

Legal Guarantee of Fisherman Employment Risk through Fisherman Insurance Premium Assistance (BPAN)

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ABSTRACT

The number of fishermen who have not received legal protection against safety guarantees has created concerns. So that fishermen need the government's role in getting guarantees in the form of insurance. Insurance programs for fishermen must be continued and developed to ensure the future of fishermen's families. Currently, the government assumes that it has provided insurance policies to all fishermen. Fisherman Insurance Premium Assistance is considered important to ensure protection for their lives and work accidents so that all fishermen and fishermen's families have the confidence to carry out their activities at sea. The provision of insurance through the Insurance Premium Assistance Program for Fishermen (BPAN) is a program to ensure better fisherman activities in the fishing business so that the rights and obligations of fishermen are clear and will be protected in their fishing business activities. As the Law of the Republic of Indonesia Number 07 of 2016 concerning the Protection and Empowerment of Fishermen, Fish Cultivators, and Salt Farmers, has regulated the provision of protection for the work risks experienced by fishermen through the provision of insurance.

KEYWORDS

Legal guarantee; work risk; fisherman insurance premium assistance

INTRODUCTION

Aquatic resources have a dual role as natural resources in supporting aquatic ecosystems, and human life, as well as important components of economic development.^{1,2} The potential of natural resources in the sea is rich and diverse. If the potential of the sea 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 the management of marine products. The country is very rich and has various kinds of abundant natural resources from its marine potential,³ causing some of the population to live and live in coastal areas and work as fishermen. Fishing activities at sea have a high risk because fishing vessels are operated from calm waters to waters with very large waves. The safety of ships and fishermen are things that need to be considered for the success of the application of fish.⁴ The issue of work safety at sea and ship safety, for now, is not only a concern of the Indonesian

¹ Ibrahim, Y. 2007. Komunitas pulau dalam era pembangunan : terpingir atau memingir? J. Akademika 70 (1): 57-76.

² Wantu, F. M., Mahdi, I., Purba, A. S., Haris, I., & Amal, B. K. (2021). The Law on Plant Protection, an Effort to Save Indonesia's Earth: A Review of International Publications. *International Journal of Modern Agriculture*, 10(1), 867-879.

³ Faisal Riza, et al. "Bentuk-Bentuk Tindak Pidana Perikanan". (Medan: Pustaka Prima. 2019), 1.

⁴ Purwangka, F., Wisudo, S. H., Iskandar, B. H., & Haluan, J. (2013). Kebijakan Internasional mengenai Keselamatan Nelayan. *Buletin PSP*, 21(1), 51-65.

government but has become a worldwide concern.⁵ The risks that are often experienced by fishermen include shipwreck accidents, ship aground, fire boats, collision ships, and overturned ships. 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 due to the fact that fishermen are very dependent on weather conditions when they go 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 the rhythm of nature to find fish in the sea. At sea, weather changes can result in loss of life or loss of income from fishermen and have an impact on the loss of sources of income to support families.⁶ The risk of bad weather or other events can result in the loss of fishermen's lives or loss of income. Therefore, the government provides insurance compensation for fishermen who die while carrying out activities at sea.

The government's attention in making efforts aimed at protecting fishermen and their families is through the program of providing Fisherman Insurance Premium Assistance (BPAN).⁷ The Insurance Premium Assistance Program for Fishermen is a program to ensure better fisherman activities in the fishing business so that the rights and obligations of fishermen are 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 for the security of fishing, fish cultivation and salt.⁸ As a form of legal protection expected for fishermen, the existence of insurance is very important for fishermen.

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

RESEARCH METHODS

Collecting data in this study using normative law. Based on this type of research, the approach that can be used is a statutory, conceptual and analytical approach, with the nature of the research being descriptive. The data in this study were sourced from secondary data consisting of three legal materials, namely primary legal materials in the form of norms, basic regulations, and legislation, while secondary legal materials in the form of research results, reference books, scientific journals and other legal library materials relevant to the research. and tertiary legal materials in the form of dictionaries, encyclopedias and so on. The data collection tool in this research is a literature study or document study. The research focuses on using normative legal data analysis related to the

⁵ Ryan Suryadi Putra, dkk. "Pengelolaan Keselamatan Kerja Nelayan di PPI Batukaras Kabupaten Pangandaran". (Jurnal Albacore, Vol. 1, No. 1, 2017), 38.

