CHAPTER-IX

CONCLUSION AND SUGGESTIONS

“Believe that life is worth living and your belief will help create this fact.”

William James
A. CONCLUSIONS

Everyone who is born will die some day. Death is certain but, no one can predict the time of his death.\textsuperscript{1} The unpredictably as to its time, has been a source of great fear and anxiety to the man since time immemorial. But, in modern times, life insurance has emerged as a device to get rid of this fear and anxiety as it supports the destined dependents of the insured after his sudden death and empowers him to eliminate the economic risk faced by his family due to his sudden death or loss of his earnings.\textsuperscript{2}

The institution of life insurance is an intelligent expression of man’s will to live and is conclusive evidence of his success in the instinctive search for security.\textsuperscript{3} It is the greatest blessing that modern times have bestowed upon mankind as it enables men to overleap the barrier of death; to overcome the grim fear i.e., that his loved ones may someday become dependents on the charity of others; it enables him to project himself into the future and in real sense, even if he dies to live again.\textsuperscript{4}

In insurance, the uncertain risks of individuals are combined in a grasp, and thus, made more certain; small periodic contributions of the individuals providing a fund out of which those who suffer losses are reimbursed. It is a cooperative device to spread the loss caused by a particular risk over a number of people who are exposed to it and who agree to insure themselves against the risk.\textsuperscript{5}

In legal terms, a contract of insurance can be understood as a contract where one party the insurer undertakes to pay to another person the insured a sum of money i.e. the claim or its equivalent on the happening of a specified event and thereby

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\textsuperscript{1} Extracts from Ancient Indian Scripture \textit{“The Bhagvat Gita”}.
\textsuperscript{3} www.kni.in/kni_dlr/AIF01L14001_2.htm. Accessed on 24/3/14 at 11:00 A.M.
\textsuperscript{4} www.abebooks.com/books-search/author/bh-venkateshwara-rao-prasanna-kumar-biswasroy/page-1. Accessed on 21/3/14 at 4:00 P.M.
\textsuperscript{5} Supra Ch. II, nn.4-5.
agrees to take the risk of another person i.e. the insured’s life, limb or property in consideration of small periodic payments called the premium.\textsuperscript{6}

In this sense, life insurance is the business of affecting the contracts of insurance upon human life including any contract whereby the payment of money is assured on death or the happening of any contingency dependant on human life and any contract which is subject to the payment of premium for a term dependant on human life.\textsuperscript{7}

In modern times, various new forms of insurance have been developed but, undoubtedly, the most popular form of insurance remains to be life insurance. There is no statutory definition of life insurance, but it has been defined as a contract of insurance whereby the insured agrees to pay a certain sum called premium, at specified time, and in consideration thereof the insurer agreed to pay certain sums of money on certain condition and in specified way upon happening of a particular event contingent upon the duration of human life.\textsuperscript{8}

One peculiar concept of life insurance is the concept of insurable interest. Insurable interest is the interest in the safety and protection of subject matter of insurance. It arises out of the pecuniary relationship that exists between the policy holder and the life assured so that the policy holder stands to lose by death of the assured or continues to gain by his continued existence.\textsuperscript{9}

In family relationships like parent and child and husband and wife insurable interest is presumed to exist whereas in business or contractual relationship like creditor and debtor and between partners, insurable interest arises due to pecuniary

\textsuperscript{6}Id; n.6.
\textsuperscript{8}Supra Ch. II, nn. 7-13.
\textsuperscript{9}Id; nn. 26-31.
relationship between proposer and the life assured.\textsuperscript{10} In absence of insurable interest the contract of life insurance is void.

The contract of life insurance is a standard form of contract and incorporates all the essentials of a valid contract prescribed by the Indian Contract Act, that is, an agreement, competency of parities, free consent, consideration, and lawful object making the life insurance policy a legal contract between the company and the person insured.\textsuperscript{11} However the nature of life insurance contact varies from other contracts in the sense that it is a contract of `utmost good faith', contract of indemnity, contract of wager and an aleatory contract.\textsuperscript{12}

The life insurance policy is a legal document. It contains a statement of reciprocal obligations and undertakings of two parties to the agreement and of its various terms and conditions. Although, the conditions of life insurance vary from policy to policy, but the conditions of a standard policy are proof of age, forfeiture in certain events; days of grace, revival of lapsed policies, guaranteed surrender value etc.\textsuperscript{13}

In consideration of the payment of premiums and of satisfactory evidence of insurability submitted by the applicant for insurance, the company agrees to pay at death and to assure other benefits such a disability and double indemnity benefits, if, they are included in the policy.\textsuperscript{14}

There are various modes of discharge of contract of insurance i.e., by agreement, by impossibility of performance, by breach, by performance etc. Besides these, a life insurance contract also comes to an end when the insurer pays off the claim at the death of the insured person and maturity of policy\textsuperscript{15}.

\textsuperscript{10} Id:nn.43-50.
\textsuperscript{11} Id:n.56.
\textsuperscript{12} Id:nn.51-55.
\textsuperscript{13} Id; nn. 73-86.
\textsuperscript{14} Id:nn.69-72.
\textsuperscript{15} Id:nn.87-94.
Now-a-days, various new kinds of life insurance plans are available in the market. These forms of life insurance have been baptized by various names according to the nature of terms and conditions in the different policies: term life, whole life, endowment type, money back, mortgage redemption, children’s assurance, annuity, etc.\(^\text{16}\)

The emotional and social security aspect of life insurance makes it stand apart from other forms of insurance. It has a completely different outlook as unlike general insurance; sentiments are involved in life insurance.\(^\text{17}\)

The importance of life insurance also lies in the fact that it provides people with the strength and the security that makes life worth living. It is an excellent form of social security and a tool of a welfare state. It has many advantages to its credit and plays a multidimensional role in society. It provides safety and security against the loss resulting from a particular event. Security not only dispels fear and uncertainty but also offers peace of mind. The loss of the family on the occurrence of a premature death and payment in old age are also adequately provided for by life insurance.\(^\text{18}\)

Apart from this it fulfills the various other needs of a person viz. family needs, old age needs, readjustment needs, special needs and clean up needs and thus eliminates dependency. While the primary role of a life insurance is to provide insurance coverage for managing financial risks, it also plays a very crucial role in promoting savings by selling a wide range of products and thereby actively contributes in promoting and sustaining capital market. The life insurance policies also carry special exemption from income-tax, wealth tax, gift tax and estate duty.

