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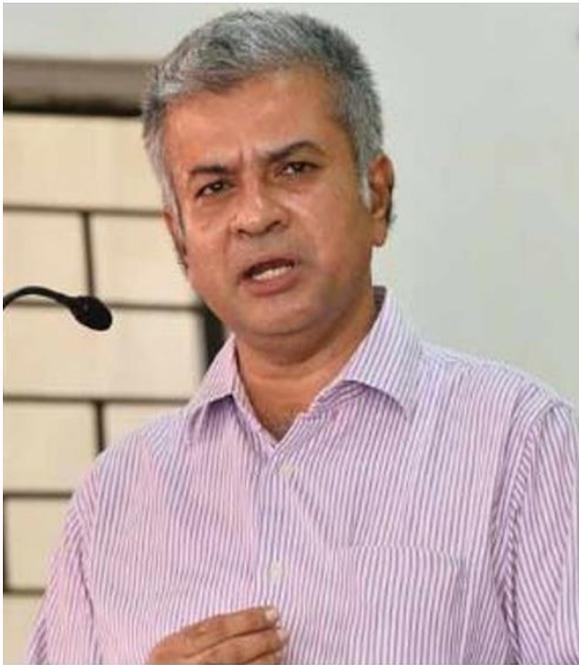
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WHITE BLACK LEGAL is an open access, peer-reviewed and refereed journal provided dedicated to express views on topical legal issues, thereby generating a cross current of ideas on emerging matters. This platform shall also ignite the initiative and desire of young law students to contribute in the field of law. The erudite response of legal luminaries shall be solicited to enable readers to explore challenges that lie before law makers, lawyers and the society at large, in the event of the ever changing social, economic and technological scenario.

With this thought, we hereby present to you

W H I T E B L A C K
L E G A L

THE ROLE OF INSURANCE OMBUDSMAN AND THE IRDAI IN INDIA: A CRITICAL ANALYSIS

AUTHORED BY - RAMAN GOYAL & RITURAJ DERHGAWEN

Abstract

The insurance sector in India is governed by a robust regulatory framework designed to protect policyholders' rights and ensure fair treatment. Two key institutions play a crucial role in this framework: the Insurance Regulatory and Development Authority of India (IRDAI) and the Insurance Ombudsman. While the IRDAI is responsible for the regulation and supervision of the insurance industry, the Insurance Ombudsman provides an alternative dispute resolution mechanism for policyholders with grievances against insurers. This paper critically examines the roles, functions, and effectiveness of both the IRDAI and the Insurance Ombudsman in ensuring consumer protection and resolving insurance disputes. It further analyzes legal and regulatory provisions, explores case studies, and evaluates potential reforms to enhance the efficiency of these institutions.¹

Introduction

The Indian insurance sector has witnessed significant growth and transformation since its liberalization in 2000. With the increasing penetration of insurance products, the number of consumer grievances has also risen, necessitating an efficient dispute resolution mechanism. In response to these challenges, the IRDAI was established in 1999 under the Insurance Regulatory and Development Authority Act to regulate and develop the insurance sector. Additionally, the Insurance Ombudsman scheme, introduced in 1998, provides an alternative dispute resolution forum for policyholders facing grievances related to insurance claims, premiums, and unfair trade practices.²

This paper critically evaluates the legal and institutional framework of the IRDAI and the Insurance Ombudsman, their effectiveness in protecting consumer rights, and the challenges

¹ Mallikarjun Dr, G., 2022. ROLE OF IRDAI IN PROMOTING E-COMMERCE IN INSURANCE SECTOR WHILE ENSURING POLICYHOLDER PROTECTION. International Journal on Consumer Law and Practice, 10(1), p.8.

² Goda, M., 2015. IRDAI and Grievance redressal in Insurance Sector. IRDAI Journal, 13(12).

they face in ensuring policyholder satisfaction.

The Insurance Regulatory and Development Authority of India (IRDAI)

1. Establishment and Legal Framework

The IRDAI was established under the Insurance Regulatory and Development Authority Act, 1999 (IRDA Act, 1999) with the mandate to regulate and develop the insurance industry. The authority oversees both life and general insurance sectors, ensuring their smooth functioning while protecting policyholders' interests.

