

Legal Guarantees For Fishermen's Work Risks

Faisal Riza¹, Ramlan²

^{1,2}Fakultas Hukum Universitas Muhammadiyah Sumatera Utara

Kpt. Muchtar Basri No.3, Glugur Darat II, Kec. Medan Timur,

Kota Medan, Sumatera Utara 20238

E-mail: faisalriza@umsu.ac.id (Corresponding Author)

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ABSTRACT

The insurance program for fishermen must be continued and developed to guarantee the future life of fishermen's families. Currently the government has provided insurance policies to fishermen from Sabang to Merauke. Fishermen's Insurance Premium Assistance is considered very important, to guarantee fishermen who die and disappear on the high seas while working. Fishermen need to be guaranteed protection for their lives and work accidents they experience, the impact of that is that fishermen's families and even fishermen themselves have the confidence to carry out their activities at sea. The form of government attention in carrying out an effort aimed at protecting fishermen and their families through the provision of the Insurance Premium Assistance Program for Fishermen (BPAN). Law of the Republic of Indonesia Number 07 of 2016 concerning the Protection and Empowerment of Fishermen, Fish Farmers and Salt Farmers has regulated the provision of protection for work risks experienced by fishermen through the provision of insurance. Providing insurance through the Insurance Premium Assistance Program for Fishermen (BPAN) is a program to guarantee better fishermen's activities in the fishing business, so that the rights and obligations of fishermen become clear and will be protected in their fishing business activities. However, the fishermen's insurance premium assistance program is still not running effectively, many fishermen do not know about it and the implementation of socialization has not been evenly distributed. As a result, fishermen do not know how to be registered as beneficiaries of fishermen's insurance benefits, how much they actually have to get and how to get it (claims) if they experience risks in working as fishermen.

Keywords: Collateral, Insurance, Fishermen.

INTRODUCTION

The potential of natural resources contained in the sea is very rich and varied. If the marine potential is utilized properly, it will be able to improve the standard of living of the people, especially in coastal areas that have the closest access to marine product management. A country that is very rich and has various kinds of abundant natural wealth from its marine potential (Riza, 2019), causes a part of the population to live and live in coastal areas and work as fishermen.

Fishing activities in the sea have a high risk, because fishing vessels are operated from calm waters to waters with very big waves. The safety factor of ships and fishermen is

something that needs to be considered for the success of fishing activities. The problem of work safety at sea and ship safety for now is not only a concern of the Indonesian government, but has become the world's attention (Putra, 2017). The risks that are often experienced by fishermen include shipwreck accidents, ship aground, ship fires, ship collisions, and ship capsizes. Various factors can cause this to happen including human error, natural or weather conditions, and other technical factors.

Apart from that, the low income of fishermen is because fishermen are very dependent on weather conditions when going to sea to catch fish. In general, fishermen go to sea at night, because at night the wind blows from land to sea (land breeze). Therefore, fishermen must follow natural rhythms to find fish in the sea. When going to sea, it is not impossible for weather changes to occur which can result in loss of life, or loss of income from fishermen, and have an impact on loss of sources of income to support the family. (Rani, 2016). The risk of bad weather or other events that could result in the loss of fishermen's lives or loss of income. Therefore, the government provides insurance compensation for fishermen who die while doing activities at sea.

The form of the government's attention in making efforts aimed at protecting fishermen and their families is through the Fisherman Insurance Premium Assistance (BPAN) program. (Yudo, 2018). The Insurance Premium Assistance Program for Fishermen (BPAN) is a program to guarantee better fishermen's activities in the fishing business, so that fishermen's rights and obligations become clear and will be protected in their fishing business activities.

The insurance premium assistance program is one of the protection strategies carried out by the government. One of these strategies is the protection of fishermen against guaranteed risks of fishing, fish farming and salt. As a form of legal protection for fishermen, the existence of insurance is highly expected by fishermen.

Fisherman insurance is specifically intended for someone who works as a fisherman in order to improve their quality of life. However, not all fishermen know the mechanisms and rules related to the provision of this assistance. Business actors who are required by law also have not provided guarantees for the risks of fishermen's work in the form of accident insurance and life insurance. In order to guarantee protection for fishermen through the assistance of fisherman insurance premiums so that they are conveyed properly, accountably and on target as well as complying with statutory provisions, it is necessary to conduct a study on this matter..

