

POLICY, PROTECTION OF POLICYHOLDER, AND LIFE INSURANCE EDUCATION TO THE SOCIETY

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Abstract

Changes towards betterment of policyholder protection is not proportional to the growth of life insurance company. Policyholders encounter difficulties in asserting their rights when their life insurance company is in financial straits and served with bankruptcy petition. Life insurance company and regulator have to re-regulate in detail every possible provision contained in a life insurance and ensure that each clause has been incorporated in the policy, to protect policyholder. The society must be educated to the rights and responsibility of the policyholder and the insurer, including the protection accorded to policyholders when the life insurance company is on the edge of financial distress or bankruptcy.

Keywords: *policy, policyholder, society education.*

Intisari

Peningkatan perlindungan bagi pemegang polis belumlah memadai jika dibandingkan dengan pertumbuhan industri perasuransian. Pemegang polis menghadapi kesulitan untuk mendapatkan haknya ketika perusahaan asuransi menghadapi kondisi keuangan yang tidak sehat dan kebangkrutan. Perusahaan asuransi dan pembuat undang-undang harus mengatur kembali secara rinci semua klausul yang diperlukan dan memastikan bahwa klausul tersebut sudah termuat dalam polis asuransi, khususnya hal-hal yang mengatur mengenai perlindungan bagi pemegang polis asuransi jiwa. Masyarakat perlu diedukasi tentang hak dan tanggungjawab dari pemegang polis dan perusahaan asuransi selaku penjamin, termasuk mengenai perlindungan pemegang polis ketika perusahaan asuransi jiwa menghadapi masalah keuangan atau kebangkrutan.

Kata Kunci: polis, pemegang polis, edukasi masyarakat.

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A. Introduction

The appreciable growth of both insurance companies and life insurance policyholders will be meaningless for the society if not balanced with the increase in the protection of policyholders. The limitations of the laws on the protection of policyholders, the contents of the policy, as well as the socialization of such contents oftentimes pose as obstacles for the society in obtaining their rights. Sri Redjeki Hartono¹ opined that since the legal protection accommodating of consumer interests is not yet adequate, it becomes a necessity to establish a body of laws in which there is balance between the interests of the consumers and those of the business actors. Therefore, a reconstruction of the rules of law concerning the necessary protection clauses to be included in the policy must be a priority, in order for the insurance companies to better their image in the society. This article serves as a trigger to encourage the establishment of a body of insurance laws which can provide for full protection of insurance policyholders. Additionally, the article seeks to contribute into the reconstruction of policy contents and the efforts of insurance socialization to the society to raise awareness of the insurance world, including the protections it provides.

B. Discussion

1. Definition of Life Insurance

The society generally understands life insurance as a means of self-protection against death. This simple definition may be accepted, because, according to Salim,² life insurance is the insurance which aims at providing coverage resulting from unexpected financial loss due to an untimely death or too long a lifetime. Life insurance provides for protection against financial loss resulting from the loss of capacity

to produce income on account of death or old age.

According to Sri Redjeki Hartono,³ taking into account the importance that an insurance agreement be used according to its purpose, insurance agreements actually offers certainty out of the uncertainties concerning economic losses which one might sustain as a result of events which may or may not happen. So, insurance agreements are entered into in order to gain certainty of the restitution of (economic) circumstances into the state they are in before the taking place of an event.

2. Life Insurance Policy

a. Definition of Policy

In each closure of an insurance deal there occurs an agreement between the insurer and the insured in the form of a document called a "policy". A policy is a document serving as evidence that an individual has purchased an insurance. According to Sri Redjeki Hartono,⁴ a policy is an act, the formalities of which contained within the law, which is elemental in an insurance agreement, whether before the agreement came into force or during and along the term of the agreement. In this sense the policy is an engagement between the insurer and the insured in which the agreement clauses are contained.

b. Policy Contents

Insurance as a protection is basically a set of promises, given by an insurance company to the insured, in the form of a contract known as the policy. These promises, said Prakoso,⁵ takes shape, *interalia*, in an insurance contract, wherein it is stipulated as to the time and the condition upon which the insurance company shall provide payment to the guaranteed, as well as the amount of said payment. A contract contains a variety of items as agreed

¹ Sri Redjeki Hartono, 2008, *Hukum Asuransi dan Perusahaan Asuransi*, Sinar Grafika, Jakarta, p. 91.