Underwriting of risks is the most crucial and complicated function of a life insurance company through which a proposal is converted into an insurance policy.\(^\text{19}\)

\(^{16}\) Id; nn.95-115.  
\(^{17}\) Id; nn.116-118.  
\(^{18}\) Id; nn.119-127.  
\(^{19}\) Supra Ch III, nn. 2-3.
It basically consists in, investigating and verifying the economic, physical and social conditions of a person while accepting the risk for his life.\(^{20}\) In life insurance, the age of proponent, family history, personal health and habits, moral history, geographical position and occupation are certain factors which need to be taken into consideration while calculating the risk to which an insured is exposed.\(^{21}\) The proposer is in good faith bound to disclose all the relevant and material information to the underwriter.\(^{22}\)

The process of underwriting has great importance because if the risk is wrongly assessed, the premium charged would not be appropriate and a lower premium will adversely affect the solvency of the insurer’s fund whereas a higher premium will dig a hole in the insured’s’ pocket. In either case it is unfair to one of the parties to the insurance contract.\(^{23}\)

The insurance contracts are designed and drafted by the insurer, so they have supremacy over the purchase of insurance products and services. Life insurance contract is a unilateral contract as under this contract, no mutual exchange of equivalent monetary value is done and the terms of contract are decided upon by the insurer alone. The other party i.e. the prospective policyholder has only two options i.e. either to accept or reject the contract.\(^{24}\) As there is no alternative to insurance services, the consumer is bound to purchase the service and in the process, conflicting nature of interest develops and lands them in disputes, which may extend to litigations.\(^{25}\) But the real picture of suffering is known only at the time of claims.

Claim settlement is the last obligation of the insurer under a contract of insurance; it must honor it, avoiding disputes and litigation. The life insurance claims generally arise on maturity of policy, death of policy holder and survival of the

\(^{20}\) Id;n.10.
\(^{21}\) Id;nn.6-9.
\(^{22}\) Id;nn.16-18.
\(^{23}\) Id;nn.12-13.
\(^{25}\) Ibid.
policyholder up to a specified period. The payment of these claims is made only on presentation of evidence of title which can be proved on the basis of nomination, assignment trust deed, probate, letters of administration and succession certificate etc. And subject to certain conditions, payees assured himself, his nominees, voluntary assignees, joint family members, executors and administrator are entitled to claim the policy money on discharge of policy.

Claim settlement is an important yardstick to judge the efficiency of a life insurance policy. It is a very important aspect of service to the policyholders because the performance of a life insurance company is evaluated on the basis its claim settlement operations.

But in reality, many problems of claim settlement are faced by policyholders in spite of having various provisions in law and regulations to protect their interests. When a risk takes place, the consumers want the claims to be paid, whereas the life insurance company wants to avoid the claim on small and petty technical parameters such as misinterpretation of terms and causes of the policy document, improper accounting of payment and receipt of premium at both ends (particularly in case of salary saving schemes of life insurance policies), misrepresentation and non-disclosure of information or disclosure of wrong information, non-compliance of terms of insurance contracts are given by the insurance company for avoiding claims.

The origin of the concept of insurance is adumbrated in antiquity but independent of its origin and antecedents, insurance today occupies an important place

26 Supra Ch III, nn.24-26.
27 Id.;nn.40-41.
28 Id. n. 35-39.
29 Id.;n.18.
30 Id.;nn.42-45.
31 Id.;nn.46-49.
in socio-economic life of all civic societies.\textsuperscript{32} The growth of an idea to an institution of the size and importance of insurance business today, is result of long period of evolution. It had steadily grown in power for good, “broadening down from precedent to precedent”, until today it occupied an important and essential place in the economic and social life of nation.\textsuperscript{33}

In India, insurance has a deep rooted history, but, life insurance in its existing form came to India from the United Kingdom with the establishment of a British firm Oriental Life Insurance Company in Calcutta in 1818 followed by Bombay Life Assurance Company in 1823. The early period of life insurance was dominated by foreign insurance offices which did good business in India. Later, with the call of Swadeshi Movement many Indian Companies with complete Indian capital also joined in and there was a mushrooming of life insurance companies. This indiscriminate growth led to the appearance of some evils and consequently, the first statutory measure in form of the Indian Life Insurance Act, 1912 was taken.\textsuperscript{34} The insurance business grew steadily till independence but there were many discrepancies.

After independence an important change was brought forth in the form of nationalization of insurance business and establishment of Life Insurance Corporation.\textsuperscript{35} Life Insurance Corporation enjoyed monopoly in Indian Life Insurance Industry for a period of almost five decades. During this period it played a very crucial role in the national economy by actively participating in national reconstruction and economic planning. And more than that it spread the message of life insurance in the remotest village of rural India and won over the trust of even the illiterate and ordinary people.\textsuperscript{36}

\textsuperscript{32} Supra Ch.IV, n.4.  
\textsuperscript{33} Id; nn.14-15.  
\textsuperscript{34} Id.,n.17.  
\textsuperscript{35} Id.,n.18.  
\textsuperscript{36} Id.,n.28.
LIC has been able to fulfill the expectations of the policymakers with its outstanding achievements in almost every aspect—expanding life insurance market, spreading insurance in rural areas, promoting saving habits, contributing to national development particularly through socially oriented investment and creating employment opportunities for millions of people.\(^{37}\) But, despite this wonderful success story, it was agreed that LIC had failed to exploit the vast insurance potential of the country. The low insurance penetration pointed out the fact that spread of insurance business had relatively been poorer in the country and large section of insurable population is still isolated from insurance coverage.\(^{38}\)