RESEARCH METHOD

This type of research is normative legal research. Based on this type of research, the approaches that can be used are statutory, conceptual and analytical approaches (Ibrahim, 2011), with the nature of research that is descriptive. The data in this study are sourced from secondary data, which consists of three legal materials, namely primary legal materials in the form of norms, basic regulations, legislation, while secondary legal materials in the form of research results, reference books, scientific journals and other legal library materials relevant to this research, and tertiary legal materials in the form of dictionaries, encyclopedias and so on. The data collection tool in this research is library research or document research.

DISCUSS AND ANALYSIS

Legal Guarantees For Fishermen's Work Risks

In general, every job will certainly have risks, whether big or small depending on the work being done. Likewise, work as a fisherman certainly has a far greater risk than other jobs. The fishermen's work area is in the middle of the sea, the risk of sinking and being lost at sea is a possibility. In addition, the risks faced by fishermen are loss or damage to fishing facilities, work accidents or loss of fishermen's lives, and other risks experienced are natural disasters, fish disease outbreaks, the impact of climate change and pollution.

A very difficult situation is faced by fishermen when dealing with climate change and weather which often occurs suddenly (Mansur, 2017), This condition is the most vulnerable to be faced by fishermen, especially small fishermen. In addition, fishermen are also faced with increasing difficulty in obtaining fuel, and in addition to that, many shallow river channels become the entry and exit routes for fishermen causing ships to run aground. Not to mention the needs of fishermen's families for various important facilities on land, including those related to health and education (Sulaiman, 2014).

Fishermen are considered to contribute a lot to the community's economy, therefore guarantees of legal protection and empowerment of fishermen are very necessary and must always be improved as an effort to strengthen fishermen who are one of Indonesia's human resources, and improve the welfare of fishermen (Retnowati, 2011). To guarantee protection, empower and improve the welfare of fishermen, the government provides an insurance assistance program for fishermen.

Everyone whose livelihood is fishing for mastfish is protected from the risks of natural disasters, climate change and pollution. Therefore, between ship owners and charterers who carry out fishing or fish farming activities involving fishermen must make a work agreement or production sharing agreement in writing. Work agreements or production sharing agreements made in writing are carried out based on fair principles, benefiting both parties, and taking into account local wisdom. The local regional government is obliged to assist fishermen in making work agreements or production sharing agreements. The work agreement that is made must at least contain rights and obligations, the term of the agreement, and options for dispute resolution.

Against the risks experienced by fishermen, one of the rights of fishermen that was promised was to get guaranteed protection in the form of insurance. Fishermen's insurance, also known as fisheries insurance, is an agreement between fishermen and an insurance company to bind themselves to the risk coverage of fishing or fish farming.

Fishermen certainly do not understand and it will be difficult to deal directly with the insurance company, therefore the government in accordance with its authority facilitates every fisherman to become a fishery insurance participant and people who do fishery business or fishery business actors are obliged to provide protection against the risk of fishing through fishery insurance for work accidents and life insurance for loss of life.

Fishing communities must get protection in the form of guarantees (Zainuddin & Riza, 2021), If risk guarantees for fishermen are not provided so that fishermen are not protected, then anyone who does not provide protection for said risks shall be punished with imprisonment for a maximum of 3 (three) years and/or a fine of up to Rp. 5,000,000,000.00 (five billion rupiah).

The objectives of providing protection to fishermen include protecting fishermen from the risk of natural disasters, climate change, pollution, as well as providing security and safety guarantees when carrying out activities as fishermen. The government is responsible for providing protection to fishermen in implementing insurance, the government can assign state-owned enterprises or regionally-owned enterprises in the insurance sector to carry out Fisheries Insurance.

In order to facilitate fishermen to become participants in fisheries insurance so that the risks of working as fishermen are guaranteed, the central and regional governments provide convenience for fishermen registration to become participants, facilitate fishermen's access to insurance companies, carry out socialization of insurance programs for fishermen and insurance companies, and provide premium payment assistance. life insurance, fisheries insurance for fishermen in accordance with the state's financial capacity.

Insurance Guarantees Work Risks Experienced by Fishermen

Fishing work has a high risk, this work can threaten safety and life. When carrying out fishing activities, fishermen are often faced with unfriendly weather which results in accidents at sea. Therefore, the attention of the government and fisheries business actors is highly expected.

The government through the Ministry of Maritime Affairs and Fisheries (KKP) provides Fishermen's Insurance Premium Assistance (BPAN) to fishermen in all parts of Indonesia. This is intended to guarantee better fishing activities so that their rights and obligations are clearer and more protected. The benefits obtained from Fishermen Insurance Premium Assistance (BPAN) include peace and comfort for fishermen and increased awareness of fishermen to continue insurance independently.

