

# Indonesian National Social Security Management Law Problematics with the Enabling of Law Number 40 of 2004 Concerning a National Social Security System

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## Abstract

This study discusses legal problems that occur in the management of Indonesia's national social security with the enactment of Law number 40 of 2004. This research is a normative legal research with a conceptual and statutory approach. This study uses the theory of Laurence M. Friedman as a knife of analysis that the problem of managing national social security includes institutional structures, substance, the Healthcare and Social Security Agency and The National Social Security regulation and legal culture. It is hoped that the management of national social security will accelerate the transfer of management of the Savings Fund and Civil Servant Insurance Company and the Social Insurance of the Armed Forces of the Republic of Indonesia Company, so that they do not have to wait up to 25 years.

**Keyword:** Law Problematics, National Social Security System, Healthcare and Social Security Agency

## Introduction

The right to obtain the fulfillment of social security for all Indonesian people is stipulated in Article 28 H paragraph (3) of the 1945 Constitution of the Republic of Indonesia, which states that "Everyone has the right to social security which enables his or her complete development. as a dignified human. " This norm is then reinforced in Article 34 paragraph (2) of the 1945 Constitution of the Republic of Indonesia, which explains that "The state develops a social security system for all people and empowers people who are weak and underprivileged according to human dignity." These articles constitute a material constitutional reason in the field of social security, which confirms that social security is a right not a privilege.

The concept of social security for all Indonesian people is then accommodated in state life with the passing of Law Number 40 of 2004 concerning the National Social Security System, Law Number 11 of 2009 concerning Social Welfare, Law Number 24 of 2011 concerning Healthcare and Social Security Agency (BPJS), and Presidential Regulation Number 64 of 2020 concerning Second Amendment to Presidential Decree Number 82 of 2018 concerning Health Insurance.

With the enactment of this National Social Security System Regulation, there has been a change in legal norms, from which the government's obligation to fulfill the right to health of the people becomes the obligation of the people to pay dues in order to fulfill their rights. Subsequent developments, in 2011 the Healthcare and Social Security Agency Regulation, was enacted which appointed a government-owned implementing agency that had the role of an insurance company.

This fact shows that the legal politics of the formation of National Social Security System Regulation

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and Healthcare and Social Security Agency Regulation have not shown a responsive-populist character that prioritizes the interests of the people. These two legal products have not fulfilled the rights to social welfare and health of the Indonesian people, which should be the responsibility of the government (state). Therefore, the President and the DPR together need to make changes to the two legal products so that they are in accordance with the mandate of the 1945 Constitution of the Republic of Indonesia. The purpose of this research is to know the legal problematics with the enabling of law number 40 of 2004 concerning a national social security system.

## Methods

To answer the problems that have been formulated in this study, a normative legal research type is used with a statutory and conceptual approach.

## Result and Analysis

Social security is part of the concept of social protection, where social protection is broader in nature. The difference between the two is that social security provides social protection for individuals with funds obtained from periodic contributions, whereas social protection usually involves many parties in providing protection either to individuals, families or communities from various unpredictable life risks such as economic crises, or natural disasters. Health issues are valuable things that the people yearn for, so that the fulfillment of the right to health is one of the basic needs of the people. Health is the basis of recognition of human dignity, an unhealthy individual will automatically reduce his right to life, he cannot exercise his right to work properly, he cannot use his right to congregate and express thoughts, he cannot use his right to education for his future, and so.

The following will explain the problems in the management of national social security which include aspects of its structure, substance and culture or legal culture.

1. Problems in the Institutional Structure of The National Social Security

The National Social Security institution is one of the elements of the National Social Security System with the function of carrying out the realization of social security objectives which have been formulated in accordance with the underlying principles. The National Social Security System administration is formed by two organs, namely the National Social Security Council (DJSN) and the Healthcare and Social Security Agency (BPJS).

The Healthcare and Social Security Agency (BPJS) is a legal entity established under the The Healthcare and Social Security Agency Regulation to administer social security programs. Law Number 24 Year 2011 established two Healthcare and Social Security Agency, namely Healthcare and Social Security Agency that focused on healthcare (BPJS Kesehatan) which functions to organize health insurance programs and Healthcare and Social Security Agency that focused on Labor (BPJS Ketenagakerjaan) which functions to organize work accident insurance, death benefits, old age savings and pension benefits.

