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The Anachronism of the Indonesian Social Security Policy in Health

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ABSTRACT

The rights for social security can be found in the 1945 Constitution of Republic of Indonesia, Article 34 section (2) which reads "The state develops a social security system for all citizens and empowers the weak and the poor according to the human dignity". With the purpose of achieving every citizen's rights for social welfare as stated in the Mandate of the Constitution, so the Constitution No. 40 year 2004 on the JKN (National Social Security) and the Constitution No. 24 year 2011 on the Social Security Administering Body are issued as the legal protection of the National Social Security System and the National Healthcare Security in Indonesia. The implementation of National Healthcare Security is rather problematic. Some complaints of the BPJS (Social Security Administering Agency) participants regarding the BPJS-Health include rejections form health facilities or health workers to the BPJS patients with various reasons. A protruding problem is the minimum activation number or the BPJS waiting period for social welfare participants. This results to the citizens' violation of rights in receiving healthcare services form the social security program.

Keywords: *Anachronism, Social security, Healthcare security, Indonesia*

INTRODUCTION

A country that adheres to social welfare is absolutely obliged to have an integrated system of social security for its citizens, this is because the welfare rights is one of the most pivotal aspects that one citizen can have[(2)]. The implementation of social security program is one of the responsibilities and obligations of the state, as mandated by the constitution, to provide social economic protection to its citizens[(3)]. Especially for those whose welfare reaches the minimum standard and even socially impoverished[(4)].

The state protects its citizens from social distresses which are caused by wage payment termination (unemployed), termination of employment, disability, aging, death, etc. The said protection is given to the community members through certain programs such as reimbursement of healthcare costs, child support, family allowances and others[(5)].

According to Anies Baswedan as quoted by Dinna Wisnu, "The state was established with a common promise to promote public welfare. The Social Security System is built to ensure that the said promise is able to be fulfilled to each citizen. The management of the social security system with the principles of good governance is the key" [(6)]. Some of the opinions of the scholars above always involve citizen welfare as one of the aims in establishing a particular state[(7)].

The Indonesian State Constitution has mandated the state administrators to carry out a particular social security on a national scale with the intention that each Indonesian citizen is able to reach the good standard of health and welfare for both themselves and their family and also the mandates regarding the implementation of the social security system.

Thus, one of the tasks of the state of Indonesia is the implementation of social security for each and every

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citizen as mandated in Article 28H section (3) regarding the rights to social security and Article 34 section (2) in the Constitution of the Republic of Indonesia of 1945, and Decree of The People's Consultative Assembly of the Republic of Indonesia contained in Number X/ MPR/2001, which assigns the President to establish a National Social Security System in order to provide a comprehensive and an integrated social protection. The ratification of the Constitution Number 24, 2011 concerning BPJS is in the juridical formal manner a manifestation of the constitution mandate regarding social security for Indonesian citizens. The Constitution No. 24 year 2011 also stipulates that the National Social Security Policy will be held by a public organization named BPJS which consists of BPJS-Health (focusing in Healthcare Security) and BPJS-Labor (focusing in Labor Security) [(1)].

BPJS-Health as the sole provider of JKN turned out to run and work things in such a slow pace due to the huge workload it borne. Organizing JKN to hundreds of millions of people in an area as large as Indonesia is not an easy nor a simple matter. The state has obligations (State Obligation) to take a role in facilitating and securing each citizens' rights fairly to be able to implement social security to all citizens which would also be the dream of Indonesia's Founding Fathers[(8)].

The citizens are expected to obtain the JKN they deserve. JKN is expected to reduce health costs which is relatively expensive. To the citizens who are not supported by JKN and suffer from illness, it will bring them farther from prosperity and closer to the poverty instead[(8)].

