharia boards were considered to have a strong authority on the performance of Islamic insurance and also it defines the extents and limits of its operations.
The second objective of the study was, unethical practice has shown that due to the flexibility of the insurance market on allowing intermediaries to plays match makers some of the agents and brokers have used these avenues to exploit customers hence affecting the performance of the insurance company's.
Keywords: Islamic insurance, Non-financial performance, Takaful

1. Introduction

Islamic insurance also famously known as Takaful is one of the fastest growing sector in the financial market in the world , which is largely driven by the need of having sharia compliant products in the market that are free from interest (Riba), gambling (Maysir) and uncertainty (Gharar).The first modern day experiment with Islamic insurance started in Sudan, in 1979 by the faisal Islamic bank. (Anwar, 2008) where by the bank sharia supervisor board approved the endeavor and in January 1979 the Islamic insurance company was established as a public company under the companies act 1925, hence due to the imperative concept takaful grew recognition and spread all over the world.

According to (Ajmal, 2010),In 2008 they were 179 takaful companies and in 2010 the number of takaful grew to 200 and the main spread of Islamic finance and takaful has been in the Middle East and part of Asia, Africa and Europe. In addition, takaful grew at a compound annual growth rate of 39% over 2005 and 2008 in terms of global premiums which was estimated that the global premiums stood at 5.3 billion in 2008 and 8.9 billion in 2010, hence proving enough that the demand of an alternative mode of insurance is highly demanded in the market(Ajmal ,2010).

However, the existence of takaful is still in its tender stages of development hence for the industry to see more growth and to thrive it should address the issues of capitalization, competition from conventional insurance, development of human resource, re-takaful (re-insurance) and having sharia compliant avenues for investment funds Ayub, (2007). So as to be able to continue its expansion strategies without facing serious crises and thereby acquiring greeter market share.

The Kenyan insurance market is among the largest and most developed in Africa according to the association on Kenya insurance (2011), the Kenya penetration market in 2011 was 3.02 percent as compared to last year where it recorded a penetration of 2.7 percent , hence making Kenya an appealing market for insurance companies to invest in . The insurance market in Kenya is regulated by the by the (IRA) Insurance regulatory authority which is a statutory government agency established under the insurance act cap 487 the main duties of the regulatory authority is to regulate , supervise and develop the insurance industry in Kenya.

In addition , at the end of 2011 there were 45 operating insurance companies in Kenya , where 22 companies wrote of non –life insurance business only , 9 wrote life insurance business only while 14 were composite where by the wrote both life and non-life business (Association of Kenya insurance, 2011) .

The Islamic insurance in Kenya has reported tremendous growth and appetite for its sharia complaints products despite being in operation for just a short while in the market. The Islamic insurance does not appeal not just to the Muslim population but also to the non-Muslim who appreciates sharia-compliant products that are an alternative to conventional insurance.

Takaful insurance of Africa ltd also known as TIA is the first sharia- compliant insurance company in east and central Africa, the company was founded in 2008 and was formally licensed in 2011 and currently it has 4 branches all over Kenya spreading from Nairobi till Mombasa the rationale behind the foundation of Takaful is to provide risk management and financial security based on ethical principles and values (Takaful Africa, 2011).

2. Literature Review

According to Islamic Financial Services Board and International Association of Insurance Supervisors (2006), the origin of Takaful can be traced to several practices from ancient Arab tribal custom and the companions of the Prophet, for instances under the custom of Al-Aqilah, (blood money) Whereby it was mutually agreed among the tribes that if a person is killed unintentionally by a person of a different tribe, the accuser's paternal tribe will take the responsibility to make a mutual contribution for the purpose of paying the blood money to the victim's relatives. Hence this system was able to create a pool of funds where by it would be channeled to the oppressed victim to be indemnified.

Hence practically takaful concept is based on the idea of mutual co-operation, responsibility, assurance, protection and assistance between groups of participants.