Since the enactment of the Healthcare and Social Security Agency regulation, the existing social security administering body is declared the Healthcare and Social Security Agency according to this law. This is in accordance with the norms of Article 5 of the National Social Security System regulation, the formulation is as follows:

(1) Healthcare and Social Security Agency (BPJS) must be established by law.

(2) Since the enactment of this Law, the existing Healthcare and Social Security Agency (BPJS) is declared a Healthcare and Social Security Agency according to this Law.

(3) The Healthcare and Social Security Agency as referred to in paragraph (1) are:

- a. Labor Social Security Company (Jamsostek);
- b. Savings Fund and Civil Servant Insurance Company (Taspen);

c. Social Insurance of the Armed Forces of the Republic of Indonesia Company (Asabri); and

d. The Company (Persero) Indonesian Health Insurance (Askes).

(4) In the event that a Healthcare and Social Security Agency other than those referred to in paragraph (3) is required, a new one can be formed by law.

Article 52 National Social Security System Regulation have functions to fill the legal vacuum so that Social Security, Savings Fund and Civil Servant Insurance Company (Taspen), Social Insurance of the Armed Forces of the Republic of Indonesia Company (Asabri), and The Company (Persero) Indonesian Health Insurance (Askes) are still valid as long as they have not been adjusted to this law. Based on the provisions of Article 52 paragraph (2), it is given 5 (five) years from the time of promulgation to comply with this law. The transfer mechanism of Social Security, Savings Fund and Civil Servant Insurance Company (Taspen), Social Insurance of the Armed Forces of the Republic of Indonesia Company (Asabri), and The Company (Persero) Indonesian Health Insurance (Askes) from the Ministry of Indonesian State-Owned Enterprises (BUMN) to become under The Healthcare and Social Security Agency through a transformation program.

The following will explain the development and transformation process of Social Security, Savings Fund and Civil Servant Insurance Company (Taspen), Social Insurance of the Armed Forces of the Republic of Indonesia Company (Asabri), and The Company (Persero) Indonesian Health Insurance (Askes) which were previously under the Ministry of the Indonesia State-Owned Enterprises to become under the authority of The Healthcare and Social Security Agency.

a. Transformation of The Company Indonesian Health Insurance (Askes).

The preparation period for the transformation of The Company Indonesian Health Insurance (Askes) into the Healthcare and Social Security Agency (BPJS

Kesehatan) for two years starting November 25, 2011 to December 31, 2013. During the preparation period, the Board of Commissioners and Directors of The Company Indonesian Health Insurance (Askes) were given the task of preparing the Healthcare and Social Security Agency (BPJS Kesehatan) operations, as well as preparing for asset transfers. and The Company Indonesian Health Insurance (Askes) liabilities, employees and rights and obligations to Healthcare and Social Security Agency (BPJS Kesehatan).

Preparation for the transfer of assets and liabilities, employees and rights and obligations of The Indonesian Health Insurance Company (Askes) to the Healthcare and Social Security Agency (BPJS Kesehatan), including the appointment of a public accounting firm to audit: (1) the closing financial statements of The Indonesian Health Insurance Company (Askes); a report on the financial position of the opening Healthcare and Social Security Agency (BPJS Kesehatan); report on the financial position of the opening of the health insurance fund. When the Healthcare and Social Security Agency (BPJS Kesehatan) started operating on January 1, 2014, The Indonesian Health Insurance Company (Askes) was declared disbanded without liquidation. All assets and liabilities as well as legal rights and obligations of PT Askes (Persero) become assets and liabilities as well as legal rights and obligations of Healthcare and Social Security Agency (BPJS Kesehatan), and all employees of The Indonesian Health Insurance Company (Askes) become employees of Healthcare and Social Security Agency (BPJS Kesehatan).

At the same time, the Minister of Indonesian State-Owned Enterprises (BUMN) As General Meeting Of Shareholders ratified the closing financial position report of The Indonesian Health Insurance Company (Askes) after an audit of the public accounting firm. The Minister of Finance ratifies the opening financial position report for the Healthcare and Social Security Agency (BPJS Kesehatan) and the opening financial report for the health insurance fund. For the first time, the Board of Commissioners and Directors of The Indonesian Health Insurance Company (Askes) were

appointed as the Supervisory Board and the Board of Directors of the Healthcare and Social Security Agency (BPJS Kesehatan) for a maximum period of 2 (two) years since the Healthcare and Social Security Agency (BPJS Kesehatan) began operating. Starting January 1, 2014, the social health insurance program that has been implemented by the government has been transferred to the Healthcare and Social Security Agency (BPJS Kesehatan).<sup>1</sup> The Ministry of Health no longer operates the Public Health Security (Jamkesmas) program. The Ministry of Defense, The Armed Forces and Police no longer carry out health service programs for their participants, except for certain health services related to their operational activities as determined by Government Regulations. The Labor Social Security Company (Jamsostek) no longer maintains an employee health insurance program.<sup>1</sup>