² Abbas Salim, 1993, *Asuransi & Manajemen Risiko*, Raja Grafindo Persada, Jakarta, p. 25.

³ Sri Redjeki Hartono, *Op.cit.*, p. 83.

⁴ *Ibid.*, p. 123.

⁵ Djoko Prakoso and I Ketut Murtika, 2004, *Hukum Asuransi Indonesia*, Rineka Cipta, Jakarta, pp. 11-12.

upon by all the parties thereto. Goh and Low⁶ provides:

In any insurance contract, certain essential matters must be agreed upon by the parties before a proper contract can be formed. These material terms may be listed as follows: parties to the contract, nature of the risk insured against, subject matter of the insurance, duration of the insurance, amount of insurance (sum insured) and amount of the premium.

In practice the government regulates to the effect of what can and must be included in an insurance contract. Prior to the entry into force of the insurance laws, insurance regulations are regulated in the older parts of positive law. Prakoso and Mustika⁷ stated that Article 304 of the W.v.K. provides that life insurance policy contains the following elements; 1) the date in which the life insurance is established; 2) the name of the insured; 3) the name of the beneficiary; i.e. the person for which the insurance coverage is meant upon the demise of the insured; 4) the time marking the beginning and the end of risk for the insurer; 5) the amount of sum covered; 6) the amount of premium due by the insured.

The regulations governing insurance policy were taken over by Act no. 2 of 1992 on Insurance Business⁸ following its issuance.

Decision of the Minister for Finance No. 422/KMK.06/2003 (hereinafter, "KMK 422") on the Administration of Insurance and Reinsurance⁹ Companies also regulated on policy in Articles 8,¹⁰ 11¹¹ and 18.¹²

The contents of a policy as described in the W.v.K have been clarified by KMK 422, which now contains the general or minimum provision as to what a policy must contain. However, each company that offers life insurance or insurance against loss is allowed to conjure up policy with additional contents, i.e. those that offer promises which may pique the society's interest into purchasing an insurance.

3. Legal Protection for Life Insurance Policyholders

The legal protection for life insurance policyholders becomes important for raising a positive image of insurance in the society. Article 1 of Act No. 8 of 1999 on Consumer Protection¹³ defines consumer protection as any effort which guarantees a legal certainty of protection for consumers. Legal certainty in the life insurance context would be the guarantee for the fulfillment of policyholders' rights as consumers of life insurance companies.

Article 3 of the Consumer Protection Act provides that the aims of consumer protection are,

⁶ Erin Goh and Valerie Low, 2001, *Law for Business Series: Insurance Law*, Butterworth Asia, Singapura, p. 65.

⁷ Djoko Prakoso and I Ketut Murtika, *Op.cit.*, p. 71.

⁸ Enacted in Jakarta, 11 February 1992. State Gazette of the Republic of Indonesia of 1992 No. 13, Supplement to State Gazette of the Republic of Indonesia No. 3467.

⁹ Published in Jakarta, 30 September 2003.

¹⁰ An insurance policy must contain at the very least the provisions regarding: a. the moment the insurance commences; b. the exposition on the agreed-upon benefits; c. the method for the payment of premium; d. the grace period for the payment of premium; e. the currency used for the insurance policy if it was agreed upon in a foreign currency when the payment of premium and the benefits are associated with the Rupiah; f. the period acknowledged as a prerequisite for the acceptance of the payment of premium; g. the company policy when the payment of premium extended beyond the agreed-upon grace period; h. the period in which the company cannot review the validity of the insurance contract (incontestable period); i. the table of cash value, for life insurance policy containing the cash value; and j. the calculation of the policy dividend or the likes of which, for life insurance policy which promises policy dividend or the likes of which; k. termination of insurance, whether by the insurer or the policyholder, including its terms and conditions; l. the requirements and procedures of claiming, including the necessary supporting evidences; m. the setting for dispute settlement; n. the language used as reference in case a dispute or disagreement arises, for life insurance policy printed in two or more languages.