This predicament led to the first step towards liberalization of insurance sector and the Government appointed the Malhotra Committee.\(^{39}\) The Committee submitted its report in 1994 and recommended structural and regulatory changes to suit a newly liberalized regime. One of the significant recommendations of the committee was to open the industry for private players. To facilitate the entry of these private players it suggested setting up of an independent regulatory authority. Accordingly, the Insurance Regulatory and Development Authority (IRDA) Act, 1999 was passed; and in year 2000, IRDA was formed.\(^{40}\) It was vested with the responsibility of developing and regulating the business of insurance in India with an idea to regulate the conduct of insurance business in the best interest of various stakeholders. It promulgated regulations covering various activities of the insurance companies, both in public and private sectors.\(^{41}\)

Insurance, like any other financial activity needs to be regulated. With the opening up of the industry for private player there is not only an increase in market

\(^{38}\) Ibid. p. 91.
\(^{39}\) Ibid. p. 91.
\(^{40}\) Ibid.
\(^{41}\) Id.;n.92.
competition and product proliferation but also in the incidents of mis-selling, trading and frauds.\textsuperscript{42}

Its rapid expansion warranted a regulatory regime to check insurance transaction in the interest of its bonafide stakeholders. So, at this crossroad, insurance legislation and regulations are critical to the insurance industry as methods of strengthening the financial stability of the industry, protecting the insuring public against the negligence or misconduct of insurance companies and maintaining standards of conduct.\textsuperscript{43}

Indian life insurance market and regulatory structure, both are in a stage of evolution. The Indian Life Assurance Companies Act, 1912 was the first statutory measure to regulate life insurance business. And since 1912, as many as five insurance acts and numerous regulations have been passed to ensure the orderly development of this most vibrant sector of the Indian economy.\textsuperscript{44} Later, in 1928, the Indian Insurance Companies Act was enacted to enable government to collect statistical information about life & non-life business. Subsequently, in 1938, to protect the interest of insuring public, the Insurance Act, 1938 was passed. The Act was amended in 1950 resulting in far reaching changes in the insurance sector. After independence, the insurance business was nationalized and Life Insurance Corporation was formed in 1956 with a capital contribution of 50 million. In 1991, the government of India opened the economy with the New Economic Policy. With the winds of liberalization, insurance sector was also deregulated and private players with strong financial muscle from India and beyond were allowed to enter the market. All these developments necessitated the establishment of a supreme regulator of insurance sector and as a result the Insurance Regulatory and Development Authority, an autonomous insurance regulator which was set up in the year 1999. It has extensive

\textsuperscript{42} Supra Ch V, nn.1-5.
\textsuperscript{43} Id; nn.6-8.
\textsuperscript{44} Id; nn.10-12.
powers to oversee the insurance business in India and regulate in a manner that will safeguard the interests of insured.\textsuperscript{45} The IRDA has framed a number of rules and has imposed certain obligations on insurance companies. It expects insurers to comply with all of them without any choice.\textsuperscript{46} By the end of January, the IRDA had issued more than 70 regulations and also issued several guidelines to insurer on a variety of matters i.e. preparation of financial statements, advertisement, solvency margin, social insurance etc.\textsuperscript{47}

To study the strengths and weaknesses of the existing insurance laws and to suggest amendments for effective and efficient monitoring and development of insurance business a law commission was formed. The Law Commission of India in 190\textsuperscript{th} Report suggested various reforms to make stringent provisions for checking the vices and streamlining the existing legislation.\textsuperscript{48}

Later on, IRDA appointed the K.P. Narsimham Committee to review the suggestions of Law Commission. The committee also made far reaching recommendations regarding the provisions relating to grievance redressal, investments, shareholder’s fund and policyholders funds.\textsuperscript{49}

Grievance redressal is an important function of every customer centric industry. In this era of competition and consumer activism, the customer expectations are on rise and consequently grievances are also on rise. These grievances not only hamper peace but also block the development of industry. Therefore, it is important to redress these grievances for retaining customers and building firm’s reputation.\textsuperscript{50}

In life insurance industry the policyholder is the focal point and so the life insurance companies attach great significance to grievance redressal. The insurance

\textsuperscript{45} Id; n.21.
\textsuperscript{46} Id:n.46.
\textsuperscript{47} Id;nn.47-60.
\textsuperscript{48} Id;nn.27-37.
\textsuperscript{49} Id;nn.38-40.
\textsuperscript{50} Supra Ch. VI, nn.3-5.
industry has been provided with an array of grievance redressal mechanisms in form of grievance redressal cell, insurance ombudsman, consumer forum, lok adalats and civil court.

In the first place, a policy holder having a grievance is required to approach the grievance cell of the concerned insurer. It is incumbent for every insurer to have in place an in-house grievance redressal cell to listen and address the grievances of policyholders efficiently, expeditiously and diligently. If the aggrieved policyholder does not get a response from the insurer within reasonable time or is unhappy with the response he may approach the grievance cell of IRDA.51

This cell plays a facilitative role by taking up the matter with the respective insurer for satisfactory resolutions. It is noteworthy that grievance cell of IRDA does not have power to take action or pass order; it only investigates the matter, monitor the complaint and issue necessary directions to the concerned insurer.52

Apart from the above cells, one of the nodal agencies of Central Government, the Directorate of Public grievances also helps in obtaining responses to unresolved grievances on matters relating to some central government departments and organizations including the Life Insurance Corporation of India. It assess the gravity of complaint, investigates the grievances where complainant has failed to get redress at the hands of the internal machinery, seeks comments or directs the department to deal with complaint directly.53

The Consumer Courts established under the Consumer Protection Act, 1986, also provide speedy and inexpensive redressal to the grievances of policyholders. An aggrieved policyholder may approach the consumer courts when there is any kind of deficiency in the insurance services rendered by a life insurance company54