Below is a sketch elaborating the concept of Takaful

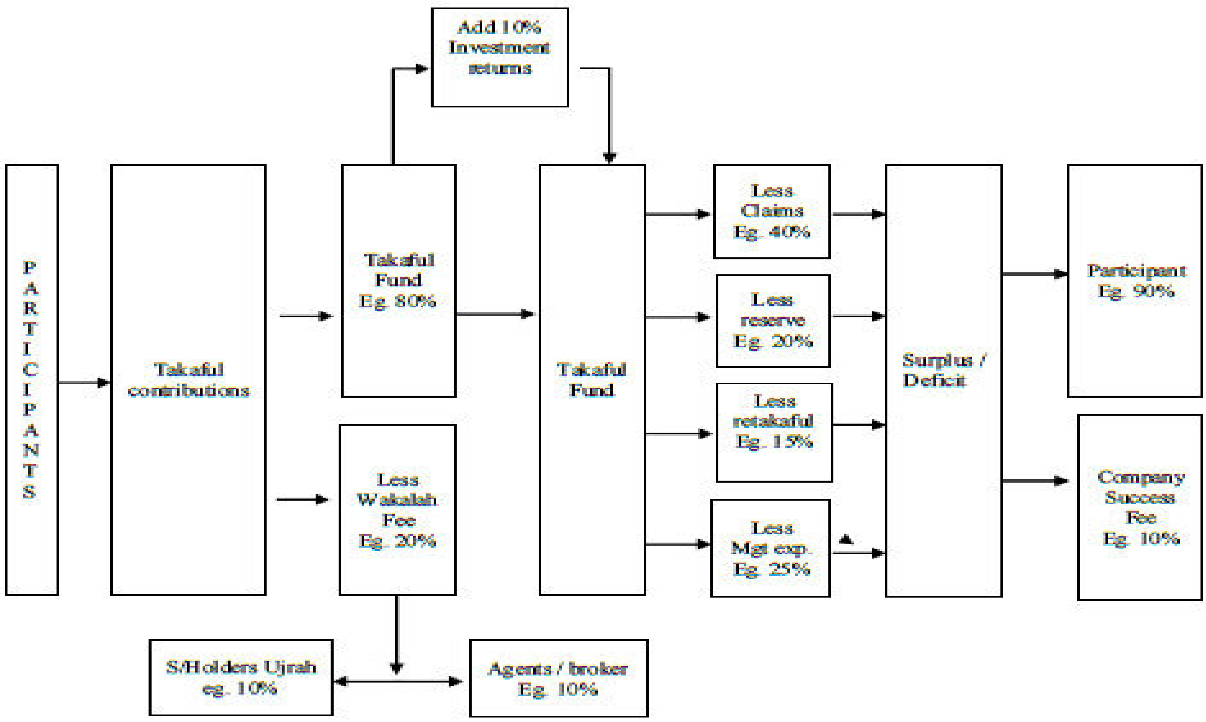


Figure .1: Concept of Takaful
Source: (Mohd, 2011)

2.1 Legal and Regulatory Framework

Governments all over the world have always felt the urge and the need to give broad guideline for the development of insurance industry because insurance involves taking money from members of the general public where by in return for a promise of payment on the occurrences of some incident or some future event hence if they was no mechanism in place to check this kind of system then unethical and unprincipled person might be tempted to collect premiums and divert them without bothering to honor their promises which they first had hence leading to the public to lose faith (Alice and Lucy, 2006)

To address this situation the government of Kenya enacted the insurance Act cap 487 where by all the insurance companies have to adhere to the legal regulation being placed by it the reason for the state regulation of the insurance industry is to maintain solvency, equity, competence and many more.

Islamic insurance in Kenya are not a separate entity at all but instead they are still defined by the insurance act cap 487 but they are also regulated by the sharia advisory council know as SAC. In addition all Islamic institution that offer sharia products and service to the public must be regulated and governed by a religious board that acts as an independent board comprising of scholars with specialized knowledge of Islamic transaction and many more.