#### **b. Transformation of The Labor Social Security Company (Jamsostek)**

The transformation of the Labor Social Security Company (Jamsostek) is carried out in two stages, namely the first stage is the transition period of Labor Social Security Company (Jamsostek) to the Healthcare and Social Security Agency Employment (BPJS Tenaker) which lasts for 2 (two) years, from 25 November 2011 to 31 December 2013. The first stage ends with the establishment of the Healthcare and Social Security Agency Employment (BPJS Tenaker) on January 1 2014. the Healthcare and Social Security Agency Employment (BPJS Tenaker) will continue the implementation of three the Labor Social Security (Jamsostek) programs, namely the work accident program, the old age security program, and the death security program no later than 18 (eighteen) months later (1 January 2014–3 June 2015). Provisions for the implementation of these three programs are still based on Law Number 3 of 1992 concerning Social Security.<sup>1</sup>

The second stage is the preparation stage for the operationalization of the Healthcare and Social Security Agency Employment (BPJS Tenaker) for the implementation of work accident insurance, old-age

savings, pension and death security programs. The second stage of preparation takes place no later than 30 June 2015 and ends with the operation of the Healthcare and Social Security Agency Employment (BPJS Tenaker) for the implementation of the four programs in accordance with the provisions of the National Social Security System regulation by 1 July 2015.

Preparation for the transfer of assets and liabilities, employees and the rights and obligations of the Labor Social Security Company (Jamsostek) to the Healthcare and Social Security Agency Employment (BPJS Tenaker) includes the appointment of a public accounting firm to audit the closing financial statements of the Labor Social Security Company (Jamsostek), report on the financial position of the opening of the Healthcare and Social Security Agency Employment (BPJS Tenaker), and reports on the financial position of opening funds. employment guarantee. As with the dissolution of Health Insurance Company (Askes) on January 1, 2014 the Labor Social Security Company (Jamsostek) was declared dissolved without liquidation and the Labor Social Security Company (Jamsostek) changed to the Healthcare and Social Security Agency Employment (BPJS Tenaker). Government Regulation Number 36 of 1995 concerning the Determination of the Manpower the Healthcare and Social Security Agency is revoked and declared no longer valid.

All assets and liabilities as well as legal rights and obligations of the Labor Social Security Company (Jamsostek) become assets and liabilities as well as legal rights and obligations of the Healthcare and Social Security Agency Employment (BPJS Tenaker). All employees of the Labor Social Security Company (Jamsostek) are employees of the Healthcare and Social Security Agency Employment (BPJS Tenaker). At the time of dissolution, the Minister of Indonesian State Owned Enterprises (BUMN) As General Meeting of Shareholders ratified the closing financial position report of the Labor Social Security Company (Jamsostek) after an audit was carried out by a public accounting firm. The Minister of Finance ratifies the position of the financial statement for the opening of the the Healthcare and



Social Security Agency Employment (BPJS Tenaker) and the financial position report for the opening of the employment guarantee fund. Since January 1, 2014 until no later than June 30, 2015. The Healthcare and Social Security Agency Employment (BPJS Tenaker) will continue the implementation of the three programs that have been organized by the Labor Social Security Company (Jamsostek), namely the work accident insurance, old age insurance and death insurance programs, including accepting new participants.

c. Transformation of the Savings Fund and Civil Servant Insurance Company (Taspen) and the Social Insurance of the Armed Forces of the Republic of Indonesia Company (Asabri)

The Healthcare and Social Security Agency Regulation did not dissolve the Social Insurance of the Armed Forces of the Republic of Indonesia Company (Asabri) and the Savings Fund and Civil Servant Insurance Company (Taspen), nor did they transfer the two Persero to become The Healthcare and Social Security Agency. The Healthcare and Social Security Agency Regulation does not regulate the dissolution of the agency, transfer of assets and liabilities, transfer of employees and the rights and obligations of the Social Insurance of the Armed Forces of the Republic of Indonesia Company (Asabri) and the Savings Fund and Civil Servant Insurance Company (Taspen). The Healthcare and Social Security Agency Regulation only transfers the second function of the Company, namely the implementation of the old age protection program and pension payments organized by both of them to the Healthcare and Social Security Agency Employment (BPJS Tenaker) by 2029. The Healthcare and Social Security Agency Regulation delegates the arrangements for program transfer procedures that are carried out by the two of them to a Government Regulation. Article 65 paragraph (1) and (2) regulates the transfer of the Social Insurance of the Armed Forces of the Republic of Indonesia (Asabri) program and The Savings Fund and Civil Servant Insurance Company (Taspen) program.