¹¹ (1) In the event that the insurance policy contains a provision which can be interpreted as an exception or limitation to the cause of the closed risks based on the aforementioned insurance policy, said provision must be written or printed in such a manner as to be easily recognizable. (2) In the event that the insurance policy contains a provision which can be interpreted as a reduction, limitation or exemption of obligation for the insurer's part, said provision must be written or printed in such a manner as to be easily recognizable.

¹² If the Minister deems that within a policy there exist contents which may inflict harm upon the insured or the insurer, he or she may ask the insurance or reinsurance company to review said contents.

¹³ Enacted in Jakarta, 20 April 1999. State Gazette of the Republic of Indonesia 1999 No. 42, Supplement to State Gazette of the Republic of Indonesia No. 3821.

interalia: a) Raising the awareness, capacity and independence of the consumers in self-protection; b) Raising the honor and dignity of the consumers by preventing them from the negative access of the use of goods and services; c) Empowering consumers in choosing, deciding and claiming their rights as consumers; d) Creating consumer protection systems in which legal certainty and the transparency of information, as well as the guarantee of access thereto, are upheld; e) Raising the awareness of business actors of the importance of consumer protection, thereby embedding honesty and responsibility into business practices; and f) Raising the quality of the goods and services which guarantee the sustainability of the production of goods and services, health, comfort, security and the safety of consumers.

In reality what is stipulated in the Act is never wholly reflected on the policy. Oftentimes the contents of the policy are even harmful for its holders. From an interview with Primardi, as quoted by Sri Redjeki Hartono,¹⁴ it is known that problems have risen, i.e. those regarding the execution of accountability, as is the right of the consumers to invoke the obligation by the business actors. These problems are evident, inter alia, in the gap between the ideals (the items promised in the contract) and reality. Business actors often disregard consumers' rights, whereas the government tends to favor business owners who can effectively buy power, and policyholders cannot afford claiming their rights through the court.

In order to fulfill the demands of consumer protection as stipulated within the Consumer Protection Act, as well as dealing with problems in its implementation, in the context of insurance

business the contents of policy, as an agreement between the insurer and the guaranteed, must have clear and strong legal power, so that it may serve as formidable evidence to force the producers to provide protection for life insurance policyholders as the consumers.

a. Policy as Legal Protection for Life Insurance Policyholders

In concordance with the abovementioned definition that policy is an agreement between the insurer and the guaranteed, the next important question is regarding how each party's rights and obligations are to be executed. Goh and Low¹⁵ opined, that:¹⁶

[a]fter the contract is formed, it is important to construe what the parties mean when they incorporate particular words or phrases into the contract they have concluded. This will impact on the respective contractual rights and obligations of the parties.

According to Article 19 of the Guidelines for Consumer Protections, UN Department of International Economic and Social Affairs, A/RES/39/248 (1986), "Consumers should be protected from such contractual abuses as one-side standard contracts, exclusion of essential rights in contracts, and unconscionable conditions of credit by sellers."¹⁷

In the event where a contract is prepared by an insurer, according to Syawali and Imaniati,¹⁸ consumers are considered as the party with the weaker position than the producers' before the law, therefore the latter need to obtain bigger protection than what was provided for in the past, Thus, in providing some form of legal protection for

¹⁴ Sri Redjeki Hartono, *Op.cit.*, p. 151.

¹⁵ Erin Goh and Valerie Low, *Op.cit.*, p. 57.

¹⁶ After a contract is drafted, the parties need to explain the meaning behind the contents they have put into the contract, as it may affect the rights and obligations of all the parties.

¹⁷ The customer must be protected from the misuse of contract as a contractual agreement, especially regarding the essence of the contract and the conditions which are inadvertently deemed as benefits from the seller.

Guidelines for Consumer Protections, UN Department of International Economic and Social Affairs, A/RES/39/248 (1986), <http://www1.unn.edu/humanrts/links/consumerprotection.html>, accessed on 6 Agustus 2012.

