

Prospects And Challenges Of Shar'i Insurance in Efforts to Compensate Victimsof Natrual Disaster in Indonesia

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Abstract

The presence of sharia insurance in Indonesia complements the presence of types of insurance in Indonesia. The existence of sharia insurance in an effort to compensate victims of natural disasters is very important because the existence of Muslims requires halal certainty from insurance, how it differs from conventional products, what are the prospects in Indonesia and what are the challenges faced. Qualitative descriptive method was chosen to describe the condition of Islamic insurance in Indonesia. The results of the study indicate that in the development of sharia insurance in an effort to compensate victims of natural disasters, there are prospects, obstacles and various supports needed for the development of sharia insurance in Indonesia, synergy between Ulama, government Umara in the form of regulation and supervision

I. Introduction

The growth of insurance in general in 2018 was only 9 percent compared to the previous year which was always in double digits, this of course also affected the growth of sharia insurance in Indonesia as reported by CNN Indonesia news. soul, namely Jiwasraya and Bumiputera. As stated by YLKI which mentions that in 2018 it recorded 21 complaints from the insurance industry and up to mid-2019 8 complaints. The data revealed by YLKI include public confidence in the insurance industry declining due to cases of major insurance defaults, such as

Jiwasraya and Bumi Putera. Based on data from the Social Security Administering Body (BPJS), participants in the National Health Insurance (JKN) program totaled 196.66 million people. This amount is equivalent to 74% of the total population of Indonesia, which is estimated to reach 265 million people in 2018.

The largest number of BPJS Health participants are Health Insurance Contribution Assistance Recipients (PBI) financed by the APBN budget, which reached 92.27 million people or around 46.92% of the total. Then participants from private Wage Recipient Workers (PPU) 27.92 million (14.2%) and Non-Wage Recipient Participants (PBPU) 27.65 million (14.06%).⁶ Sharia Insurance was born on the basis of the concept of an insurance agreement (at-ta'min contract) is a new type of contract that never existed in the early days of the development of Islamic fiqh. Therefore, this issue raises debate among contemporary scholars. Meanwhile, Muslims need legal certainty about this. For this reason, as an effort to provide a sense of security and certainty, it is discussed from the understanding, the basis of the Qur'an and hadith, the origin of insurance and the opinions of scholars and the fatwa of the Ulema Council regarding insurance based on sharia. The need for insurance services is increasingly felt by both individuals and businesses in Indonesia. Insurance is a financial means in managing household life, both in facing basic risks or in dealing with risks to the assets owned. Likewise, the law in the business world that carries out its activities when facing various risks that may interfere with the continuity of its business.

Disaster management is part of disaster management policy in order to protect the government, society, and the private sector against the impact of disasters. The central government and local governments have an obligation to provide sufficient funds through the State Revenue and Expenditure Budget (APBN) and the Regional Revenue and Expenditure Budget (APBD).

Communities and the private sector that have the financial capacity to provide funds to protect their businesses and assets against the risks and impacts of disasters. Disaster management financing includes financing for non-disaster periods (pre-disaster financing), emergency response financing when a disaster occurs, and financing for rehabilitation and reconstruction carried out after the completion of the emergency response period (post-disaster financing). Graph 1 shows the characteristics of financing needs after a disaster occurs. Funding for disaster emergencies is not as large as financing for the rehabilitation and reconstruction phase, however, funding for disaster emergency response needs to be provided and distributed quickly and accurately to disaster victims. The reconstruction phase requires the largest financing with a longer duration for rebuilding damaged and destroyed infrastructure.

The Law of 24/2007 also states that what is meant by disaster risk is the potential loss caused by a disaster in an area and a certain period of time which can be in the form of death, injury, illness, life threatened, loss of sense of security, impact of displacement, damage or loss of property, and disruption of community activities. On the other hand, Law 24/2017 also regulates the stages of disaster management which include pre-disaster, during emergency response and post-disaster. The purpose of implementing disaster management in the Law includes the provision of funds and management of disaster assistance in the three stages referred to. This law is also the basis for the establishment of BNPB. To support the implementation of this Law, Government Regulation (PP) Number 21 of 2008 was also issued concerning the Implementation of Disaster Management, which among other things regulates the mechanism for the allocation of budget allocation funds to meet disaster financing needs. In addition, the Government also specifically regulates the financing of disaster management in PP No. 22 of 2008 concerning Funding and Management of Disaster Aid. This PP clearly states that the APBN and APBD are required to

provide funds over three periods as stated in Law 24/2007. Disaster management financing is also included in several other regulations, such as Law Number 33 of 2004 concerning Financial Balance between the Central Government and Regional Governments.

