

The background of the slide features a close-up of financial items on a light brown wooden surface. In the top left, there are folded Malaysian Ringgit banknotes, including a green 10 RM note and a yellow 20 RM note. To the right of the banknotes, a small metal bowl is filled with various coins, including gold and silver ones. A black calculator is partially visible on the right side of the frame, showing buttons for 'M', '7', '4', '1', and '0'. A black pen lies diagonally across the bottom left corner, resting on a blue banknote.

CHAPTER 6

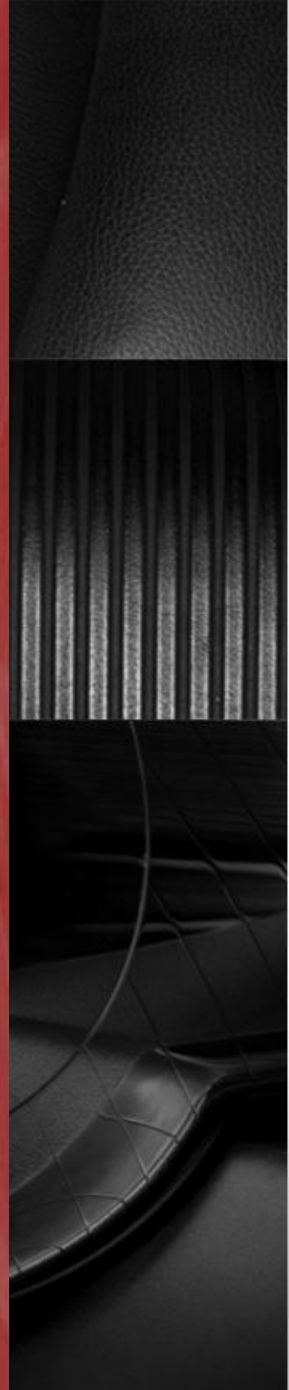
Gharar

Gharar

DEFINITION **(Uncertainty)**

The Arabic word gharar is a fairly broad concept that literally means deceit, fraud, uncertainty, danger, peril, delusion, or hazard that might lead to destruction or loss

Gharar refers to any transaction of probable items whose existence or characteristics are not certain, due to lack of information, ignorance of essential elements in the transaction to either party, or uncertainty of the ability of one party to honor the contract.



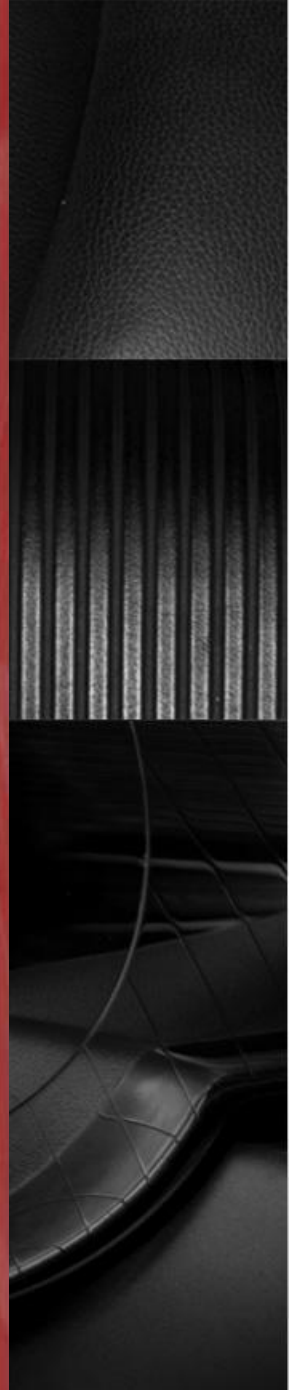
The Prohibition of Uncertainty (*Gharar*)

- ✓ *Gharar* is one of the major causes of the invalidity of a contract.
- ✓ It is an external prohibited attribute that invalidates the contract.
- ✓ Literally *gharar* means risk or hazard.
- ✓ *Gharar* refers to lack of knowledge about the material terms of contract.
- ✓ *Gharar* takes place when it is not known whether the subject-matter exists or not, or if exists, whether it can be handed over to buyer or not.