¹⁸ Husni Syawali and Neni Sri Imaniyati, 2000, *Hukum Perlindungan Konsumen*, Mandar Maju, Bandung, pp. 43 and 53.

policyholders, the clauses governing legal protection for life insurance policyholders must be expressly stated within the policy.

b. Important Policy Contents for the Legal Protection for Life Insurance Policyholders

The need for life insurance policy contents as legal protection for the policyholders is determined by the urgency of the securing of the policyholders' primary rights. In order that there be certainty in the fulfillment of policyholders' rights in case the insurance company is facing revocation of its business license or bankruptcy, a policy should include at least the following aspects:

1) Policy Contents on the Protection of Policyholders in Normal Situation

There is already a standard in the guidelines to drafting policy contents within the national insurance laws. KMK 422 provides for contents regarding legal protection for life insurance policyholders when the insurance company is operating well/in normal situation. Articles 8, 11 and 18 have covered this rather well, but have not regulated the clause regarding legal protection for policyholders when the company is under risk of business license revocation or bankruptcy.

2) Policy Contents on the Protection of Policyholders where the Life Insurance Company is Revoked of its Business License or is Bankrupt

The crucial thing policyholders are facing when the life insurance company is revoked of its business license or insolvent is the uncertainty of their fate. In the press release of the revocation of the business licenses of eight insurance companies and thirteen insurance supporting companies on Thursday, 5 April 2007, it is mentioned in the second-to-last paragraph that revocation of

business license means the companies are prohibited from operating their insurance business, but are still required to fulfill its obligations with respect to third parties, especially the policyholders.

The above press release illustrates a definitive picture that the regulators no longer play a role in the settlement of the fulfillment by a company whose license has been revoked of its obligation with respect to policyholders. This exacerbates the position of policyholders, who legally-speaking are indeed weaker. Besides the uncertainty of settlement, policyholders are facing problems in addressing the claims of their rights as life insurance policyholders, since the office of the company whose license has been revoked is no longer active.

Article 23(2) of KMK 422 states that the transfer of portfolio as regulated in Article 23(1) must fulfill the transfer requirements, which are: a) The transfer must not disturb the rights of policyholders, the guaranteed, or their heirs; b) It must be done between insurance company and reinsurance company of the same kind; and c) It must not render the insurance or reinsurance company receiving the transfer violating any rule of insurance laws. This provision only applies where there is a transfer of insurance portfolio; it does not say to the effect where the company is revoked of its business license or is bankrupt.

Article 20(2) of the Insurance Act says that the policyholder's right to a division of assets of a liquidated insurance company is a primary right. If the life insurance company has enough assets, then the definition of primary right in this context serves as protection, but if the company does not have enough assets or does not have assets whatsoever,

then that definition of primary right is meaningless.

Protection for policyholders has also been clearly laid out in the Act No. 40 of 2007 on Limited Liability.¹⁹ The Act has provided for joint responsibility by the board of directors and commissioner when the company has been revoked of its business license and bankrupted. Article 97(1) to (4) of the Limited Liability Act states that the board of directors assumes full and personal responsibility on the administration of the incorporated company. However, Article 97(5) of the same Act provides a clause on how the board of directors may be claimed for its responsibility for maladministration of the company.

Article 114 of the Limited Liability Act provides that the board of commissioners are jointly and personally responsible for the loss of the company if it is liable for said loss or is negligent in the fulfillment of its duties. Even so, Article 115 relieves the board of commissioners of its responsibilities if it is not found negligent in the fulfillment of its duties. Article 3(1) of the Limited Liability Act expressly says that shareholders are not to be held personally liable for the agreements made on behalf of the company and for company loss beyond the value of their shares. However, Article 3(2) declares that shareholders are free from joint responsibility if they are proven not liable for the loss. Shareholders should not have been relieved off personal joint responsibility, because they indeed supervised and controlled the company by means of the General Meeting of Shareholders as well as the appointment of directors and

commissioners as their representations in the administration and supervision of the company.

Up to this point there has been no insolvency application filed to a Commercial Court against a life insurance company whose business license has been revoked. Therefore, the Limited Liability Act has yet the opportunity to show off its teeth in terms of providing protection for insurance policyholders – in this case specifically life insurance. Article 20(1) of the Insurance Act provides that the Minister for Finance on the basis of public interest can ask the Court to the insurance company in question to be declared insolvent, yet in reality there has never been a case where a life insurance company whose license has been revoked was brought before a court to be declared insolvent.