The implementation of JKN by BPJS is problematic and full of conflicts. Among the complaints from BPJS participants to BPJS-Health is the occurrence of rejection from health facilities or health workers for various reasons. One of the prominent problems is the minimum activation number or the BPJS waiting period of social security participants, which causes violations to citizen rights in obtaining services from the social security program. Constitution of the National Social Security System mandates the state to be involved in this matter.

Asih Eka Putri, who is a member of National Social Security Boards believes that the seven-day waiting period as stipulated in the BPJS Health Regulation No. 4, 2014 needs to be criticized. Moreover, if the participant who has registered and paid the initial premium suffers an emergency situation which requires an immediate aid. "It is potentially resulting in the violation of rights and it is against the law regulations above it," she stated during the interview.

This waiting period is also highlighted by Nasruddin, "Public service is supposed to be able to be provided immediately. After the citizens register, they will be able to instantly obtain the service. A solution must be sought so that BPJS-Health program will be able to run continuously with no violation of the participants' rights," advised Nasruddin[(10)]. This issue is one small example of the problems of JKN which occurred in the field.

There is a difference between the BPJS policies as the JKN organizer and the citizens who are the JKN participants and also the providers of the health facilities. Upon setting the priorities between these three parties, the citizens are always put in a disadvantageous position which results in an imbalance of the citizens' bargaining position[(11)].

The law and the authorities are misused in the implementation of JKN. This denies the principle of the National Social Security itself, namely the principle of equity as explained in the UU-SJSN Article 19 section (1), which states that, "The principle of equity is the equality in obtaining services according to one's medical needs regardless of how the amount of premium they pay." Which means, the citizens are served not based on the cost (premium) they pay but based on the health services they need.

MATERIALS AND METHOD

As a scientific endeavor, the method is a way of working which aims to understand the objects that is a subject of the said relevant science[(12)]. This research uses a mixed method approach or collaborative, with the normative or doctrinal juridical approach which is connected or which supports the sociological juridical approach (non-doctrinal). This researchuses secondary and primary data, through library research and field studies, and data analysis with qualitative analysis[(13)]. According to Denzin and Lincoln as quoted by Ayu[(14)] it is stated that qualitative research is the research which uses natural settings, aimed to interpret phenomena which occur and carried out by involving various existing methods.

Approaches on this research includes: Conceptual Approach, Statute Approach, Comparations Approach also Sociological Approach.

FINDINGS AND DISCUSSION

JKN policies and implementations in Indonesia have many problems, because the National Healthcare Security program, known as JKN, is a policy which violates the principle of equity. This principle means that citizens are served not based on the fees (premium) they pay, but based on the health services they need.

The problems of JKN participants are such as being denied by Health Facilities and having modestly treatments according to the JKN class they had. These are the excesses from the application of the INA CBG's policy (Indonesian Case Base Groups). Article 39 of 2016's Presidential Decree Number 19 concerning Healthcare Insurance contains provisions that BPJS-Health (which focuses on Healthcare Security) applies Indonesian Case Base Groups system (INA CBG's). The INA CBG's system follows the prospective payment system. It is a method of payment made for health services, which the amount is already known before the health services are provided.

Article 39 Paragraph 1 states that, "BPJS-Health makes payments to first-level health facilities pre-emptively based on the capacity of registered participants' amount at first-level health facilities". Article 2 states that, "BPJS-Health makes payments to first-level Health Facilities pre-emptively based on the capacity of registered participants' amount at first-level Health Facilities. Article 3 then states that, "BPJS-health makes payments to advanced level of Health Referral Facilities based on the Indonesian Case Based Groups (INA-CBG)'s method".

The policy concept of INA CBG's in the Presidential Decree itself brings a big problem regarding the citizens' constitutional rights. The problem is when there are patients who are required to be treated with better health services and it exceeds the amount of payment that must be paid by BPJS to Health Service Providers in INA CBG's.

These problems result in disruption of health services for BPJS patients to undergo maximum treatment because the BPJS budget limit is lower than the health care needs. Yet the citizens have the right to obtain good service and it is the government's obligation is to provide the best quality of public services[15].