Elucidation of Article 65 paragraph (1) and paragraph (2) of Law no. 24 of 2011 concerning the Healthcare and Social Security Agency requires The Social Insurance of the Armed Forces of the Republic of Indonesia Company (Asabri) and the Savings Fund and Civil Servant Insurance Company (Taspen), to compile a transformation roadmap no later than 2014. The transfer of the Savings Fund and Civil Servant Insurance Company (Taspen), and The Social Insurance of the Armed Forces of the Republic of Indonesia Company (Asabri) from the Ministry of Indonesian State Owned Enterprises (BUMN) to the Healthcare and Social Security Agency no later than 2029, which requires a period of 25 years is very unrealistic. The government, in this case the Indonesian State-Owned Enterprises (BUMN) Ministry, seems to be delaying in transferring its management to the Healthcare and Social Security Agency. The Litigation Director of the Ministry of Law and Human Rights explained that, regarding this transfer, the government represented by the Ministry of Law and Human Rights and the Ministry of Manpower have a different view. Director of Litigation for Laws and Regulations of the Ministry of Law and Defense, Ardiansyah, revealed that the transfer of the program from the Savings Fund and Civil Servant Insurance Company (Taspen) and The Social Insurance of the Armed Forces of the Republic of Indonesia Company (Asabri) to Healthcare and Social Security Agency (BP Jamsostek) is an order of the National Social Security System-related laws that the government must realize, but it must be understood that the matter of transfer is actually the program, not the institution within the National Social Security System. He said, programs other than those implemented by Healthcare and Social Security Agency (BP Jamsostek) could still be held by the Savings Fund and Civil Servant Insurance Company (Taspen) in the National Social Security System regulations and institutions, while the Old Age Security (JHT) and Pension Security (JP) benefits programs were still held by Healthcare and Social Security Agency (BP Jamsostek).

The regulations are clear Law Number 24 of 2011 concerning The Healthcare and Social Security Agency, Law Number 40 of 2004 concerning Social National Security System. The implementation is how program transfer will be derived through a Government Regulation (PP). Regarding the transfer of the program from the Savings Fund and Civil Servant Insurance Company (Taspen) and The Social Insurance of the Armed Forces of the Republic of Indonesia Company (Asabri) to Healthcare and Social Security Agency (BP Jamsostek), he emphasized, it would not cause overlapping regulations. Because, Ardiansyah continued, from the start there had been cross-ministerial coordination and harmonization facilitated by the State Secretariat (Setneg). There was even an assignment for Ministry of State Apparatus Utilization and Bureaucratic Reform to follow up the Minister Regulation program transfer. Including the roadmap like what because it involves civil servants, said Ardiansyah.<sup>2</sup>

The Indonesian State-Owned Enterprises (BUMN) Ministry's move is understandable because indeed one of the duties of the Indonesian State-Owned Enterprises (BUMN) ministry is to carry out a business that functions to increase non-tax state revenue. According to the author's analysis, it is not very suitable if the Savings Fund and Civil Servant Insurance Company (Taspen), and The Social Insurance of the Armed Forces of the Republic of Indonesia Company (Asabri) have social functions, but in their organizational structure under the Ministry of Indonesian State-Owned Enterprises (BUMN), whose main task is to carry out business (business) to increase non-tax state revenue, so it is more appropriate to accelerate the transfer. The Savings Fund and Civil Servant Insurance Company (Taspen), and The Social Insurance of the Armed Forces of the Republic of Indonesia Company (Asabri) from the Ministry of Indonesian State-Owned Enterprises (BUMN) to The Healthcare and Social Security Agency.