Due to the loose nature of the protection for policyholders provided in the law, the certainty of the fulfillment of policyholders' rights becomes neglected. There needs to be a revision of the existing laws on insurance in order to ensure protection for policyholders in both normal and above normal situations (e.g. when the company is revoked of its license or is insolvent). One of the clauses for the protection for policyholders is the commitment of directors, commissioners and/or shareholders to also be jointly responsible in fulfilling the duties of the insurance company with respect to its policyholders in the event that the company who has been revoked of its license or has been declared insolvent does not have enough asset to refund policyholders' money.

¹⁹ Enacted in Jakarta, 16 August 2007. State Gazette of the Republic of Indonesia 2007 No. 106, Supplement to the State Gazette of the Republic of Indonesia No. 4756.

The involvement of shareholders and the express mention of parties who are responsible in fulfilling the company's obligations with respect to policyholders must be evident in the policy. This indeed has not yet been regulated in the laws on insurance, but this way life insurance policyholders may get a sense of certainty for the settlement/return of their investments in the event that the insurance company to which they are clients is closed down or has failed to provide premium payments. If the insurance company had the guts to provide a solution for policyholder protection which, even though has not been provided for in the law, is included within the policy, then it would be a strong selling point for it to get the society's interest in purchasing its insurance.

3) Policy Contents on the Type and Percentage of Asset Investment

When an insurance agreement is entered into consciously by the insurer and the insured, the latter must fully comprehend how the former is going to manage his or her asset investment. The Regulation of the Minister for Finance No. 53/PMK.010/2012 on the Financial Wellbeing of Insurance and Reinsurance Companies²⁰ (hereinafter "PMK 53") has provided for the means and limitations for asset investment of life insurance companies. Balance in a good investment pattern in a safe investment informs safety of the policyholders' asset.

By including the company's asset investment pattern in the policy, the policyholder can evaluate whether the insurance company is indeed safe by looking at its balance sheet, which

may be announced on its website or on mass media. Comparing the contents of the policy with the data on financial wellbeing in Articles 4 to 19 of PMK 53, policyholders can make an informed decision on choosing, continuing or terminating its membership in the insurance program.

a) Educating the Society about Insurance

The insurance industry has been in Indonesia for quite some time, which is evident through the establishment of the Asuransi Jiwa Bumi Putra (lit. 'Life Insurance of the Natives') in 1912. Nevertheless, society's acceptance of the insurance business is not yet as good as hoped.

b) The Need for Insurance Education to the Society

In order to upgrade the level of society's acceptance of the insurance business, there needs to be an education of insurance to the society. The reasons for this need of society education are, inter alia, as follows: **Firstly**, supporting the pattern of customer recruitment. The pattern of recruitment of customers to insurance companies are now predominantly conventional, where one's acceptance of becoming a customer to an insurance company is due to the close relationship of the insurance agent with the potential customer, whether by means of family, acquaintanceship, or measures by the insurance agent in piquing said potential customer's interest in the insurance program. This remains so, even with the

²⁰ Published in Jakarta, 3 April 2012. Official Gazette of the Republic of Indonesia 2012 No. 375.

promotion of the insurance program through banks, known colloquially as *bancassurance*. To support the recruitment pattern of insurance companies, an education of insurance to the society becomes necessary, so that the society may have adequate grounds of knowledge on the insurance business.

Secondly, increasing acceptability through logical Approach. Insurance is an agreement between the customer as the insured and the insurance company as the insurer. Darmawi²¹ explained that the sales of insurance policy is not as simplistic as the sales of products (goods). Insurance is a contract, and therefore it requires that both of the parties be aware of its contents. In other words, the marketing target of life insurance is in actuality the educated part of the society; at least those who have earned junior high education. This view serves as a reminder that in order to increase society's acceptability of the insurance products, there needs to be an approach with tends to the logic, not the affection, of potential life insurance customers.

Thirdly, increasing the awareness of security with respect to life insurance companies and their products. Society's awareness of the insurance business has increased as the need for the protection of necessities rose. According to Junaedy Ganie,²² the growth in the Indonesian society's awareness to insure can be born from self-

awareness resulting from the increase of society's awareness of the benefits of insurance, whether as a means of asset protection and legal responsibilities to third parties or a means of saving and investment for family protection in the future.