Contd:

The Prophet (s.a.w) has forbidden the purchase of

- the unborn animal in the mothers womb,
- the sale of the milk in the udder without
- measurement,
- the purchase of spoils of war prior to
- distribution,
- the purchase of charities prior to their receipt,
- and the purchase of the catch of a diver.



The Degree of *Gharar*

1. *Gharar Yaseer* (minor or slight)

This type of gharar is tolerated and will not invalidate a contract. Gharar yaseer may include the following cases

- a. The uncertainty is slight or trivial.
- b. Contract is unilateral or charitable (*al tabarru'at*) such as gift or bequest
- c. There is a public need for the transaction or contract (consideration of *maslahah*), for example, *bai' al salam*, *istisna'*

2. *Gharar Fahish* (major or excessive)

- This type of gharar is not tolerated and may result in contract voidability

Gharar in The Modern Business Transaction (*Insurance*)

Definition

A contract of insurance is one whereby one party (insurer) promises in return for a money consideration (premium), a sum of money or provide him with some corresponding benefits, upon the occurrence of an event specified in the contract.

Contd:

Types of Insurance

1. *Life insurance*
2. *Health insurance*
3. *Property insurance*
4. *Liability insurance*

Contd:

A large number of contemporary Muslim Scholars regards modern commercial insurance invalid. Islam does not allow *gharar* transactions in which the seller does not know what he has sold and the purchaser does not know what he has bought by his premium. the time of occurrence of event is also uncertain for the parties. it is a *gharar* contract.

Contd:

- ④ Uncertainty about the payment of insurance amount i.e., whether the insured person will be able to get amount of compensation.
- ④ Gharar with regard to time of payment i.e., time of occurrence of particular event.
- ④ Gharar with regard to quantum i.e., how much compensation he will get because it depend upon the magnitude of loss due to the unpleasant event which is the subject-matter of contract.

Islamic Contract

Contract

- A voluntary, deliberate, and legally binding agreement between two or more competent parties. Contracts are usually written but may be spoken or implied, and generally have to do with employment, sale or lease, or tenancy.
- A contractual relationship is evidenced by (1) an offer, (2) acceptance of the offer, and a (3) valid (legal and valuable) consideration.

Contd:

A condition, which seems to be against the contract, but it is in the market practice, is not void, if its voidness is not proved with the clear injunctions of the Holy Quran and Sunnah.

This type of condition does not invalidate the contract.

For example a condition that the seller will provide five-year guarantee and one year free service.

Shari'ah Guidelines for trade and business

Haram Economic dealings and activities

Violation of Islamic law of contract

- Void contracts;
- Suspended (hung) contracts;
- Conditional contracts;
- Non transparent contracts;

Dealing in Haram goods and services

- Business of liquor and other impermissible or dubious items;
- Contract of impermissible services;

Maisir & Qimar (gambling) [a type of Gharar]

- Pure gambling like betting in casinos;
- Gambling in sports and games like paid contests;
- Gambling in business like cash settled derivatives (option, future, forward & swaps);

Riba (interest)

- Modern day interest;
- Increase in dues (receivables) in case of delays;
- Interest on loans and debts;
- Some types of FX transactions;

Gharar (excessive uncertainty)

- Non transparent deals;
- Interdependent contracts;
- Many types of non clarities which ultimately makes the transaction a matter of conflict;
- Incomplete information of subject matter or price;



Ethics in Islam

- The term most closely related to ethics in the Quran is khuluq and in urdu (Ikhlaaquiyaat)
- The Quran also uses a whole array of terms to describe the concept of goodness:

- Khayr (goodness),
- Birr (righteousness),
- Qist (equity),
- Adl (equilibrium and justice),
- Haqq (truth and right) and
- Ma'ruf (known and approved).





Thank you for
your attention