The IRDAI derives its regulatory powers from:

- Insurance Act, 1938
- IRDA Act, 1999
- Consumer Protection Act, 2019 (in relation to insurance disputes)
- Ombudsman Rules, 2017 (concerning grievance redressal mechanisms)³

2. Functions and Powers of the IRDAI

The IRDAI performs several critical functions, including:

a. Regulatory Functions

- Licensing and regulating insurers, agents, and intermediaries.
- Ensuring financial stability and solvency of insurance companies.
- Prescribing investment norms for insurers.

b. Developmental Functions

- Promoting fair competition in the insurance sector.
- Encouraging innovation and penetration of insurance in rural areas.
- Enhancing consumer awareness about insurance policies.

c. Protective Functions

- Monitoring and redressing consumer grievances.
- Issuing regulations on fair business practices.
- Supervising adherence to ethical standards in policy sales.

3. Role of IRDAI in Consumer Protection

The IRDAI has taken multiple initiatives to safeguard policyholders, such as:

- The Integrated Grievance Management System (IGMS): An online portal for consumers to lodge complaints.

³ Mallikarjun, G., 2022. Role of Ir dai in Promoting E-Commerce in Insurance Sector While Ensuring Policyholder Protection. IJCLP, 10, p.136.

- The Policyholder Protection Regulations, 2017: Providing guidelines on fair treatment of consumers.
- The Ombudsman Scheme, 2017: Establishing a structured redressal forum.

Despite these measures, challenges remain in ensuring quick and effective resolution of disputes, necessitating a closer look at the Insurance Ombudsman mechanism.

The Insurance Ombudsman: A Consumer-Centric Dispute Resolution Mechanism

1. Establishment and Legal Framework

The Insurance Ombudsman scheme was first introduced in 1998 by the Government of India and was later revised under the Insurance Ombudsman Rules, 2017, notified by the IRDAI.⁴

The scheme aims to provide a cost-effective, efficient, and impartial alternative dispute resolution mechanism for policyholders. The Executive Council of Insurers (ECI) appoints the Ombudsman, ensuring industry participation while maintaining independence.

2. Jurisdiction and Functions

The Insurance Ombudsman addresses complaints related to:

- Non-settlement or delayed settlement of claims.
- Disputes regarding policy terms and conditions.
- Premium payment disputes.
- Mis-selling of insurance products.

The Ombudsman's jurisdiction extends to claims up to ₹50 lakh, making it accessible for small and medium-scale policyholders.

3. Procedure for Filing a Complaint

Policyholders can file complaints with the Ombudsman under the following conditions:

1. The complaint must first be filed with the insurer.
2. If the insurer does not resolve the issue within 30 days, or the response is unsatisfactory, the policyholder can approach the Ombudsman.
3. The complaint should be filed within one year of receiving the insurer's response.

⁴ Goda, M., 2019. Insurance Ombudsman for Policyholder Protection-Revised Framework and Its Effectiveness. IRDAI Journal, 17(1).

The Ombudsman follows an informal, arbitration-like process where hearings are conducted in a non-adversarial manner. Unlike courts, the process is free of cost for complainants.⁵

4. Binding Nature of Ombudsman Decisions

- If the complainant accepts the Ombudsman’s award, it becomes binding on the insurer.
- If the insurer fails to comply, IRDAI ensures enforcement.
- If the complainant is dissatisfied, they retain the right to approach consumer forums or courts.

5. Success Rate and Challenges

The Ombudsman mechanism has been effective in resolving a significant number of disputes. However, several challenges persist:

- Limited jurisdiction (₹50 lakh cap may exclude large claims).
- Understaffing and delays in some offices.
- Lack of awareness among policyholders about the Ombudsman’s role.
- Non-binding nature of awards for complainants, leading to legal complications.⁶

Comparative Analysis: IRDAI vs. Insurance Ombudsman

Aspect	IRDAI	Insurance Ombudsman
Nature	Regulatory Body	Dispute Resolution Forum
Functions	Policy formulation, licensing, consumer protection	Resolving disputes, grievance redressal
Jurisdiction	Entire insurance sector	Individual policyholder complaints (up to ₹50 lakh)
Binding Nature	Regulations are binding	Awards binding on insurers but optional for policyholders
Process	Formal, bureaucratic	Informal, cost-free

While both institutions serve consumer interests, the Ombudsman provides a faster and more accessible resolution mechanism than traditional litigation or regulatory complaints.

⁵ Dhawan, Y. and Marwaha, V., 2020. Position of Ombudsman in India. Issue 2 Int'l JL Mgmt. & Human., 3, p.641.

⁶ Dash, B., 2020. Ombudsman: The Armour of Fair Business. *Nyaayshastra L. Rev.*, 1, p.1.