This law regulates emergency funds originating from the APBN to be allocated to regions experiencing disasters which are declared as national disasters, which cannot be handled by regions using APBD sources. Furthermore, PP Number 44 of 2012 concerning Emergency Funds regulates 8 disaster financing by the Central Government and regional governments, namely the APBN allocation provided for reconstruction and rehabilitation after a disaster, including for the restoration of public services carried out by Regional Owned Enterprises. In the context of the management of State Property (BMN), Minister of Finance Regulation (PMK) Number 247/PMK.06/2016 concerning BMN Insurance, states that in the context of securing BMN and supporting the smooth functioning of government administration, the Government can insure BMN located in the region. prone to natural disasters which will have a major impact on public services if damaged or lost. This PMK is a technical level regulation from PP No. 27/2016 on the Management of BMN and BMD. For the implementation of BMN insurance, the explanation of Article 37 of Law Number 40 of 2014 concerning Insurance can be used as a reference in the development of insurance products. The explanation states that the government and/or the Financial Services Authority may provide facilities for the establishment of an insurance pool or consortium for certain risks, such as natural disasters. Within the framework of the relationship between the Central Government and regional governments, there is also the Minister of Home Affairs Regulation Number 46 of 2008 concerning Organizational Guidelines and Work Procedures for Regional Disaster Management Agency (BPBD). This regulation explains about BPBD

financing sourced from the APBD and the relationship between BPBD and BNPB in disaster management activities.

Insurance in Islamic literature is not found specifically which has the meaning of insurance, only in Arabic language Insurance is called attaimin, the insurer is called mu'ammin, while the insured is called mu'amman lahu or usta'min. at-ta'min (يُمْتَلَأُ) taken from the word (أَم) has the meaning of providing protection, tranquility, security, and freedom from fear, as Allah says, "It is Allah who secures them from fear." (Quraisy): 8 As a reference for understanding sharia insurance, the National Sharia Council of the Indonesian Ulema Council (DSN-MUI) in its fatwa on general guidelines for sharia insurance provides a definition of insurance, sharia insurance (Ta'min, takaful, tadhamun) is an effort to protect and help each other -help among a number of people/parties through investment in the form of assets and or tabarru' that provides a pattern of returns to face certain risks through a contract (commitment) that is in accordance with sharia⁹ In the Encyclopedia of Islamic law that insurance (at-ta'min) is an agreement transaction between two parties; the first party is obliged to pay contributions and the other party is obliged to provide full guarantees to the contributors if something happens to the first party with the agreement made. Men-Ta'min-kan something means that someone pays or submits installments so that he or his heirs get the money as agreed, or get compensation for their lost property, it is said "a person insures or insures his life, house or car." Completing the treasures of the meaning of insurance can also be understood by looking at various expert opinions including: a. Al-Fanjari defines tadhamun, takaful, at-ta'min or sharia insurance with the understanding of mutual responsibility or social responsibility. He also divides ta'min into three parts, namely ta'min at-ta'awuni, ta'min al tijari, and ta'min al Hukumiy.¹⁰ b. Mushtafa Ahmad Zaraq, the meaning of insurance in terms is an event. The methodologies and

descriptions may vary, but in essence, insurance is a way or method to protect humans from avoiding the risks (threats) of various hazards that will occur in their lives in the course of their life activities or in their economic activities.¹¹ c. Husain Hamid Hisan said that insurance is an attitude of ta'awun that has been arranged in a very neat system, between a large number of people. Everyone was ready to anticipate an event. If some of them experience this incident, then all of them help each other in dealing with the event with a small gift (charity) given by each participant. ¹². Thus, insurance is a commendable ta'awun, which helps each other in doing good and piety. With ta'awun they help each other, and they are afraid of the danger (catastrophe) that threatens them. In the Fatwa of DSN No.21/DSN-MUI/X/2001 concerning General Guidelines for Sharia Insurance, the first part states the definition of Sharia Insurance (ta'min, takaful' or tadhmun) is an effort to protect and help each other among a number of people or parties through investment. in the form of a set and or tabarru that provides

10 Asy'ari Suparmin, Sharia Insurance, Law and its operations, Uwais Issuer 2019

11 Ibid

12 Ibid

5 a pattern of returns to face certain risks through contracts or engagements that are in accordance with sharia. Sharia insurance is mutual protection and mutual help known as ta'awun, namely the principle of life that protects and helps each other on the basis of ukhuwah Islamiyah between fellow members of sharia insurance in the face of uncertain things that can be detrimental.