51 Id; nn.6-14.
52 Id; nn.15-23.
53 Id;nn.24-29,
54 Id;nn.30-48.
Furthermore, to redress the grievances of individual policyholders in a cost effective, efficient and impartial manner, the institution of Insurance Ombudsman was created by the Government of India. This institution has great importance and relevance for protection of policyholders as it is an expert in the area of insurance. It acts as a counselor, mediator as well as an adjudicator and arrives at a fair recommendation based on the facts of the case. This institution has played a vital role in generating and sustaining the faith and confidence of people in the insurance industry.\(^55\)

Apart from the above mechanisms, Arbitration is also very popular in Indian insurance industry as a consensual and non-legislative method of dispute resolution outside the usual court process. This process has a full-fledged recognition under the law and is binding on the parties. But, arbitration is available only when the insurance company has undertaken the liability under the policy and the dispute is only regarding the quantum.\(^56\)

Lok Adalat is another forum where cases pending in the court of law or pre-litigation stage are settled or compromised amicably by way of hearing before arbitration panels. Lok Adalat is a blend of all the three forms of traditional ADR: arbitration, mediation and conciliation. The Supreme Court of India has been advocating the extensive use of lok adalats to reduce the pendency of courts. This method of dispute resolution is very popular in financial matters as it is a win-win situation for both sides.\(^57\)

In the end, a dis-satisfied policyholder could also knock the doors of a Civil Court. However, the litigation experience over the years has established that the mechanism of civil court is lengthy, cumbersome and expensive. And on top of that they also lack insurance expertise needed to solve certain tricky cases.

\(^{55}\) Id;nn.49-50.  
\(^{56}\) Id;nn.60-64.  
\(^{57}\) Id;nn.65-68.
Since the performance of most of the grievance redressal mechanisms discussed above has been lack lustrous there is a need to establish a statutory, comprehensive, effective, independent Grievance Redressal Authority (GRA), which can provide justice to all the insured’s, insurer’s and intermediaries of insurance industry. Such a GRA should be invested with wide powers and jurisdiction to cover complaints from all types of insured regardless of any financial limit.\textsuperscript{58}

Recent developments in global economy have significantly impacted the structure of Indian Insurance Market through free flow of enterprise, technology, capital. These developments have triggered economic reforms, institutionalization of financial market, policyholder activism, risk-based management practices which have consequently infused the element of competition among the market players. And this competition needs to be synchronized in the best interest of all stakeholders.

While stringent statutory regulations are feared to impede the growth of this fast expanding sector, a regulatory vacuum will serve as a breeding ground for insurance frauds and other unfair practices. The insurance industry on the other hand, is in favor of an internal self control mechanism which provides the necessary operational freedom along with efficiency and transparency.\textsuperscript{59}

Since there is no straightjacket ideal solution to this, a system comprising of sound regulatory regime, corporate governance, ethical standard of business and corporate social responsibility, self regulatory organization etc. can be put in place.\textsuperscript{60}

Generally, it is the life insurance companies who provide risk management solutions to its customers but the challenge now is to manage the risk faced by the companies themselves. In view of the growing financial risks and massive investment in business, risk management has become critical for health of every life insurance

\textsuperscript{58} Id.;n. 70.
\textsuperscript{60} Supra Ch VII, n.2.
industry. So, an insurance company should put in place proper policies and procedures that enable it to identify, assess, quantify, mitigate and manage all risks that could have a material impact on their business.\textsuperscript{61}

One day all insurance companies have to pay claims to policyholders, so they are expected to put aside a certain sum to cover these liabilities. Insurance is a risky business and unforeseen events might occur anytime, resulting in higher claims than anticipated. Therefore to protect the policy holders against such unforeseen events, all insurers are required to keep solvency margins as per the regulatory norms.\textsuperscript{62}

Business Ethics on the other hand are moral principles that guide the way business behaves in its everyday operations. The code of business ethics focuses on the core objectives of business that is real service to society. The business of insurance, perhaps more than any other business is required to follow a set of ethics as they play an immensely important role in national economy and society. So, when they deal with life, trust and hard earned money of people they must behave ethically.\textsuperscript{63}

Recent corporate frauds and scandals have renewed public and political interest in corporate governance. Corporate governance refers to a system by which corporations are directed and controlled. The mechanism of corporate governance seeks to establish a well-integrated governance chain which encourages active cooperation between the corporation and its stakeholders to enhance the wealth, jobs and financial health of the organization and at the same time ensures the transparency and accountability in operation and governance.\textsuperscript{64}

Since the poor standards of corporate governance are a major grievance of domestic and foreign investors. There is a need to create a framework of best

\textsuperscript{61} \textit{Id};nn. 5-8.  
\textsuperscript{62} \textit{Id.nm.10-14}.  
\textsuperscript{63} \textit{Id.nm.24-28}.  
\textsuperscript{64} \textit{Id.nm.34-40}.
practices, structure, processes and ethics in the Indian Insurance Sector that will go a long way in fostering a culture of good governance.

In the current scheme of things business enterprises are no longer expected to play their traditional role but they need to act in an economically, socially and environmentally sustainable way, thereby integrating social, environment and ethical concerns into company’s business process. In view of this changing role of financial institutions, CSR has emerged as a global movement and an issue of great importance and concern.

This emerging concept of corporate social responsibility goes beyond charity and requires the company to act beyond its legal obligations and to In India, the CSR activities manly include: eradication of hunger and poverty, promotion of education, promoting gender equality and women empowerment, reducing child mortality and improving maternal health, combating HIV, AIDS. The public sector giant LIC as well as many other private life insurance companies have been taking part in various philanthropic activities; this not only improves their public image but also brings in more business.65

In life insurance sector there is a growing emphasis to support SRO for efficient management of industry. “Self Regulatory Organization-SRO” is a non-governmental organization that has the power to create and enforce industry regulations and standards. This regulatory organization is generally applied in addition to some form of government regulation, or to fill the regulatory vacuum. A healthy SRO system minimizes the cost of regulation; fills the gap between statutory and optimum regulation giving greater operational freedom to the corporate entities.66

IRDA who is committed to safeguard the interests of the policyholder has been promoting SRO within the insurance sector. In life insurance sector, the life insurance council who is currently discharging the functions of SRO has been

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65 *Id.* nn. 54-73.