Since the fishermen's insurance premium assistance program was launched, the Government, in this case the Ministry of Maritime Affairs and Fisheries (KKP), has issued 143,600 fishermen's insurance policies in 34 (thirty four) provinces throughout Indonesia. In 2017, the Ministry of Maritime Affairs and Fisheries (KKP) is targeting Fisherman Insurance Premium Assistance for 500,000 people. The benefit value in the form of compensation for accidents caused by fishing activities is Rp. 200,000,000/person if it causes death, Rp. 100,000,000/person if it causes permanent disability and Rp. 20,000,000/person for medical expenses. For compensation for accidents due to other than fishing activities, benefits are given in the amount of Rp. 160,000,000/person if it causes death (including death due to non-accidents/natural deaths), Rp. 100,000,000/person for those with permanent disabilities, and medical expenses of IDR 20,000,000/person (Bogor, n.d.).

The Ministry of Maritime Affairs and Fisheries through the Directorate General of Capture Fisheries has implemented a fisherman insurance protection program since 2016 through BPAN activities whose financing is charged through the Central APBN. The achievements of Fishermen's Insurance Premium Assistance (BPAN) activities from 2016-2019 were as many as 1,198,177 fishermen with a realized value of coverage benefits reaching more than 406 billion. Given the limited budget allocation for financing and taking into account the potential for small fishermen in Indonesia, which is still very large, the coverage period is only valid for 1 (one) year. The Ministry of Maritime Affairs and Fisheries (KKP) in 2021 will

add as many as 120,000 fishermen who have self-protection guarantees through Fisherman Insurance Premium Assistance (BPAN).

To carry out the guarantee program, the government issued implementing regulations from the provisions of Law Number 7 of 2016 concerning the Protection and Empowerment of Fishermen, Fish Farmers and Salt Farmers. Some of these rules regulate the mechanism of the insurance program including:

- a. Regulation of the Minister of Maritime Affairs and Fisheries of the Republic of Indonesia Number 18/Permen-Kp/2016 Concerning Risk Protection Guarantees for Fishermen, Fish Farmers and Salt Farmers.
- b. Regulation of the Minister of Maritime Affairs and Fisheries of the Republic of Indonesia Number 39/Permen-Kp/2017 Concerning Maritime and Fishery Business Actor Cards.
- c. Regulation of the Minister of Maritime Affairs and Fisheries of the Republic of Indonesia Number 2 of 2021 concerning Distribution of Government Assistance within the Ministry of Maritime Affairs and Fisheries.
- d. Decree of the Minister of Maritime Affairs and Fisheries of the Republic of Indonesia Number 31 of 2021 concerning Technical Guidelines for Fishermen Insurance Premium Assistance for the 2021 Fiscal Year.
- e. Regulation of the Director General of Capture Fisheries Number 1/Per-Djpt/2017 Concerning Technical Instructions for Insurance Premium Assistance for Fishermen in 2017.
- f. Regulation of the Director General of Capture Fisheries Number 3/Per-Djpt/2018 Concerning Technical Guidelines for Fisherman Insurance Premium Assistance at the Directorate General of Capture Fisheries.
- g. Decree of the Director General of Capture Fisheries Number 16 of 2021 concerning Technical Guidelines for Fishermen Insurance Premium Assistance for the 2022 Fiscal Year.

Insurance is a form of risk transfer. The considerations that arise in making a decision on the form of risk treatment are based on whether the risks that have been identified because of these uncertainties can be prevented, avoided, borne alone, or must be transferred to other parties (Ganie, 2011). Insurance is given to small fishermen and traditional fishermen. Fisherman Insurance Premium Assistance is a form of protection for fishermen for the continuation of fishing business activities.

Based on the Decree of the Director General of Capture Fisheries Number 16 of 2021 concerning Technical Guidelines for Fisherman Insurance Premium Assistance for the 2022 Fiscal Year, fishermen's insurance premium assistance in the form of life insurance premium payment assistance is provided in the form of money to the insurer by the Directorate General of Capture Fisheries of the Ministry of Maritime Affairs and Fisheries which is carried out by the Unit Secretariat Work of the Directorate General of Capture Fisheries.