Case Studies: Effectiveness of the Ombudsman in India

Case 1: Delayed Claim Settlement

A policyholder's health insurance claim was rejected due to an alleged "pre-existing condition." The Ombudsman ruled that the insurer had failed to prove material misrepresentation and directed payment of ₹5 lakh.⁷

Case 2: Mis-Selling of ULIP

A senior citizen was misled into purchasing a Unit Linked Insurance Plan (ULIP) without disclosure of risks. The Ombudsman directed the insurer to refund the premium.

These cases highlight the Ombudsman's consumer-friendly and equitable approach.⁸

Reforms and Recommendations

To enhance the effectiveness of these mechanisms, the following reforms are suggested:

1. Expanding Ombudsman's Jurisdiction

- Raising the claim limit from ₹50 lakh to ₹1 crore.
- Allowing group policyholders and corporate clients to file complaints.

2. Strengthening Enforcement

- Making Ombudsman awards binding on both parties.
- Granting the Ombudsman authority to impose penalties for non-compliance.

3. Enhancing Awareness

- Nationwide awareness campaigns on grievance redressal mechanisms.
- Mandating insurers to prominently display Ombudsman contact details.

4. Digital Transformation

- Expanding the use of AI-based dispute resolution for faster claim settlements.
- Strengthening the Integrated Grievance Management System (IGMS) to improve efficiency.⁹

⁷ Ronghangpi, M. and Roy, N.D., 2020. Dispute Settlement Mechanism about Claims under Life Insurance: A Legal Study. Issue 5 Int'l JL Mgmt. & Human., 3, p.25.

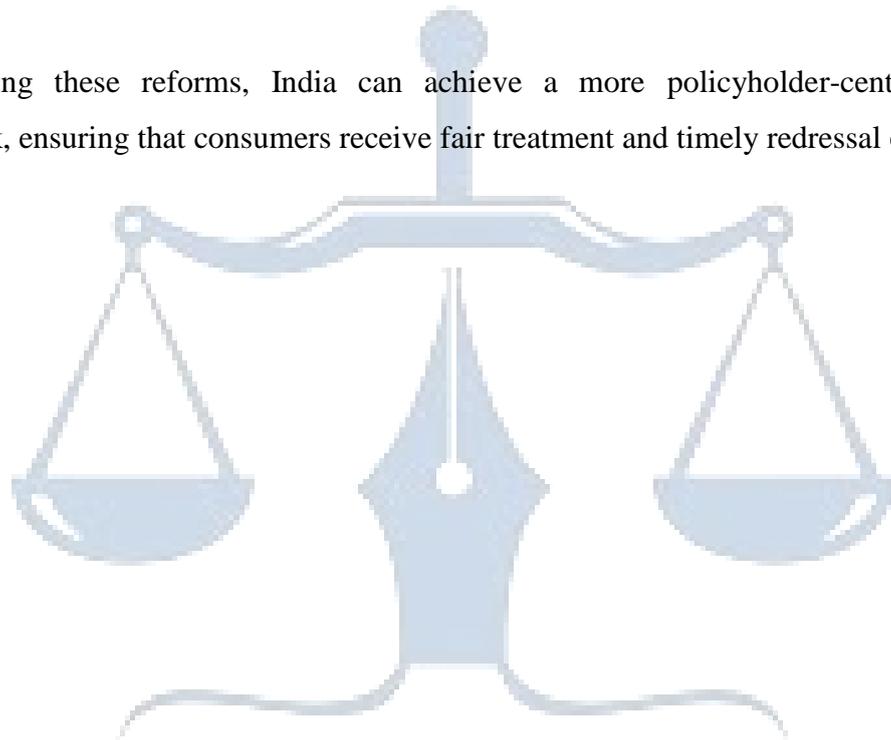
⁸ Sane, R., Thomas, S. and Halan, M., 2013. Estimating losses to customers on account of mis-selling life insurance policies in India.

⁹ Jindal, M., Agarwal, K. and Saha, A., 2023. Use of AI in Determination and Settlement of Insurance Claim: A Comparative Analysis of India with Other Jurisdictions. Jus Corpus LJ, 4, p.657.

Conclusion

The IRDAI and the Insurance Ombudsman play complementary roles in ensuring a fair and transparent insurance sector in India. While the IRDAI regulates and monitors industry practices, the Ombudsman provides a direct consumer redressal forum. However, challenges such as jurisdictional limitations, enforcement issues, and procedural delays persist. Strengthening the Ombudsman mechanism through expanded jurisdiction, better enforcement, and digital initiatives can significantly enhance consumer protection in India's growing insurance market.

By adopting these reforms, India can achieve a more policyholder-centric insurance framework, ensuring that consumers receive fair treatment and timely redressal of grievances.



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