According to the institute of Islamic banking and insurance,(2012) The role of the sharia supervisor board is to review the takaful operation, supervisor its development of Islamic insurance products and determine the sharia compliance of these and investments mostly the sharia supervisory carry their own independent audit and certify that nothing relating to any of the operations involves any element that is prohibited by the sharia hence in a way limiting the full potential of the performance of the company for instance based on the sharia regulation Islamic insurance are not allowed to insure any organization that sells alcohol or tobacco as their core main business.

Another aspect of the legal and regulatory framework limiting the performance of Islamic insurance in Kenya is the issue of insurance premium finance, whereby this is a facility given either by a bank or an insurance company where by clients can be able to afford the insurance premiums by paying in installments over a period of a year where by these installments has a slight margin of interest which is incurred hence based on the fundaments of takaful any issue relating of interest is prohibited hence limiting its performance.

The commercial insurance and company law in Kenya and most of the countries are mostly fashioned and a costumed on the western pattern of doing business hence these laws contain provisions that limit the scope of Islamic insurance therefore creating a necessity for special laws to be introduced to aid this short coming so as to enable the Islamic insurance to compete side by side with conventional insurance

For instance, according to the Kenyan insurance Act Cap 487 section 111(1), its state that

"The holder of a policy of life assurance on his own life may, when effecting the policy or at any time before the policy matures for payment, nominate the person or persons to whom the money secured by the policy shall be paid in the event of his death: Provided that, where the nominee is a minor, the policyholder may appoint, in the manner prescribed, any person to receive the money secured by the policy in the event of his death during the minority of the nominee"

Hence, Islamic insurance prohibits the appointment of the nominee but instead the benefit should be distributed based on the concept of Islamic inheritance known as faraidh (Islamic inheritance) where by each member of the family is allocated a specified portion which is given upon death where as opposed to giving the full amount to one nominee (Azaman, 2009)

2.2 Unethical Practices Affecting Company Performance.

Intermediaries plays a vital role in the insurance industry in Kenya because most of the insurance transactions are mostly done through the intermediaries who are usually the agents and broker who bid the buyer and the insurer together to form a mutual contract

In commercial insurance market the intermediary plays the role of the market marker or match maker whereby they help buyers to identify their coverage and risk management needs and by matching buyers with appropriate insurance (Cummins and Doherty 2005), in addition the intermediaries assist in scanning the market, negotiating and analyzing which insurance company has the financial strength to underwrite the risk and help their client select from competing offers.

Hence no one can deny the vital contribution of the intermediaries in the insurance industry in the part they play on providing wide range of services to the client on the behalf of the insurer hence from the wide range of service being offered by the intermediaries usually they remunerate themselves from a system know commission based pay whereby for instance if a client purchase a motor insurance cover and pay premiums usually a portion of it lets say 10% of the premiums goes to the broker and the rest goes to the insurance company.

Hence, with the premium-based commission intermediaries have developed some unethical practices in the market so as to be able to gain more commission from the insurer hence undermining the performance of insurance company in Kenya, according to (Henri, Francois & Cheon 2006), some critics believe that such ways of rewarding insurance agents and brokers is one of the underlying cause of unethical behaviors because it leads to rise of conflicts between agents and clients interest.

The commission based selling system would generate a biases to over-sell products that even the clients are not interested at all since the mode of remuneration pushes a customer to invest irrespective of the best choice of the

client. In addition some of the unethical practices most commonly practiced in the market according to (Alice and Lucy 2006) are as follows-
Twisting- this is the act of advising the policyholder to cancel their insurance policy and change insurers and intermediaries with the motive and aim of making additional sales were by this might affect the company performance and also it losses the customer discount where the policy applicable to an annual bases.
Churning- this is the act where by the intermediaries encourage policyholders to increase applicable policy limits or change covers with the aim of having increased commission which is unethical
Duplication of cover – this is the act whereby the intermediaries may advice the client to take policies which cover needs that are already catered for by similar existing policies with the sole aim of increasing commission.
Non-remittance of premiums –this is the act whereby the intermediaries collect premiums on behalf of an insurer and they should pass to the insurer in due time without delay but mostly you will find out that the intermediary might stay with the premium with it in such a long time hence limiting the company performances.