2. Research Method

The research method used to examine the condition of the natural object, the researcher as the key instrument. The data collection technique is done by triangulation, while the data analysis is inductive. The type of research used by the researcher is descriptive type. This type of research is used in qualitative

research in the sense that the researcher describes in depth how the existing control system in the company will be described in a clear and structured manner. Data analysis is a systematic process of searching and arranging interviews, field notes, and other materials that have been obtained. The data analysis technique used in this research is qualitative data analysis. According to Miles and Huberman, qualitative data analysis is carried out interactively through the process of data reduction, data display, and verification. In analyzing qualitative research data, it means the process of systematizing what is being researched and arranging the results of the interviews as to what is done and understood so that researchers can present what they get to others. The main purpose of data analysis in qualitative research is to find the meaning behind the data, through the recognition of the culprit subject.

3. Results and Discussion

Indonesia's geographical position, which is located on the movement of three world plates (Eurasia, Indo-Australia and the Pacific) and volcanic clusters, exposes Indonesia to high disaster risk. According to BNPB, there are nine types of disasters that often occur in Indonesia, including earthquakes, tsunamis, volcanic eruptions, floods and flash floods, landslides, forest and land fires, extreme weather, extreme waves, and drought. Earthquakes, tsunamis, floods, fires, landslides and volcanoes are types of disasters that have a large impact on Indonesia. A. Losses Due to Past Disasters The National Disaster Management Plan (RENAS PB) notes that in the period 2004–2013 Indonesia experienced various disasters with a total loss of Rp. 126.7 trillion. Meanwhile, the average value of direct economic losses in the form of damage to buildings and non-buildings due to the multiple disasters experienced by Indonesia, from 2000 to 2016 reached Rp. 22.85 trillion per year.

Earthquake is a disaster that causes the largest economic loss in Indonesia with an average loss of Rp. 7.56 trillion per year, followed by forest and land fires of Rp. 5.32 trillion per year, and flooding of Rp. 4.64 trillion (Graph 3). The Aceh earthquake and tsunami that occurred in 2004, for example, resulted in direct losses of Rp. 51.40 trillion. Losses experienced by regions in Indonesia vary from one province to another. The province of Nanggroe Aceh Darussalam (NAD) was the area that suffered the biggest losses, which was around Rp. 4.7 trillion per year (mainly caused by the 2004 earthquake and tsunami) with North Kalimantan as the province with the least losses.

B. Potential Losses in the Future

Natural disasters are expected to cause economic and physical losses that will continue to increase in the future if there are no policy improvements and increased overall mitigation, preparedness and risk transfer efforts. The magnitude of the loss was caused by the increase in population, massive infrastructure development, increase in production area, expansion of territory, and concentration of population in urban areas. Efforts to improve and increase the carrying capacity of the environment and improve the quality of infrastructure that is resistant to disasters have a major role in mitigating the impact of disasters. Based on an assessment carried out by the Ministry of National Development Planning/Bappenas and BNPB, the potential risk of loss of life and losses caused by disasters that occur in Indonesia will continue to increase where around 246 million people are exposed to disaster risk in 2015. Furthermore, Sumatra Island, Java- Bali and Central Sulawesi are areas that have a high risk of economic loss in the event of a disaster taking into account the distribution of the population in these areas. The estimated large loss based on this distribution is in line with the projections of the Central Statistics Agency (BPS) which states that by 2035 Indonesia's population will be concentrated on the islands of Java-Bali (54.7%) and Sumatra Island (22.4%).