⁶ Marnia Rani. "Insurance Protection For Fishermen". (Jurnal Selat. Vol. 4., Nomor 1, 2016), 2.

⁷ Nurwono Yudo, dkk. "Persepsi Masyarakat Nelayan Terhadap Program Bantuan Asuransi bagi Nelayan (BPAN) Kecamatan Panai Hilir Kabupaten Labuhan Batu Provinsi Sumatera Utara". (Pekan Baru: Universitas Riau, Fakultas Perikanan dan Kelautan. 2018), 3.

⁸ See Article 12 paragraph (2) letter (d) of the Law of the Republic of Indonesia Number 7 of 2016 concerning the Protection and Empowerment of Fishermen, Fish Cultivators and Salt Farmers.

problems faced by fishermen because there are still discrepancies in the implementation of the Fisherman Insurance Premium Assistance (BPAN) program.

RESULTS AND DISCUSSION

Legal Guarantee of Fisherman's Work Risks Through the Assistance of Fisherman's Insurance Premiums

In general, every job must have risks, both big and small depending on the work being done. Likewise, working as a fisherman certainly has a much greater risk than other jobs. The fisherman's work area is in the middle of the sea, so the risk of drowning and being lost at sea is very possible. In addition, the risks faced by fishermen are loss or damage to fishing facilities, work accidents or loss of life of fishermen, and other risks experienced, namely natural disasters, fish disease outbreaks, the impact of climate change and pollution.

The situation is very difficult that fishermen to face when facing climate change and weather that often occurs suddenly⁹, the most vulnerable conditions faced by fishermen, especially small fishermen. Apart from that, fishermen are also dealing with the increasing difficulty of getting fuel, and besides that, many shallow river channels are the entry and exit routes for fishermen, causing boats to run aground. Not to mention related to the needs of fishermen's families for various important facilities on land, including health and education.¹⁰ Fishermen are considered to have contributed a lot to the community's economy¹¹, therefore the guarantee of legal protection and empowerment of fishermen is very necessary and must increase efforts to improve fisheries which are one of Indonesia's human resources, as well as improve the welfare of fishermen.¹² To guarantee protection, empower and improve the welfare of fishermen, the government provides insurance assistance programs for fishermen.

Everyone whose livelihood is fishing must be protected from the risk of natural disasters, climate change and weather. Therefore, between the owner and the charterer of the vessel that engages in fish or fish farming activities involving fishermen, they must make a written work agreement or profit-sharing agreement. Work agreements or profit-sharing agreements made in writing are carried out based on fair principles, beneficial to both parties, and taking into account local wisdom. The local government is obliged to assist fishermen in making such profit-sharing agreements or agreements. The work agreement made must at least contain rights and obligations, the term of the agreement, and options for dispute resolution.¹³

The number of risks experienced by fishermen, the rights of fishermen, one of which is agreed upon is to get a guarantee of protection in the form of insurance. Fisherman insurance or also known as fishery insurance¹⁴ is an agreement between fishermen and the

⁹ Teuku Muttaqin Mansur. "Pengaturan Hukum Perlindungan Nelayan Kecil". (Jurnal: Kanun Ilmu Hukum. Vol. 19, No. 3, 2017), 384

¹⁰ Sulaiman, et al. "Pembangunan Hukum Perlindungan Nelayan Tradisional di Aceh dalam Kaitan Pemanfaatan Sumber Daya Perikanan Secara Berkeadilan". (Jurnal Media Hukum. Vol. 21, No. 2, 2014), 309-321.

¹¹ Nireka Weeratunge, et. al., Small-scale Fisheries Through the Wellbeing Lens, Fish and Fisheries, 15, 2014, pp. 255-279.

¹² Endang Retnowati. "Nelayan Indonesia dalam Pusaran Kemiskinan Struktural (Perspektif Sosial, Ekonomi, dan Hukum)", (Perspektif. Vol. XVI No. 3. 2011), 149 – 159.

¹³ See Article 28-29 of Law Number 7 of 2016 concerning the Protection and Empowerment of Fishermen, Fish Cultivators, and Salt Farmers.