However, society's disappointment of the insurance business has proven to be an obstacle in the industry's growth. The difficulties in filing claims, customers' cluelessness as to why their core funds decrease with the loss resulting from the management of their funds, the uncertainty of the fate of customers whose insurance company ceases to pay, is revoked of its license, or is declared insolvent, all add up to why the insurance industry has yet to develop to the maximum.

The awareness of policyholders of their insurance companies' security is essential for the insurance companies, therefore they must provide information on the security of investment in the companies to the customers by means of education by their agents and the relevant parties. According to Junaedy Ganie,²³ it is very likely that the society do not pay attention to the security level of the companies providing them with insurance, because insurance is still generally purchased due to the close relationship between the insurance agents and the customers; this close relationship somehow represents the strength of the purchased policy. It is for

²¹ Herman Darmawi, 2006, *Manajemen Risiko*, Bumi Aksara, Jakarta, pp. 230-231.

²² Junaedy Ganie, 2011, *Hukum Asuransi Indonesia*, Sinar Grafika, Jakarta, p. 269.

²³ *Ibid.*, p. 273.

this reason that now the raising of society's awareness of the insurance industry becomes inevitably necessary, and this can be achieved by educating them about insurance.

c) **Education of Insurance for Society**

Education has a variety of meanings, from the one in the dictionary, the ones conjured by experts on education, to the one contained in the law. The definition of education must be given in accordance with the aim of education. 'Education' is a English word, which, according to the John M. Echols dictionary and Hassan Shadily, means the act of learning. Learning can be simplistically understood as the implanting of ideas through repetition and guidance in the human growth since infancy until physical and mental maturity, in their interaction with nature and their societal surroundings.

From the combined definition above, education contains the aspects of effort to instill growth through the implanting of ideas, as well as that of achieving the objective that is the mastery of a knowledge which brings about the maturity and advancement of the learner. That said, society education in the context of insurance means an effort of raising the society's comprehension of insurance so that they will be able to understand its benefits, choose the right insurance company, and encourage themselves to purchase insurance.

The materials utilized to raise society's awareness of insurance as a means of risk divergent include the following:

1) **The Definition of Insurance**

The current perspective by the society of insurance has moved into the positive. The increase in the amount of risk society is facing as the amount of choices they can opt for life fulfillment

also increases has pushed the society into taking a closer look at the insurance industry. However, society's overall comprehension of insurance and the related issues remains minimum. This is why the contents of the society education must include the definition of insurance in such a manner that the image of insurance in the perspective of the society be positive.

2) **The Benefits of Insurance**

Society values insurance as a form of protection against a sustained loss. However, in reality, members of the society are often let down by insurance companies because what they had hoped to obtain was not given by the insurance which they have purchased. This is most likely due to the fact that policyholders are not well informed in the actual benefits of his or her insurance policy. What policyholders had hoped turned out to be different from what was laid down in the policy. Thus, society education on the benefits of each kind of insurance is very determinative in lifting the society off its disappointments in insurance companies.

3) **The Method in Which Insurance Companies Manage the Society's Money**

In practice, the amount of premium paid by the society to the insurance companies is smaller compared with the protection received by the policyholders. This difference of values between premium and protection has been society's constant source of question that needs resolving. Darmawi²⁴ has said that one of society's basic questions is on how the insurance companies provide a considerable amount of com-

²⁴ Herman Darmawi, *Op.cit.*, p. 15.

compensation for a policyholder, whereas the amount of premium paid from such policyholder is relatively small compared to the gravity of the loss covered.

Darmawi²⁵ continues that this has to do with the management of money, which balances out the amount collected with the income. Income takes the form of premium, deposit interest and obligation, and dividend. Outcome is in the form of the payment of claim, operational fees, profit and technical spares. An insurance company can draw up estimates on what will happen in the future, and the level of premium will be based on that estimates of certainty. The law of large numbers can provide accurately the estimation of the losses. This is the reason why a large number of customers is needed – the ‘critical mass’.