66 *Id.* nn. 74-79.
recommending the creation of an independent self regulatory organization to ring in discipline into the life insurance industry.\textsuperscript{67}

In view of discussion of the aforesaid good governance components, it is clear that for the progress of insurance sector an appropriate system of governance is the need of the hour. The government and IRDA should take some concrete steps to strength the self governance system of life insurance industry.

Today, Indians who had always seen life insurance only as a tax saving device only are suddenly are turning to the attractive tailor-made products of private life insurers available at competitive price. The opening of the insurance sector has offered ample opportunities to both existing as well as new players to exploit the vast unexploited segments of Indian population. Not only this, the market competition and consumer activism have led to improvement in customer service and channels of distribution. At present, product innovation and technological up-gradation have become the say of the day.\textsuperscript{68}

At this juncture, Indian life insurance industry is waiting in its wings for a big leap and many Indian and foreign companies are waiting in line for the green signal to start their operations. Various forecasts have been made predicting the future growth of life insurance market in India. These forecasts differ from each other due to different underlying assumptions, but a common thread is there, that is, the scope of significant expansion of life insurance business in India.\textsuperscript{69}

Indian insurance industry has vast opportunities to expand given the large population, vast untapped potential and saturation in foreign insurance markets. The operation of LIC for the last 50 years has created tremendous amount of understanding and awareness about life insurance which is also considered to be a very positive factor directly providing an opportunity for the life insurance industry to

\textsuperscript{67} Id.nn.80-84.
\textsuperscript{68} Supra Ch VIII, nn.1-3.
\textsuperscript{69} Id.nn. 28-34.
grow further. In addition to it, the rate of growth of population, social security system, health care system, changes in custom and social practices also positively influence the size of life insurance market in India.\textsuperscript{70}

With opportunities come challenges, to exploit these opportunities the insurance sector has to first deal with some multi dimensional challenges in the area of product-market relationship, management of assets and liability, promoting ethical practices and governance, enhancing customers’ value and creating an environment of excellence and self actualization for internal stakeholders. Apart from this, to increase the coverage and penetration level a wide range of actions in the area of strategic business planning, product innovation, management accountability, efficiency in investment management, technology management, HR management, service quality management, disclosures and corporate governance are impediment.\textsuperscript{71}

We hereby conclude that the life insurance industry needs to change its structure, objectives, relationships and operations to remain true to perform its organizational role as a socio-economic intermediary.

**B. SUGGESTIONS**

Since independence, insurance has been an integral part of our national economy and a strong pillar of the Indian financial market. But, the waves of globalization have deeply influenced the insurance market worldwide and have completely changed the profile of the insured.\textsuperscript{72} Today, the insured is aware of his rights and don’t want to settle for anythin\textsuperscript{g} but the best.

The Indian Insurance is therefore, under tremendous pressure of transformation. What seems right may not be acceptable tomorrow or the day after tomorrow. In a rapidly changing world, today is not the answer; it is tomorrow or the

\textsuperscript{70} Id.nn. 69-91.
\textsuperscript{71} Id.nn. 35-68.
\textsuperscript{72} www.niapune.com/pdfs//Bimaquests/sadhak_global.pdf. Accessed on 12:00 P.M.
beyond that matters. Delivering a consistent high quality customer experience is the only way to future success for insurers. The insurance companies are striving hard to keep pace with these changes while promoting the interests of policyholder.

At this juncture, in order to avoid threats and pressure exerted by internal and external forces, it has become necessary to identify the lacuna in a proactive manner and initiate innovative measures and structural changes. After minutely and precisely going through almost the whole of the legislative changes introduced in the Indian life insurance industry and the judicial response to problems faced by this dynamic industry some of the suggestions which can be put forward are as follows:

1. **Reassessment of Role of Life Insurance**

   In the emerging economy, characterized by the reduced role of state and declining state supported social security, the importance and role of the life insurance industry has increased significantly not only as a risk manager but also as a profitable investment, retirement security and annuity provider. Moreover, the growing institutionalization of the financial market has also provided a momentum to boost the life insurance companies. Therefore, a reassessment of the role of life insurance in the changing market and economic environment is vital for managing life insurance effectively.

2. **Simplification of Policy Wordings**

   A common man is not supposed to know all the niceties and technicalities of law. Life insurance policy being a legal document is out of the understanding of a layman and as such insured policyholder face tremendous difficulty in understanding most insurance policies. Taking advantage of this insurance companies exploit consumers through illogical terms and conditions.

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73 Ibid.
It is high time to make the wordings of insurance policies simplified, with easy words, simple sentences and clauses with legible print and clarity of expression, so that the insured is not led in confusion. However, such simplification of language and information should be understandable to common man.

3. Focus on Consumer Servicing

It is the consumers’ who are the driving force of any industry; they are the engines of growth. But very often this truth is forgotten while emphasising on marketing, which to many means sales. It is pertinent to mention here that sales are only one component of marketing the other being servicing to the consumers. Customer servicing is not only important but also an essential condition for growth and survival of every life insurance company, especially in this competitive environment. But it seems that Indian life insurance is yet to go a long way to design and deliver customer expected service packages.

IRDA, who is concerned about protection of policyholder, has issued Protection of Policyholder Regulations 2002. This regulation aims at improving policyholders servicing by covering insurance intermediaries, policyholders and insurers. This regulation is a step in right direction but a lot more needs to be done for improving policyholder servicing.

4. Enhancing Life Insurance Awareness

Since, Indian insurance market is led by personalized selling and brand name of some insurance companies, there is a limited awareness about the scope of life insurance in the investing public. In today’s context where customers have a variety of products to choose from, wise choices are possible only with requisite awareness.

76 Supra n. 38, p.191.
77 www.swissre.com/media/news-release/nr_20131204_sigma_life_insurance.html. Accessed on 22/3/14 at 10:00 A.M.
79 Supra n.38, p.347.
So, there is a need to reorient the customers about the benefits of life insurance both financial protection as well as wealth creation.\(^{80}\)

Realizing the importance of enhancing the awareness regarding various aspects of insurance, the IRDA has already launched an awareness campaign.\(^{81}\) Consumer Awareness campaigns should be encouraged to improve financial literacy/insurance literacy levels by conducting workshops, distributing leaflets, distributing literature in both rural and urban areas\(^{82}\).