3.Methodology And Data Description

The results of this study are clearly explained in this section. Microsoft excel software has been used to obtain the test results. The software has been chosen because it's one of the most convenient and efficient data management program which has the following benefits to the researchers as being user friendly, efficient data management and also good at reporting and deployment of data into information.
In addition the researchers distributed 45 questioners to its respondents by email and hard copy and out of the 45 questioners issued to its respondents to be filled out 31 were returned fully filled out and 14 were not returned at all

3.1 Effects Of Legal And Regulatory Framework.

The table below shows the effects of legal and regulatory framework on company performance.

Table 1: Effects of legal and regulatory framework

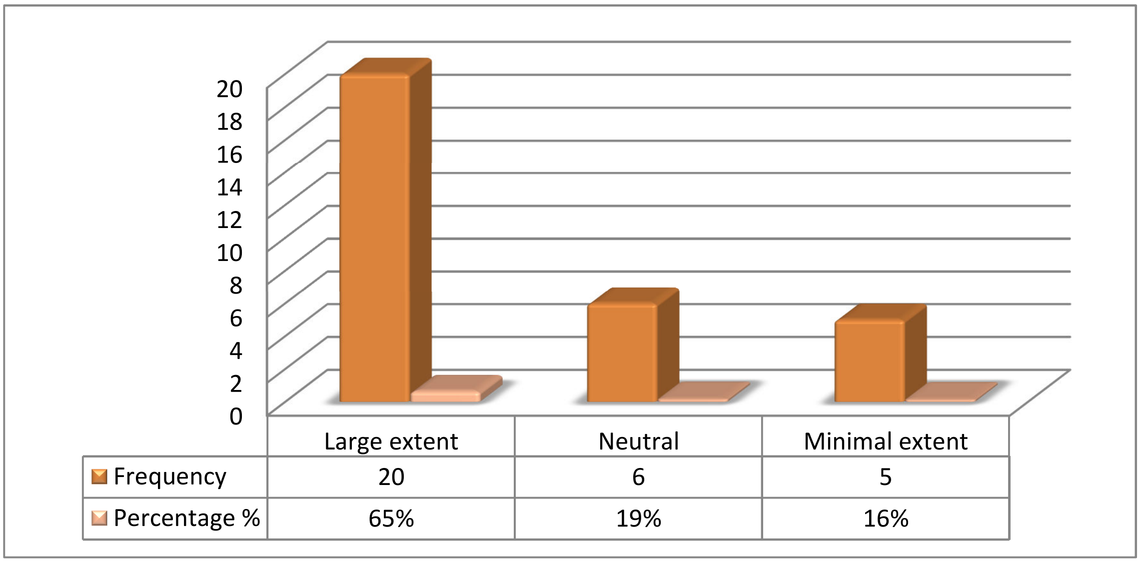
Effects of legal and regulatory framework	Frequency	Percentage %
It reduces flexibility	12	39%
It promotes solvency	4	13%
It limits competition	10	32%
It promotes equity	5	16%

The respondent were asked to comment on the effects of legal and regulatory framework on company performance and the result indicated that 39 percent of the respondent commented that legal and regulatory framework limits the flexibility of company performance, followed by 32 percent felt that the legal and regulatory framework limits competition the company performance. In addition, 16 percent of the respondent commented that the effect of legal and regulatory framework is that it promotes equity and similarly 13 percent commented that it promotes solvency.
Hence, the result implies that the legal and regulatory framework does to a large extent affect the Islamic insurance company because it limits the flexibility and competition of the company hence making it hard for them to compete in the market.