The collected premium of all the policyholders will be the money used for the payment of claims in the future. The large premium fund must be invested to increase company profit, as well as to strengthen the company’s financial position. Yet, Darmawi²⁶ said that the objective of insurance company investment must be safe, life insurance investment is in principle a long-term agreement, whereas the agreements made by other insurance companies are generally shortterm.

In order to raise society’s awareness of how the companies manage their money will increase in turn their trust in the insurance business and products. Therefore, there needs to be a sustainable society education program held by insurance companies and other relevant parties.

4) The Claim Process

The claim process relates with the affairs of the determination of claims in general, including the binding issues regarding payment, refusal of claim, and claim procedure. Oftentimes the insurance companies put the blame on the policyholder for not fulfilling the agreed requirements on the claim process. If this is indeed the case, then there is no problem. However, what usually happens in that the insurance company puts the blame on the policyholder as an effort to avoid from dealing with said policyholder’s claim.

According to Darmawi in order to determine whether to pay or deny a claim, an assessor must follow a settlement procedure with the following main steps:²⁷ 1) the notification of loss; 2) the investigation into the loss; 3) the evidence of loss and 4) the payment or denial of payment covering the claim. The details as to each of the steps differ following the different types of insurance. This is why there must be a detailed explanation of these four steps to the policyholder.

The establishment of the Indonesian Insurance Mediation Body (BMAI) is a move forward in the settlement of insurance disputes. The BMAI, established by the Indonesian Association of Insurance (AAI), is an institution wherein insurance disputes between a policyholder and his or her insurance company is mediated. The BMAI’s decision is binding on the insurance company, which acts as the insurer, but if the policyholder as the insured is not satisfied by the decision, he or she can file it to a court of law or to an arbitration

²⁵ *Ibid.*, pp. 15-16.

²⁶ *Ibid.*, pp. 49-51.

²⁷ *Ibid.*, p. 47.

forum. The cost of the proceedings in the BMAI is fully covered by the AAI, so this is not burdened onto the policyholder as the guaranteed. This is why socializations on disputesettlement and the mediation body therefor must also be included in the society education.

5) Protection of Customer Funds

Policy is a contractual agreement which the parties must fully understand, so it must be drafted in such a manner as to enable the parties to understand. According to Darmawi, the principles of insurance law include the personal nature of the contract, the requirements of the contract, balance, etc. The problem lies in the fact that there are so many insurance contracts which are complicated and difficult to comprehend. This is the reason the policyholders rarely read the contents of their own policies.²⁸ According to Junaedy Ganie²⁹, the policyholder, as a layman to the rules and the requirements of insurance agreements, is often the weaker side when a dispute arises.

The policyholders' weak position naturally does not guarantee adequate protection. A policy which is difficult to understand and the policyholders' reluctance to read the policy contents are the main cause of the policyholders' weak position, aside from the fact that the policy design did not mention the provision of full protection in case the insurance company or the policyholder is facing a problem. Therefore, a society education program becomes necessary for the society to understand and criticize the policy contents regarding the protection of policyholders' rights.

6) Customer Refund upon the Revocation of the Company's Business License or upon Insolvency of the Company

What the society needs to be critically aware of in terms of the protections made available by the insurance companies must include the certainty of refund upon the revocation of the company's business license or upon the company's insolvency. The current rules of insurance law have yet to regulate to this extent (whereas this needs to be addressed soon), but insurance companies should provide a clause ensuring the security of the customer's funds and the certainty of the fulfillment of obligations by the insurance companies toward their policyholders.

The long period of time spanning from the closure of policy to claim can add to the potential of the insurance company's failure in paying a due claim. Adequate guarantee in the form of joint responsibility by the directors, commissioners and shareholders of the insurance company is the answer to this problem. This clause is not yet governed in any rule of law, so, if an insurance company is truly credible, it has to prove such credibility in the contents of policy or by educating the society.

7) Information on Life Insurance Companies

Another thing to add into the education material is how to guide someone in choosing an insurance company. Darmawi³⁰ said that in choosing a company one must pay attention to: 1) the company's assets and liabilities – as evidenced in its balance sheet; 2) the 'underwriting policy', which can be seen

²⁸ *Ibid.*, p. 67.