The implementation of disaster risk financing policies and schemes currently faces several challenges, particularly with regard to limited fiscal capacity. However, there are also opportunities that can be exploited in improving disaster finance governance that are relevant for Indonesia in the future. 1. Challenges

There are three main challenges that impact on the adequacy of disaster financing. a. The financing approach that has been carried out by the Government so far is more likely to be reactive with most of the disaster financing focused on the post-disaster phase. The reactive financing approach is carried out during the emergency response, rehabilitation and reconstruction period, with the majority of funding coming from the APBN. Although the Disaster Management Law mandates that disaster management, including its financing, can be carried out during periods of non-disaster and periods of potential disaster, during and after a disaster, the regulations governing pre-disaster financing have not been formulated comprehensively. Considering that there is no regulation that regulates the details of financing for intangible goods or services such as purchasing insurance premiums for disasters, the Government does not make expenditures in the context of transferring risk to disasters. In the past, the purchase of such premiums could be considered a state loss if there was no claim payment (payout) in the future. b. There are funding limitations if the reactive approach through the APBN cycle continues: First, the limited capacity of the APBN as a result of the realization and projection of mandatory spending (mandatory spending), limits the Government from adding fund allocations for disaster risk financing. Graph 2 describes the development and projections of mandatory spending during the 2013-2021 period which increases in line with the increase in the number of APBN. On the other hand, the need for disaster financing is generally greater than the allocated budget funds. Second, the APBN expenditure approach has different characteristics from the expenditure needs for disaster management. The APBN approach, which is an annual government

operational plan at the central and regional levels, is relatively rigid because it goes through technical, political, and performance-based budgeting stages and has regulatory limits of authority. Meanwhile, the impact of a massive and sudden disaster is not limited by administrative boundaries which require the involvement of many parties in the entire period of disaster management. c. The large number of parties involved in disaster financing poses challenges and risks in disbursing funds during the emergency response and after a disaster occurs. These risks are in the form of 10 limits of authority and responsibility, coordination challenges, accuracy of distribution (time and target), and governance transparency. Risks also occur during non-disaster periods in an effort to fund mitigation and preparedness activities that are integrated with national disaster management. One example is the relationship between BNPB and BPBD, where BNPB is a government institution at the central level, while BPBD is a regional apparatus at the provincial and district/city levels who are responsible to regional heads. BNPB financing comes from the APBN while BPBD comes from the APBD.

Disaster pooling fund is a special disaster fund management scheme by a fund management agency that acts as a complement to the state budget. This scheme is one of the breakthroughs in disaster risk financing policy because of its ability to provide funds for pre-disaster, emergency response, and post-disaster financing in a sustainable manner. Fund management institutions have a dual role as investment and financing managers. Funds managed by fund management institutions can be sourced from fund participation or annual allocations from the APBN, regional governments, investment returns on managed funds, proceeds from payment of insurance claims, and donations from national and international donors. Fund management institutions can also play a role in channeling funds to related ministries/agencies, local governments, communities, and the private sector for financing emergency response,

rehabilitation and reconstruction. Fund management institutions can act as fund managers and representatives of the Government in dealing with various related parties. Fund management institutions can liaise with national and international insurance industries for financing under risk transfer schemes. Pooling funds can be done with two institutional options, namely: (1) by establishing a new institution, for example an institution with the financial management of the Public Service Agency (BLU); or (2) by assigning an existing government institution or state-owned enterprise (BUMN) to carry out the role as fund manager. The choice of one of the two options requires an in-depth study, especially regarding the role of fund managers, the costs and benefits of the chosen option, whether or not there are institutions that have similar roles, business models, outputs, and outcomes of disaster fund managers.

4. Conclusion

In buying insurance products, the selected insurance scheme can be adjusted to the risk characteristics and needs. For the need for repair or rebuilding of assets affected by the disaster, the insurance scheme that can be used is the indemnity or total loss scheme, namely an insurance contract where the insurance company will provide compensation according to the value of the loss by taking into account the contents of the agreed contract. In this scheme, claim payments take a long time because the loss appraiser, both from the insurance company and a third party (loss adjuster), must first conduct an assessment or valuation of the damaged assets. For the need for rapid infrastructure rebuilding and financing during the emergency response period, for example for the construction of emergency service infrastructure for the community and rebuilding basic and vital infrastructure, a more appropriate insurance scheme is parametric. Payment of claims in this scheme can be made immediately after the fulfillment of the conditions or triggers for payment of claims. One example of a trigger is the agreed earthquake scale size, for example

VII the MMI scale. This scheme is suitable for protection against hospitals, roads, bridges, schools, and service offices.

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