## **2. The National Social Security System Substance Problems.**

Problems related to the substance of the National Social Security System Regulation that can interfere with the implementation of the national social security system, the problem is that National Social Security System Regulation combines social security with social insurance. The formation of National Social Security System Regulation and the Healthcare and Social Security Agency Regulation which combine social security with social insurance has dragged legislators into the neo-liberalism scenario. Neo-liberal theory has its roots in classical political work by Thomas Hobbes, John Lock and John Stuart Mill which essentially argued that an essential component of a society is individual freedom. Broadly speaking, neo-liberal proponents argue that social security should be provided by self-help groups, religious institutions or by families. The role of the state is only as a residual agent or night guard who can only interfere when the above institutions are no longer able to carry out their duties.<sup>3</sup>

Social security is a system of giving money and / or social services to protect a person from the risk of not having or losing income due to accident, disability, illness, unemployment, pregnancy, old age, and death. Paul Spicker (1995), provides limits and explanations for social security as follows:

The term social security is mainly now related to financial assistance, but the general sense of the term is much wider, and it is still used in many countries to refer to provisions for health care as well as income. Although the benefits of security are not themselves material, they do have monetary value; people in Britain, where there is a National Health Service, are receiving support which people in the US have to pay for through private insurance or a Health Maintenance Organisation.<sup>4</sup>

Social security can be provided through the social insurance system which is funded by insurance premiums or through social assistance whose funds are obtained from tax revenues. Social insurance is determined based on insurance expertise, the provision of insurance benefits is calculated based on insurance premiums, the government together with other public

institutions are the providers of social insurance. Social insurance membership is compulsory (obligatory), the medical insurance system and pension insurance are two types of social insurance that are very widely known.

The definition of insurance in general is a system for a group of people to protect the risks that may occur to them. A number of people who are deemed to have a similar risk form a group, and each member of the group pays a premium as a precondition for obtaining benefits when facing an accident or risk in the future. Meanwhile, the definition of social insurance is social security provided to insurance participants based on the premiums they pay. The formation of the National Social Security System Regulation and the Healthcare and Social Security Agency Regulation has not been in accordance with the mandate of Article 28H paragraph (3) of the 1945 NRI Constitution, the formulation of which is as follows:

(1) Every person has the right to social security which enables his complete development as a dignified human being.

The formation of the National Social Security System Regulation and the Healthcare and Social Security Agency Regulation has changed the government's obligation to fulfill the right to people's health to become an obligation for the people to pay dues in order to fulfill their right to health. The right to health is a fundamental right and must be realized in accordance with the aspirations of the people as stated in Pancasila and the 1945 Constitution of the Republic of Indonesia, so that legal support is needed to realize the health status of all Indonesian people. Legal support aims to ensure that the government can fulfill the right to health of the Indonesian people.<sup>5</sup> Health issues are valuable things that the Indonesian people crave, so that the national social security system must be able to protect the people in a certain way. Therefore, the fulfillment of the right to health is one of the basic needs of the people.<sup>6</sup>

The establishment of the the Healthcare and Social Security Agency Regulation appointed a government-owned implementing agency to act like an insurance

company, which could collect fees, manage funds, impose sanctions for those who do not pay premiums, and make investments. The role of the implementing agency like this has the potential to shift the role of the government-owned administering body to the role of the private-owned administering body. This concern began to appear when the Coordinating Minister for Maritime Affairs LB. Pandjaitan plans to invite China's Ping An Insurance company to help the Social Security Administration Agency, which is currently in financial deficit. Concerns grew when the Coordinating Minister for Human Development and Culture confirmed the increase in dues starting January 1, 2020.<sup>7</sup> The people had high hopes for the government to safeguard national sovereignty and interests. The government must be responsible for fulfilling the right to health of the Indonesian people, lest the fulfillment of the right to health of the Indonesian people be delegated to private-owned administering bodies. This consideration is based on the idea that the formation of laws relating to the fulfillment of the right to health of the people must prioritize national sovereignty and interests. The Indonesian government needs to take lessons from the Australian Government which is strong in its stance to protect and safeguard national sovereignty and interests.

In fact, the issuance of the National Social Security System Regulation and the Healthcare and Social Security Agency Regulation is not a complete and perfect legal product, so that some legal experts have criticized it. Jimly Asshiddiqie suggested that the the Healthcare and Social Security Agency Regulation be revised immediately because many problems arise in the governance run by the the Healthcare and Social Security Agency.<sup>7</sup> Jimly Asshiddiqie's suggestion needs to be responded to by the government and the member of Indonesia parliament, with the consideration that the fulfillment of the right to health is a form of basic rights as stipulated in the 1945 Constitution of the Republic of Indonesia. The President and the the member of Indonesia parliament need to make changes to the two legal products so that they are in accordance with the orders of the 1945 Constitution of the Republic

of Indonesia.