5. Enhancing Underwriting Quality

Underwriting of risks is the most crucial and complicated function of a life insurance company through which a risk is assessed and a proposal is converted into a policy. It requires high level of integrity, knowledge and experience.\(^ {83}\) But in India, the quality of underwriting is very poor. So, there is a need to improve the underwriting standards by adopting new approaches like tele-underwriting and automated expert underwriting. These new techniques will not only make underwriting simple and faster but will also help in proper evaluation of risk.\(^ {84}\) Imparting proper training and skill to underwriters will also play an important role in proper evaluation of risk. Enhancing underwriting quality will go a long way in building brand name and expanding business.

6. One Comprehensive Piece of Legislation

Radical amendments to the insurance law in India became enormously complicated during the 20\(^ {\text{th}}\) century. Thus in order to streamline regulations and eliminate anomalies the Law Commission of India proposed to merge certain


\(^{81}\) www.articles.economictimes.indiatimes.com/2012_02_15/news/31063104_1_insurance-penetration-life-insurance-irda. Accessed on 23/1/14 at 4:30 P.M.

\(^{82}\) www.iosrjournals.org/iosr-jbm/papers/vol.8-issue/081106115.pdf. Accessed on 22/3/14 at 6:00 P.M.

\(^{83}\) Supra n. 38, p. 248.

\(^{84}\) www.insuranceinstituteofindia.com/downloads. Accessed on 22/3/14 at 7:00 P.M.
provisions of the IRDA Act, 1999 and the Insurance Act, 1938.\textsuperscript{85} The necessity for merging the provisions of the IRDA Act with Insurance Act has been felt to develop an integrated approach for the task of formulating a legislative regime that can encompass the key facets of the regulatory authority while strengthening the regulatory regime.\textsuperscript{86}

One comprehensive piece of legislation will bring harmony and will help the market practitioners in understanding the role of the IRDA. This will also make the future revisions easier, in accordance with changing market conditions.

7. **Establishment of Single Regulator**

In India, there are many regulators of the financial market namely RBI, SEBI, IRDA- which supervise the market. This obviously results in overlapping of functions between these regulators. Hence one section of experts is in favour of moving towards a unified regulatory regime.

A single regulator is superior to multiple regulators as it mirrors the nature of modern financial markets where the old distinctions between different sectors and different products have broken down. A single regulator is not only more efficient in allocating resources but also more responsible and accountable.\textsuperscript{87}

8. **More Tailor Made Products**

Another interesting area in the life insurance industry is the changing product market relationship. The designing and marketing of products has become very complex in the present competitive market. The products are regulated by a three tier model- regulation of designing of the product, regulation of pricing of the product,

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\textsuperscript{87} Supra n. 59, p. 24.
regulation of marketing of the product. \textsuperscript{88} Insurers are investing in developing affordable products geared to meet the needs specific customer segment or reverse engineering the existing products for a specific price point. \textsuperscript{89}

But still there is a huge scope to explore the market potential by proper market survey followed by systematic segmenting, targeting and posting of products and services offered by various insurance companies. So every insurer should strive hard to maintain a proper balance between the product offerings vis-a-vis expectations of customer. \textsuperscript{90}

Understanding the customer better will enable Insurance Companies to design appropriate products, determine price correctly and increase profitability. \textsuperscript{91}

9. **Specialized Distribution Channels**

It has been predicted that the insurers developing multiple channels and managing inherent channel conflicts are more likely to succeed in market competition. At present, there are mediums such as agents, banks and brokers, but, there is a need to innovate and develop alternative cost effective channels depending on the product character and market segment. \textsuperscript{92}

Insurers need to deploy innovative distribution channels to significantly improve their ability to reach out the target customers. Apart from this they also need to develop low-cost personalized selling mechanism probably by inducting huge reserves of unemployed youth. The product distribution must be aimed at building a sustainable relationship based on costs and needs. These days insurer have started using communication and distribution channels like social media, self-help web-

\textsuperscript{88} *Supra* n. 38, p.192.  
\textsuperscript{89} *Ibid.*  
\textsuperscript{90} *Ibid.*  
\textsuperscript{91} *Supra* n. 82.  
\textsuperscript{92} *Supra* n. 59, p.24.
portals, bundling services with mobile service providers but yet a lot more needs to be done.\textsuperscript{93}

10. Licensing of Life Insurance Agents

Agents have a very important role in life insurance business in view of the fact that they act as linkage between a life insurance company and the buyers of insurance products. They play a very critical role in counties with lower level of education; where they not only sell insurance products but also act as a financial advisor assisting the customers in taking need based and informed decisions.\textsuperscript{94} Utilizing the services of qualified agents is useful in many respects. It gives the insurer an opportunity to inspect the property of insured, have the idea of its value, helps to advise the insured as to what risks he is exposed to.

To improve the productivity of active agents, appropriate training need be given to the agents to handle the problems linked with rapid changes in the market scenario and a license is a proof that the agent has undergone proper training.\textsuperscript{95} Licensing of agents also help in checking insurance frauds and brings in quality business.

11. Setting Up of Policyholders’ Protection Fund

The Indian Insurance Industry does not have a social welfare net or other adequate safeguard to ensure that a policyholder gets back his money in case the insurance company goes bankrupt. This makes it is imperative for the insurers to have continuous financial soundness and viability to honour their commitments to the policyholders as and when the claim arises under the policy.

In such a situation, it becomes important to have in place a separate policyholder’s protection fund to safeguard the interests of policyholders. The fund

\textsuperscript{93} Ibid.

\textsuperscript{94} Supra n. 38, p.96.