²⁹ Junaedy Ganie, *Op.cit.*, p. 274.

³⁰ Herman Darmawi, *Op.cit.*, pp. 224-225.

from whether the company is making profit; 3) the quality of the underwriter – seen from the company’s profile; 4) the quality of the company’s reinsurance company, which is evident in its annual report; 5) the cost of the premium – make a comparison with the cost of premium in other insurance companies and decide which one is comparably the best; and 6) the services, which the potential customer experiences him/herself.

8) The Process of Education

Distribution of Information – Publication

Mass media, printed and electronic (TV, radio, internet), are tools of information distribution by means of mass spreading of news, which is impactful, effective and able to reach all segments of the society. Beside print media, publication can be done through other activities, including by the word-of-mouth method. By reading and listening to the news people are being enlightened and knowledge-wise refreshed. A good, balanced and proper publication is the right means of education for the development of the nation. Consequently, therefore, incorrect news may greatly harm the insurance industry.

In terms of insurance, Junaedy Ganie³¹ reminds that bad publication in the media on customer’s insurance experience can be an obstacle in raising society’s appreciation on the insurance industry. A lot of disappointments stemmed from disproportionate explanations, whether from the insurer and its agents or from the insurance broker. Unpleasant experience in filing an insurance claim can also spark awareness of the policyholders’ rights

and obligations in his or her insurance agreement.

The article ‘Apa Itu “Bancassurance”?’ (lit. ‘What is “Bancassurance”?’) featured on the national newspaper Kompas on Sunday, June 6, 2010, on insurance promoted through banks, can be categorized as a form of insurance education. Public service announcements in electronic and print media are also channels of insurance education, through which information is spread. Writings on magazines and scientific journals on insurance indeed serve as good publication. The packaging and delivery of information by a competent authority must be able to build society awareness in making use of the insurance industry.

9) Counseling Program

As explained, the insurance industry is aimed at the educated layer of the society. Therefore, one of the ways to educate the society is through counseling, which may be done by conducting insurance counseling to campuses. The campus community is a highly educated society, who have the potential of having an income raise from time to time. This counseling program can also be achieved by coming to schools or to individual associations.

10) Insurance Exchange

The insurance exchange is part of the education process held by the AAI in collaboration with the relevant actors. This is done in the form of exhibitions, seminar, etc. Society education through the activities conducted as part of the insurance exchange is an exemplary process in raising society awareness in purchasing insurance.

³¹ Junaedy Ganie, *Op.cit.*, p. 273.

11) Insurance Marketing

In offering an insurance package, an agent will usually explain the general benefits of insurance and try to entice the potential customer into purchasing the insurance. A good agent or broker will be truthful in explaining the actual condition and providing the necessary explanations to the customer without being asked beforehand. Therefore, in the marketing of insurance there must be a standard clause which puts the obligation on the insurer, insurance agent or broker to explain to the fullest extent the contents of the policy before the guaranteed signs the policy or pays the agreed amount of premium. In this position, the potential customer must be given a chance to decline or proceed with the offered insurance program.

12) The Educators

Based on the foregoing, the educators should be the insurance company offering its services, the agents of an insurance company, an insurance broker, the AAI and the government (the Otoritas Jasa Keuangan [lit. Financial Services Authority']) as the regulator.

C. Conclusion

After reflecting on the explanations regarding policy, customer protection and society education on insurance above, the following conclusions can be drawn:

An insurance policy must contain balanced and detailed information on the rights and obligations of both the insurer as well as the guaranteed, whether in terms of claim settlement, the fulfillment of obligation by the insurance company to the policyholders upon the revocation of the company's business license or upon the company's insolvency.

In the effort to increase society participation in insuring themselves, especially with life insurance, there needs to be a detailed regulation as regards the protection that guarantees the certainty of the fulfillment of obligation by the insurance company to the policyholders, and this must be expressly contained in the policy.

Educating the society on a balanced information regarding the rights and obligations of both the insurance company and the policyholders through various media and other means of information distribution is an effort to raise society awareness of the benefits of insurance, the potential risks, and what to do when faced with a problem regarding claims or the fulfillment of the company's obligation to the policy-holders.

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