3.2 Extent of legal and regulatory framework

The figure below shows to what extent the legal and regulatory framework influences the performance of Islamic insurance in Kenya.

Figure 2: Extent of legal and regulatory framework



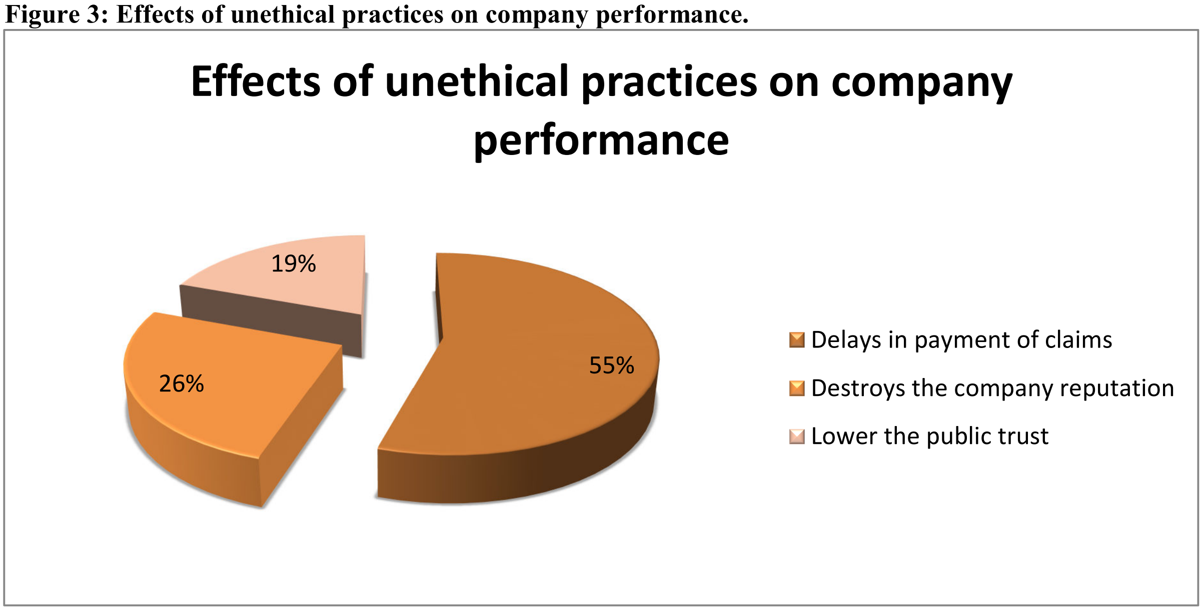
The respondents were asked to comment on the extent the legal and regulatory framework affects the performance of Islamic insurance company's and majority of the respondent (65 percent) said that to a large extent , followed by 19 percent who were neutral and last but not least 16 percent who said the extent of it is minimal.

The results imply that to a large extent the legal and regulatory framework strongly influence the performance of Islamic insurance in Kenya.

3.3 Effects of Unethical practices on company performance

The pie chart below shows the effects of unethical practice on company performance

Figure 3: Effects of unethical practices on company performance.



The respondent was asked to express their opinion on the effects of unethical practices on company performance. And Majority of the respondent commented that (17%), of the effects of unethical practices leads to delays in payment of claims within the organization followed by 26% who commented that unethical practices destroys the company reputation followed by 19% who commented that it lowers the public trust.

This implies that unethical practices have a very huge impact on the company performance and can negatively affects the company image, reputation and, claims settlement.

3.4 Different Types Of Unethical Practices Affecting Company Performance.

The bar graph below shows the unethical practices affecting company performance.