\textsuperscript{95} www.policyholder.gov.in/Individual_Agents.aspx, Accessed on 12/03/14 at 3:00 P.M.
would be a pool created through the contributions of insurers and will make payments to the policyholder in case an insurance company goes bankrupt or becomes insolvent. Both the General Insurance Council and Life Insurance Council have made suggestions in this regard.96

12. Rating of Insurance Companies

As an added measure for building confidence among the public at large, IRDA should introduce a system of rating of insurance companies based on solvency margin ratios. The objective of all the financial strength ratings is to indicate the financial capacity of the insurance company to meet its liabilities under policy holder contracts.97

Rating can also address other issues like the adequacy of provisions for outstanding claims and the average time taken for settlement of claims. This will also enable the policy holder to know about the financial strength or weakness of an insurer.98

13. Credible Reinsurance

Under the present dispensation, each insurer has to get his annual reinsurance program approved by the IRDA. Though the regulator is taking precautions in ensuring placement of reinsurance with rated reinsurers, there is no guarantee that reinsurance commitments will be honored. A single failure of an overseas reinsurer may have serious repercussions on Indian players. Unfortunately, in absence of a database to ascertain accumulations of risks and exposure, it is extremely difficult to design reinsurance arrangements on scientific basis.99

And this is an area where considerable attention is required to safeguard the interests of the Indian insurers and their policyholders. The government and the regulator need to pay some attention to this neglected area also.

96 Supra n. 59, p. 25.
97 Id. at 26.
98 Ibid.
99 Id. at 27.
14. Adoption of Risk-Based Capital Approach

Risk-based capital is the amount of capital required by regulators or the minimum capital stipulated under the regulation. It is a method developed by NAIC to measure the minimum amount of capital that an insurance company needs to support its overall business operations. Risk-based capital is used to set capital requirements considering the size and degree of risk taken by the insurer.¹⁰⁰

Regulators across the globe are putting in place various processes involved in risk focused surveillance framework. So, the IRDA should also work on such kind of risk-based surveillance system suitable for Indian insurance market.¹⁰¹

15. Strict Enforcement of Solvency Margin Regulations

By and large IRDA’s solvency margin regulations are in consonance with those followed in most of the developed insurance markets. But given the volatility in financial markets that is impinging on safety of investments and returns thereon and the huge accumulations of risks and catastrophic losses witnessed in the recent past, the 150% solvency margin prescribed by IRDA may not be adequate unless it maintains a constant vigil over the insurers. The recent failures and bankruptcy of the insurers in the developed markets like the US, Japan and the UK despite stringent solvency margin requirements offer quite a few lessons to be learnt by the emerging markets like India.¹⁰²

So, it is imperative on the part of IRDA to have an early warning and efficient monitoring system to enforce the compliance of the regulations.

16. Efficient Governance System

While regulation creates checks and balances for an organization, corporate governance aims at institutionalizing transparency and ethical business practices through compliance and disclosures.¹⁰³

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¹⁰⁰ Ibid.
¹⁰¹ Ibid.
¹⁰² Id. at 26.
¹⁰³ www.en.m.wikipedia.org/wiki/corporate-goverence. Accessed on 12/03/14 at 3:00 P.M.
Since, a life insurance company has to protect the interest of a large number of stakeholders; here an appropriate system of governance is the need of the hour. There is a need to develop a proper standard for governance for life insurance companies – which must include general standard and specific standard for pricing, distribution, funds management, servicing, etc. IRDA must take some initiatives to put in place such governance standard for insurance companies.104

17. Strengthen the Role of Self-Regulatory Organizations

In some areas such as market practices, Self-regulatory Organizations (SRO) are expected to be very useful to complement the role of the IRDA due to better information and lower cost of regulation. SRO in India exists in form of insurance councils formulated under Section 64 of Insurance Act. Insurance council looks after the licensing of agents, code of conduct and development of sound practices in rendering efficient services to customers, the council also brings to the notice of IRDA, the case of the insurer not acting in the interest of policyholders and advises the IRDA on admissible expense ratios.105

But, there is a need to further strengthen the role of these self regulatory organizations by empowering them. Apart from this, IRDA should also think about the option of setting a new self regulatory organization for insurance sector.

18. Efficient Claim Settlement

Life insurance is essentially a service industry and its growth depends largely upon the services provided by it to its customers. Though, today the life insurance business has increased many folds but the policyholders have not been entirely satisfied with the manner of functioning of insurance companies, particularly in the area of claim settlement.106

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104 Supra Ch VII, n.82.
105 Supra, n. 59, p. 27.
106 www.lifeincouncil.org/consumers/claims-process. Accessed on 05/02/14 at 7:00 P.M.
Claim settlement is the payment of proceeds from an insurance policy to the insured under the terms of the insurance contract. Claim Settlement is an important yardstick to judge the efficiency of an insurance company as easy and timely settlement of claims is an important function of an insurance company.\textsuperscript{107}

The life insurers must therefore invest in latest claim processing technologies to enhance processing speed and reduce cost because only an effective claim settlement process is the key to customer retention and attracting new customers.

19. Full-Fledged Grievance Redressal Machinery

Despite the fact that insurance industry has got a lot of legislations, rules, regulations for formal grievance redressal, but the mechanism is not satisfactory and effective enough to cope with ever increasing volumes of grievance turning into complaints and finally legal disputes. Research has shown that, if, customer complaint is handled efficiently 95 percent of those customers return to do business. Thus, a “No error attitude and complaint” management leads to higher customer satisfaction.\textsuperscript{108}

Insurance companies should device effective methods for handling the customer grievances and should try to reduce procedural formalities in order to reach more close to their customers. Moreover, it is proposed that in order to provide more effective grievance redressal, an independent statutory Grievance Redressal Authority (GRA) needs to be established. It should be invested with full–fledged grievance redressal mechanism and comprehensive jurisdiction to cover complaints of all types, regardless of any financial limit.\textsuperscript{109}

Life Insurers should streamline their Grievance Redressal Machinery for efficient and effective service and the Insurance companies should adhere to fair trade practices and transparent disclosure norms.\textsuperscript{110}


\textsuperscript{108} www.serviceexcellence.com.au/content-common/pg-cutomer-service-with-a-smile.seo. Accessed on 21/01/14 at 6:00 P.M.