¹⁴ See Article 28-29 of Law Number 7 of 2016 concerning the Protection and Empowerment of Fishermen, Fish Cultivators, and Salt Farmers.

insurance company to bind themselves to the risk of fishing or fish farming. Fishermen certainly do not understand and it will be difficult to deal directly with insurance companies, therefore the government according to its authority facilitates every fisherman to become a participant in fisheries insurance and people who carry out fishing business or fisheries business actors are obliged to protect against fishing risks through fishery insurance for work accidents and life insurance for loss of life.

The fishing community must get protection in the form of guarantees,¹⁵ if guarantees for fishermen are not given, causing fishermen to be unprotected, then anyone who does not provide protection against these risks will be subject to a maximum imprisonment of 3 (three) years and/or a maximum fine of Rp. 5.000,000,000.00 (five billion rupiah). The purpose of providing protection to fishermen, among others, is to protect fishermen from the risk of natural disasters, and climate change, and to provide security and safety guarantees when carrying out activities as fishermen. The government carries out providing protection to fishermen in insurance, the government can assign state-owned enterprises or regional-owned enterprises in the insurance sector to implement Fishery Insurance.

To facilitate fisheries becoming participants in fishery insurance in order to take the risk of working as fishermen, both central and local governments provide easy registration to become participants, easy access for fishermen to insurance companies, carry out outreach programs to fishermen and insurance companies and provide assistance in paying life insurance premiums, fishery insurance for fishermen in accordance with the state's financial capacity.

The Mechanism of Providing Legal Guarantees for Fishermen's Work Risks through Fisherman Insurance Premium Assistance (BPAN)

The work of fishermen has a high risk, the 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 fishery business actors is highly expected. The government through the Ministry of Maritime Affairs and Fisheries (KKP) provides Fisherman Insurance Premium Assistance (BPAN) to fishermen throughout Indonesia. This is intended to ensure better fishermen's activities in fishing efforts so that their rights and obligations are increasingly clear and protected. Benefits obtained from Fisherman Insurance Premium Assistance (BPAN) include peace and comfort for fishermen and increased awareness of fishermen to continue insurance independently. With the legal relationship that forms the basis for fishermen's insurance, the fisherman's insurance policy agreement can be in accordance with the disbursement mechanism planned by the government.¹⁶

Since the introduction of the fisherman insurance premium assistance program, 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) targets Fisherman Insurance Premium Assistance for 500,000 people. The value of benefits in the form of compensation for accidents due to 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 other than fishing, a benefit of Rp.

¹⁵ Zainuddin, Faisal Riza. Melindungi Nelayan dari Persoalan Hukum Melalui Lembaga bantuan Hukum. (Jurnal Ilmu Hukum: Delegalata. Vol. 6, No. 2, Jan-Juli 2021), 133.

¹⁶ Murty, T. (2020). Pelaksanaan Perjanjian Asuransi Nelayan. *Simbur Cahaya*, 27(2), 158-175.

160,000,000/person if causing death (including death due to other than accident/natural death), Rp. 100,000,000/person for those with a permanent disability, and medical expenses of Rp. 20,000,000/person.¹⁷

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 State Budget. The achievements of Fisherman Insurance Premium Assistance (BPAN) activities from 2016-2019 were 1,198,177 fishermen with a total coverage benefit of more than 406 billion. Due to the limited budget allocation for financing and taking into account the potential of small fishermen in Indonesia, which is still very large, the insurance period is only valid for 1 (one) year.¹⁸ The Ministry of Maritime Affairs and Fisheries (KKP) 2021 will add as many as 120,000 fishermen who have Personal Protection Guarantees through Fisherman Insurance Premium Assistance (BPAN).¹⁹

To implement the guarantee program, the government issued a regulation from the provisions of Law No. 7 of 2016 concerning the Protection and Empowerment of Fishermen, Fish Cultivators, 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 Guaranteed Risk Protection for Fishermen, Fish Cultivators, and Salt Farmers.
- b. Regulation of the Minister of Maritime Affairs and Fisheries of the Republic of Indonesia Number 39/Permen-Kp/2017 concerning Marine 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 Marine Affairs and Fisheries of the Republic of Indonesia Number 31 of 2021 concerning Technical Guidelines for Assistance for Fisherman Insurance Premiums for the Fiscal Year 2021.
- e. Regulation of the Director General of Capture Fisheries Number 1/Per-Djpt/2017 concerning Technical Guidelines 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 Assistance for Fisherman Insurance Premiums at the Directorate General of Capture Fisheries.
- g. Decree of the Director General of Capture Fisheries Number 16 of 2021 concerning Technical Guidelines for Assistance for Fisherman Insurance Premiums for the Fiscal Year 2022.