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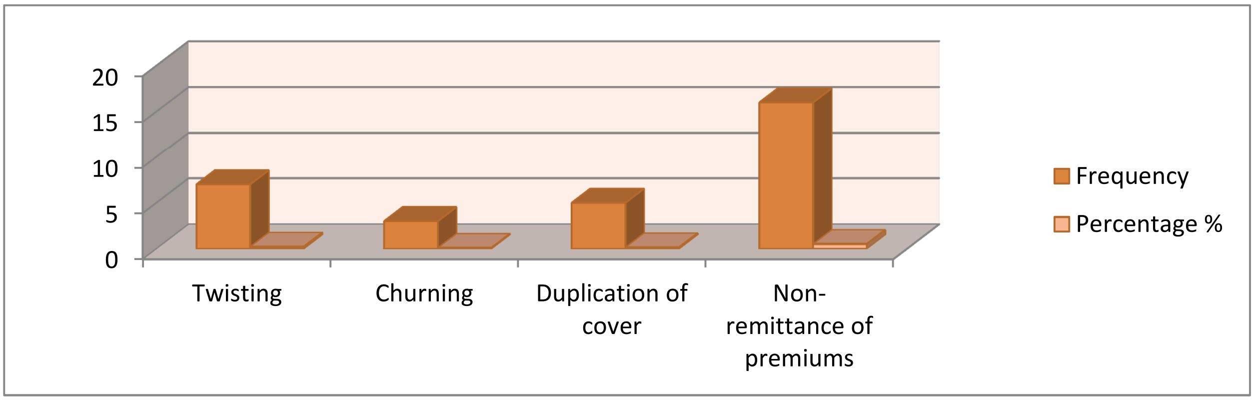
Figure 4: Different types of unethical practices affecting company performance



The respondents were asked to comment on the different types of unethical practices that affect the company performance and 52% of the respondent commented on non- remittance of premiums followed by 16% on the duplication of cover , followed by 23% on twisting and last but not least 10% on churning.

This implies that non remittance of premium is a major practices that affecting company performance because if a company collects inadequate premiums from the intermediaries it will mostly face difficulty in paying its claims on time.

4. Conclusion

This paper attempted to fill the wide gap in Islamic insurance literature by examining the non-financial factors that influence the performance of Islamic insurance in Kenya. In this study, three factors were chosen and analyzed as to determine their influence on the insurance performance: below are the factors.

4.1 Legal and regulatory framework

4.2 Unethical practices

The results indicated that all the above factors had a big influence on the Islamic insurance performance in Kenya. Future , to provide an in-depth finding is that employee competency was considered to have a strong influence on the performance of Islamic insurance in Kenya , followed by legal and regulatory framework and last but not least unethical practices.

These results, communicate a crucial indicator that commercial insurance in Kenya should focus on all the factors in order to grow and stabilize the industry.

5 Recommendations

From the conclusion of the study, the following recommendation can be reasonably forwarded for Islamic insurance in Kenya.

5.1 Legal and regulatory framework

The legal and regulatory framework was found to influence the performance of Islamic insurance to a large extent by influence the flexibility of its operations , investment and many more hence to solve this issue reviews of the existing laws and guidelines governing the insurance industry should be reviewed to allow growth of Islamic insurance industry just as the conventional counterpart.

5.2 Unethical practices

Unethical practices was found to influence the performance of Islamic insurance to a very large extent by influencing the process of its claims , company reputation and public trust hence in a endeavor to operate ethically , insurance practitioners should observe utmost good faith and disclose all material facts in respect of products at the time of negotiating for a cover .

In addition intermediaries should use only the right method in persuading clients to buy their products and services. They should disclose all favorable and unfavorable features of the product at the earliest stage possible in a bid to ensure that a client makes an informed decision

5.3 Areas for further research

This research will contribute to the existing literature regarding non-financial factors influence on the performance of Islamic insurance in Kenya. However further research should be done on the financial factors that influence the performance of Islamic insurance and also to give an in-depth comparison with the conventional insurance in Kenya.

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