\textsuperscript{109} www.niapune.com/pdfs/Research/grievence%20redressal.pdf. Accessed on 21/01/14 at 7:00 P.M.

\textsuperscript{110} Supra n. 82.
20. Provision for Natural Catastrophes

The impact of natural hazards—floods, tsunami, draughts, earthquakes—on economic wellbeing and human sufferings has increased alarmingly in recent times. While the nation is exposed to natural catastrophes the insurance to mitigate the negative financial consequences of these adverse events is still underdeveloped in our country.\footnote{Dr. Saroj Hiremath, “Insurance Sector Challenges & Opportunities”, The Insurance Times, May 2013, p.32.} India has no catastrophe insurance policy to deal with loss caused by sudden natural disasters. A pool based concept for natural catastrophe on the lines of terrorism pool in India should be formed to distribute the losses arising evenly.\footnote{Ibid.}

The natural disaster that unfolded in Uttrakhand swept away many lives leaving behind no proof of death. In such cases where there is no physical proof of death or the person goes missing, claim settlement process usually takes seven long years before death certificate is issued.\footnote{www.m.indiatoday.in/story/uttarakhand-disaster-insurance-claim-settlement-natural-disaster/1/285402.html. Accessed on 23/03/14 at 12:00P.M.} There is also a need to deal with this lacuna so that an immediate aid can be given to the bereaved family.

21. Emphasis on Rural Market

It has been widely accepted that rural India has vast insurance potential. The rural households contribute to 45% of the total household income of the country, moreover, the savings to income percentage in rural, at 30%, is even higher than urban India.\footnote{Supra Ch. VIII, n. 86.} However, within the rural sector there is vast variation in the socio-economic profiles and the income patterns too are diverse. All this makes the execution of rural strategy a daunting task for any product or service provider.

Penetration in rural India can be attained only if the insurance companies keep in mind the psyche of rural consumers, the cultural and social dynamics and above all cater to the diverse yet unique needs of this segment.\footnote{www.actuariesindia.org/downloads/gcadata/8thGCA/Penetration%20of%20life%20insurance%20in%20rural%20india_PDF. Accessed on 18/3/14 at 6:00 P.M.}
22. Expansion of International Market

Foreign expansion is touted as the way forward for Indian insurers, while some may look overseas for growth, establishing a business outside the country is not an option for most of the Indian insurers.116

LIC, the biggest state owned insurance company operates in United States, Canada, Europe, and North America focusing mainly on tapping the insurance needs of millions of non-resident Indians residing there. To improve their business abroad, the other Indian life insurance companies should also lay some emphasis on international market.117

Undoubtedly, international expansion is complex as it involves distinct consumer preferences, competitive and cultural differences and other operational challenges. But, since the international insurance market continues to grow in importance, the companies that have ability to analyze and enter new markets quickly can have a significant advantage over those who hesitate.

23. Strengthening Social Security

Social security has become an important part of social policy in modern times and is a sign of interest that a welfare state takes in the wellbeing of its masses. There are very few social security laws in India as compared to other advanced countries.118

Our Constitution confers powers upon the Union and State Government to formulate laws and take other legislative steps to provide social security and social insurance to all, but, the operations relating to social security and social welfare in India are still in elementary stage.119

116 www.lifeinscouncil.org/media_centre/archieves/113-life-insurance-industry-targeting-rural-sector. Accessed on 12/3/14 at 5:00 P.M.
119 Ibid. p.22
So, there is a need to recognise the economic value of man in society and make insurable interest of state in lives of its citizens explicit in future life insurance laws.

24. Further Deregulation of Insurance Market

Regulation through regulatory authority has an element of control and free market sometimes rejects the policing attitudes of a regulator. This type of regulation also increases the cost of regulation. If regulation is at a minimum level, the companies will utilize their resources more effectively and will have the freedom to plan and execute the business for the benefit of people. It is noteworthy here that people also seek those services that have less interference from regulatory authority. Thus a further deregulation of the market will pave the way for future growth and expansion of the industry. Today regulators throughout the world are therefore encouraging self-regulation through code of good conduct under the regulatory umbrella.

25. Technological Upgradation

Another very important aspect that needs to be improved is technology. In today’s digital world, every insurance company should make sure that all their data is computerized and also that all information related to their policies should be available online. This is very important as it will improve their clientele drastically as potential customers will just be a click away. It will also help the insurance companies in delivering services in a cost effective manner.

26. Promoting Research and Training Activities

Research and training activities occupy a greater space in the activities of Life Insurance Companies as the future functioning on insurance companies will be

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121 Supra n. 38, p. 352.
significantly influenced by the quality of research inputs and trained managers. Research must be promoted in the industry so as to bring out better products, customer friendly approach and growth of Industry. Training activities will also enhance productivity, skill of cost, quality of underwriting and risk management. Training will also enhance sensitivity, accountability, killer instincts and competitive skills in the employees of insurance companies.

27. Raising the FDI Cap

Raising the FDI Cap to 49% would not only fulfill the much needed long term finance requirement but will also help finance the current account deficit. Along with funds, the large foreign firms would bring better insurance products and superior technological capabilities. The foreign know how would also help the Indian Insurance Industry, improve the way it underwrites and manage claims and analyze actuarial data. This larger inflow of foreign capital and ideas would help train Indian agents to provide better services and enhance customer satisfaction.

If the above said measures are carried out in true spirit, it would go a long way in protecting the interests of policyholders and restructuring the Indian Life Insurance Industry so as to enable it to contribute absolutely in the establishment of a strong economy. It is surely the time for IRDA to balance its responsibility for development and regulation and give the life insurance industry the much needed impetus.

123 www.shodhganga.inflibnet.ac.in/bitstream/10603/6447/10/10-chapter/205.pdf Accessed on 26/03/2014 at 06:30 PM
124 Supra n. 38, p. 351.
125 www.eastasiaforum.org/2013/06/01/indias-insurance-industry-needs-foreign-investment. Accessed on 26/03/2014 at 06:30 PM