Insurance is a form of change. The considerations that arise in making decisions on the form of risk management are based on whether the risks that are not successful due to the

¹⁷ Portal Resmi Kabupaten Bogor. "Bantuan Premi Asuransi Nelayan".

<https://bogorkab.go.id/post/detail/bantuan-premi-asuransi-nelayan>. (Berita Terkini. Accessed Wednesday, August 17, 2022, 14.44 wib).

¹⁸ Direktorat Jenderal Perikanan Tangkap Kementerian Kelautan dan Perikanan. "Sosialisasi dan Gerai Kepesertaan Nelayan pada Asuransi dan Jaminan Hari Tua Nelayan Tahun 2022 di Kota Cirebon". (<https://kkp.go.id/djpt/ppnkejawanana/artikel/41883-sosialisasi-dan-gerai-kepesertaan-nelayan-pada-asuransi-dan-jaminan-hari-tua-nelayan-tahun-2022-di-kota-cirebon>). Accessed Wednesday, August 17, 2022. 14.59 wib.

¹⁹ Fanny Nurul Hotimah. KKP Pastikan 120.000 Nelayan Dapat Bantuan Asuransi di Tahun 2021. (<https://www.cuplik.com/read/16411/KKP-Pastikan-120000-Nelayan-Dapat-Bantuan-Asuransi-di-Tahun-2021> Accessed Wednesday, August 17, 2022. 15.13 wib).

uncertainty can be avoided, borne by themselves, or must be transferred to other parties.²⁰ Insurance is provided to small fishermen and traditional fishermen. Fisherman Insurance Premium Assistance is a form of protection for fishermen for the sustainability of fishing business activities.

Based on the Decree of the Director General of Capture Fisheries Number 16 of 2021 concerning Technical Guidelines for Assistance for Fisherman Insurance Premiums for the Fiscal Year 2022, fisherman insurance premium assistance in the form of life insurance premium payment assistance is given in the form of money to the insurer by the Directorate General of Capture Fisheries of the Ministry of Maritime Affairs and Fisheries carried out by the Marine and Fisheries Unit. Secretariat work of the Directorate General of Capture Fisheries. There are several conditions that must be met for fishermen to receive premium insurance assistance from the government, namely:

- a. Registered in the KUSUKA module (individual) on the satudata.kkp.go.id page
KUSUKA is the single identity of marine and fishery business actors,²¹ which functions as the identity of marine and fishery business actors, as a database to facilitate the protection and empowerment of marine and fishery business actors, services and development of marine and fishery business actors, and as a means for monitoring and evaluation. implementation of ministry programs.
- b. The maximum age is 65 years on December 31, 2022.
- c. Small fishermen or traditional fishermen (the scope of marine and fishery business actors)²² who use fishing vessels with a maximum size of 5 (five) gross tonnage or do not use fishing vessels
- d. Not using fishing gear that is prohibited under the provisions of laws and regulations.
- e. Preference will be given to those who have never received an insurance program from a ministry, provincial or district/city government, or have received an insurance program from a ministry, provincial or district/city government but the insurance policy has expired or the types of risks guaranteed are different.

After fulfilling the requirements, then the Candidate Fishermen Recipient of Fisherman Insurance Premium Assistance (NCP-BPAN) submits an application to the Directorate of Licensing and Fisheries through the District/City Service Office for further validation and validation. The results of knowing and validating data are then inputted into the government assistance module²³ on the satudata.kkp.go.id page. then the directorate of licensing and fishing will select, determine, and ratify the NCP-BPAN as NP-BPAN (Fishermen Recipient of Fisherman Insurance Premium Assistance). Insurers issue Fisherman Insurance (KAN) policies and cards and process premium payment collections to the Directorate of Licensing and Fisheries.