There are several conditions that must be met in order for fishermen to receive insurance premium assistance from the government, namely:

- a. Registered in the KUSUKA (individual) module on the satudata.kkp.go.id page
KUSUKA is the single identity of marine and fishery business actors, which functions as the identity of marine and fishery business actors, as a database to

facilitate protection and empowerment of marine and fishery business actors, services and guidance of marine and fishery business actors, and as a means for monitoring and evaluation implementation of ministry programs.

- b. The highest age is 65 years on December 31, 2022
- c. Small fishermen or traditional fishermen (the scope of marine and fisheries business actors) who use fishing vessels of no more than 5 (five) gross tonnage or do not use fishing vessels
- d. Do not use fishing gear that is prohibited based on statutory provisions
- e. Preference will be given to those who have never received an insurance program from a ministry, provincial or district/city regional government, or have received an insurance program from a ministry, provincial or district/city government but the insurance policy has expired or the type of risk covered is different.

After the requirements are met, Fishermen Prospective Recipients of Fishermen's Insurance Premium Assistance (NCP-BPAN) then submit an application to the Directorate of Licensing and Fisheries through the Service in the Regency/City for further identification and validation. Data from the identification and validation results are then inputted into the government assistance module on the satudata.kkp.go.id page. then the Directorate of Licensing and Fisheries selects, determines, and certifies the NCP-BPAN as NP-BPAN (Fishermen Recipient of Fisherman Insurance Premium Assistance). The insurer issues a policy and a Fisherman's Insurance card (KAN) and carries out the process of billing premium payments to the Directorate of Licensing and Fisheries.

In addition, fishermen can currently propose themselves as potential recipients of Fishermen's Insurance Premium Assistance (CP-BPAN) directly/independently via the satudata.kkp.go.id page. do the registration process with the Fisherman Insurance Premium Assistance (BPAN) option, check the National Identity Number (NIK) to make sure it has been registered in the KUSUKA module or not. If not registered, fishermen must fill out the KUSUKA form and then propose as recipients of Fisherman Insurance Premium Assistance in the Government Assistance module, and wait for the identification and validation results. After going through the stages of the identification, selection, verification and validation processes, the insurer distributes copies of the realized policy and the Fisherman's Insurance Card (printed/electronic) to the insured through the District/City Office no later than 14 (fourteen) calendar days.

The insurance claim process when the insured has an accident, death, disappearance, permanent disability while carrying out fishing activities, namely:

- a. The claim is submitted by the insured/heir no later than 30 (thirty) days from the date of incident.
- b. The insured/warrior/family/community reports the incident to the village head or lurah/head of district or city service/syahbandar/local police, to then make a report of the incident.

The insurer will verify the claim and determine the status of the claim no later than 6 (six) working days after the claim document is complete. The insurer and the district/city office immediately process the death benefits and give them to the heirs if the insured dies. Claim payments are made by the insurer based on the report on the claim decision (BAKK). Claim

benefits must be paid to fishermen as the insured no later than 7 (seven) working days to the account of the insured/heir after the date of signing the minutes of the claim decision.

CLOSURE

Conclusion

Legal Guarantee for Fishermen's Work Risks Through Fisherman Insurance Premium Assistance Fishermen's work risks have been legally guaranteed by Law Number 7 of 2016 concerning the Protection and Empowerment of Fishermen, Fish Cultivators and Salt Farmers. If risk insurance is not given to fishermen, causing fishermen to be unprotected, then anyone who does not provide protection for this risk shall be subject to imprisonment for a maximum of 3 (three) years and/or a fine of up to Rp. 5,000,000,000.00 (five billion rupiah). The mechanism for providing legal guarantees for fishermen's work risks through fishermen's insurance premium assistance (BPAN) is guided by Decree of the Directorate General of Capture Fisheries No. 16 of 2021 concerning Technical Guidelines for Fishermen's Insurance Premium Assistance for the 2022 Fiscal Year. Fishermen must be registered in the KUSUKA module on the [satudata.kkp page. go.id](http://satudata.kkp.go.id) and complete the general administrative and special administrative requirements specified in the regulation.

Suggestion

It is better for the government or other stakeholders to continue to provide socialization or legal counseling related to the existence of risk guarantees for fishermen who carry out their work activities. The purpose of the socialization is so that all people understand that there is a guarantee for work risks provided by the government or other parties related to this matter. It is better if the mechanism for administering coverage and benefit claims is not complicated, because fishermen are not familiar with administrative matters. Fishermen surrender to the administration that must be prepared, so that this is used by irresponsible people who ultimately harm fishermen.

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