This indicates that private health services have not received nor served the health social insurance owners provided by the government. Therefore, to support social security, there needs to be a synergy between government-owned and private-owned health services. There needs to be a legal protection and incentive awards to attract private-owned health services to actively support the SJSN-Health[16]. So far, it appears that private institutions tend to be reluctant in getting involved because there is a range of gaps between the real needs that are spent and the costs that can be claimed through INA CBG's, which causes losses to private health facilities.

The application of INA CBG's with a minimum tariff range certainly makes the people as BPJS users the victims. Health facilities and hospitals often refuse JKN-BPJS patients with reasons such as the treatment room is full. It is caused by the JKN fees determined through the INA CBG's policy which cannot meet the real costs of patient treatment.

Another problem is the JKN system. This is the matter of fact that the JKN system is still based on premium payments and it has caused the Constitution No. 40/2004 on the National Social Security System to have its constitutionality criticized. The provisions for compulsory premium payments to obtain social security are considered as a harm to JKN's constitutional rights and equity principles.

The premium payment to JKN organizers can be considered as an exploitation of the people. Moreover, JKN services are no longer based on health service needs but based on the amount of premium payments. Compulsory premium payments for all citizens, regardless of their socio-economic status, for all social security programs held by the government have obscured the social security and the social insurance[17].

The next problem that cannot be resolved is that the coverage of JKN participants cannot reach the UHC (Universal Health Coverage)'s expected target, which is all residents should be covered by JKN as of January 1st, 2019. In fact, the participation of JKN users only reached 77 percent nationally[18]. This is because the JKN system follows an active registration system (meaning citizens must register and it is not automatically granted by the state) which is based on contributions. Hence, residents

in remote areas, who are far from the city, are not yet covered by JKN, as they do not know about the JKN program. Furthermore, Indonesia's social security system will run more effectively if the government or the state implements an automated system and uses the service of coming for citizens to join the JKN registration.

Health insurance or health care insurance is an effort to create a risk pooling, which is to transfer personal risk into group risk so that there is a sharing of risk. In health insurance, the community shares the costs through a system of preemptive contributions[19]. The state's responsibility in developing a national social security system is really off the hook. The national social security system implemented with an insurance scheme or social insurance releases the state obligations and is then charged to the people.

It is ironic when the people are burdened with the obligation to develop JKN, and on the other hand the government is reluctant to give or to allocate more budget for health. The health budget in the APBN is only about 0.84% - 1.85% from 2002-2012 from the total of the state budget[20]. The small allocation indicates that the government actually does not have serious intentions in developing the JKN system. Hence, they choose a system or policy that transfers obligations from the government to citizens

CONCLUSION

Indonesia's policy of national social security system, especially the National Healthcare Security is an anachronism because INA CBG's policies are not in accordance with the Cost Recovery Rate (CRR) or the real cost of health services given by hospitals or health facilities. This condition makes JKN participants being rejected or being given modestly services by hospitals or health facilities. The application of INA CBG's also violates the rules and principles of JKN, namely equity or JKN participants are given services not based on the amount of payment contributions yet based on the services required.

Another problem is that UHC coverage is only 77% as of January 2019 even though the target given by law is 100% UHC as of January 1st, 2019. The UHC target is missed because JKN applies an active registration system in which citizens must register for JKN services and not an automatic system where every citizen is automatically registered in JKN.

The contribution-based JKN system and policy, and INA CBG's were implemented in order to cover the small commitment of Indonesian government in implementing JKN. The government is reluctant to provide or to allocate a higher budget for health. The health budget in the national budget is only about 0.84% to 1.85% from 2002-2012 from the total of the state budget. The small allocation indicates that government does not actually have serious intentions in developing the JKN system. Hence, they choose a system or policy that transfers obligations from the government to citizens.

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