In addition, currently, fishermen can propose themselves as potential recipients of Fisherman Insurance Premium Assistance (CP-BPAN) directly/independently through the satudata.kkp.go.id page. Perform the registration process with the option of Helping Fishermen Insurance Premiums (BPAN), and check the Population Identification Number

²⁰ A. Junaedy Ganie. "Hukum Asuransi Indonesia". (Jakarta: Sinar Grafika. 2011), 2.

²¹ See Article 1 number (12) of the Regulation of the Minister of Maritime Affairs and Fisheries of the Republic of Indonesia Number 39/PERMEN-KP/2017 concerning Marine and Fishery Business Actor Cards.

²² See Article 1 number (12) of the Regulation of the Minister of Maritime Affairs and Fisheries of the Republic of Indonesia Number 39/PERMEN-KP/2017 concerning Marine and Fishery Business Actor Cards

²³ Government assistance is assistance that does not meet the criteria for social assistance provided by the government to individuals, community groups, or government/non-government institutions. See Article 1 point (1) Regulation of the Minister of Marine 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.

(NIK) to make sure it has been registered in the KUSUKA module or not. If it has not been recorded, the fisherman must fill out the KUSUKA form then propose as a recipient of the Fisherman Insurance Premium Assistance in the Government Assistance module, and wait for the results of the inspection and validation. After going through the process of knowing, knowing, verifying and validating, distributing Fisherman Insurance policies and cards to parties no later than 14 calendar days.

Insurance claims when the insured has an accident, death, loss, permanent disability while carrying out fishing activities, namely:

- a. Claims are submitted by the insured/heirs no later than 30 (thirty) days from the date of the incident.
- b. The insured/insured/family/community reports the incident to the village head or lurah/head of district or city office/syahbandar/local police, for which an incident report is made.

If fishermen who receive insurance premium assistance want to make a claim, then the documents that need to be prepared consist of two types, namely:

- a. General Documents
 1. Minutes of events
 2. Claim submission
 3. Fisherman Insurance Card
 4. Identity Card of the insured for claims for medical expenses and permanent disability
 5. Identity Card of heirs and family card (certificate of village head/lurah) if the insured experiences death/loss at sea.
 6. Bank account of the insured or heir
- b. Special Documents
 1. Claims for death due to accident, lost at sea or otherwise:
 - a. Police certificate in the case of traffic accidents or violence/criminal acts.
 - b. A certificate from a doctor/hospital stating the cause of death (if died in a hospital/clinic).
 - c. A stamped statement of chronological events from the heirs, known by the head of the neighbourhood.
 - d. Death certificate/deed from the competent authority.
 2. Claims for permanent disability due to accident
 - a. Police statement letter in the event of a traffic accident containing a chronology of events.
 - b. A certificate from a doctor/hospital explaining permanent disability.
 3. Claim medical expenses due to accident
 - a. Police statement letter in the event of a traffic accident containing a chronology of events.
 - b. Original receipt of medical expenses from the hospital/clinic along with details for claiming medical expenses.

The Insurer will make a claim and determine the status of the claim no later than 6 (six) working days after claiming complete documents. The insurer and the district/city service immediately process the death insurance benefit and give it to the heirs if the insured dies. the claim is made by the insurer based on the minutes of the claim decision (BAKK). mandatory benefits for seven fishermen as insured no later than 7 (seven) days to the account of the heirs after the date of the minute of claim decision.

CONCLUSION

The work risk of fishermen has been legally guaranteed by Law Number 7 of 2016 concerning the Protection and Empowerment of Fishermen, Fish Cultivators, and Salt Farmers. If risk guarantees for fishermen are not given, causing fishermen to be unprotected, then anyone who does not provide protection against such risks shall be punished with imprisonment for a maximum of 3 (three) years and/or a fine of a maximum of Rp. 5,000,000,000.00 (five billion rupiah). The mechanism for providing legal guarantees for fishermen's work risks through Fisherman Insurance Premium Assistance (BPAN) is guided by the Decree of the Directorate General of Capture Fisheries Number 16 of 2021 concerning Technical Guidelines for Assistance for Fishermen Insurance Premiums for the Fiscal Year 2022. Fishermen must be registered in the KUSUKA module on the saturated.kkp.page.go.id and complete the general administration and special administration requirements that have been specified in the regulation.

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