### 3. Problems in the field of Legal Culture

According to Hilman Hadikusuma, legal culture is the same general response from certain societies to legal phenomena, this assumption is a unified view of legal values and behavior. So the legal culture shows a pattern of individual behavior as members of society that describes the same response (orientation) to the legal life lived by the community concerned.<sup>8</sup> Legal culture is closely related to legal awareness and is manifested in the form of behavior as a reflection of legal compliance in society. In the legal culture, it can be seen that a tradition of daily community behavior is in line with and reflects the will of the law or legal signs that have been established which apply to all legal subjects in the life of the nation and state. In the legal culture of society, it can also be seen whether the community in its legal awareness has really upheld the law as a rule of the game in living together and as a basis for solving any problems that arise from the risk of living together.

The potential for fraud in health services is increasingly visible, emerges and widens due to pressure from the new financing system, opportunities due to lack of supervision, and there is justification for taking action.<sup>9</sup> Shariari (2010) explains that the potential for fraud from clinical groups may arise due to several things, which are as follows:

- (1) low paid medical personnel,
- (2) there is an imbalance between the health service system and the burden of health services,
- (3) service providers do not provide adequate incentives,
- (4) a shortage of medical equipment supply,
- (5) inefficiencies in the system,
- (6) lack of transparency in health facilities, and
- (7) cultural factors.<sup>10</sup>

From the questionnaire distributed to the blended

learning participants with the topic of prevention, detection, and enforcement of hospital group health services fraud in 2015, the INA CBG's rates which are considered low by clinicians and the high workload make them think of unreasonable efforts to defend themselves so as not to until you lose. The worse thing is that these clinicians sometimes share experiences in this self-rescue effort. They then apply these experiences in providing health services so that it becomes a culture. The basis for setting price list is also mysterious for most groups, causing dissatisfaction with the system.<sup>11</sup>

This dissatisfaction also encourages doctors and hospitals to implement coping strategies as a step to cover up their shortcomings or at least to seek profit even from something illegal. This coping mechanism is present when the surveillance system is weak and is unable to cover opportunities for individuals to commit fraud. Certainly people will continue to commit this fraud as long as they can still enjoy the benefits with the opportunity that is always open to commit fraud. A systematic and ongoing effort is needed to control health service fraud. Activities in the anti-fraud system must be in the form of a cycle starting from awareness building, reporting, detection, investigation, imposing sanctions, and returning to awareness building. Awareness building is the key to preventing or spreading fraud in health services. Awareness building can be done in the form of socialization and education.

In the regulatory group, prior to the issuance of Minister of health regulations Number 36 of 2015, regulators such as district / city health offices assumed that the responsibility for eradicating fraud lies with the Indonesian Ministry of Health or only reaches the provincial level health office. Whereas at the regional level, the authority to build an anti-fraud system lies with the district / city health offices. They also thought that their authority was only to control fraud at the Primary Level Health Facility (FKTP) level and not to the Advanced Level Referral Health Facility (FKRTL). However, after being given socialization and education, the awareness of this regulatory group increased. Education and advocacy for regulatory groups (district



/ city health offices) apart from being carried out independently by group discussion from Gadjah Mada University medical faculty (PKMK FK UGM), is also carried out in the form of cooperation with other parties such as the Corruption Eradication Commission (KPK).<sup>11</sup>

In the Healthcare and Social Security Agency group, prior to the education program Healthcare and Social Security Agency initially had the view that the perpetrators of fraud were only providers, without realizing that they also had the potential to commit fraud. They also more often present data on potential fraud findings that have been carried out by providers and seem reluctant to respond to information on potential fraud found in their own institutions. However, after 2 periods of the education program for Healthcare and Social Security Agency staff, the mindset changed. Currently they are starting to realize that fraud has the potential to occur in their own institutions and they need to take a role in efforts to eradicate internal fraud. Educational programs and outreach for these actors still have to be carried out on an ongoing basis. The challenge going forward is the need for equal distribution of programs in order to reach all potential fraud actors.

After having a good understanding of the potential for fraud and its impact on health financing, it is hoped that various actors can also be involved in reporting activities. Health service fraud is unique, each actor can cheat each other. In order not to become a victim of this fraudulent act, each actor is expected to actively report the alleged fraud experienced. To facilitate reporting of suspected fraud, a good reporting system is needed. Minister of health regulations Number 36 of 2015 mandates that the reporting of alleged fraud includes at least the identity of the reporter, the name and address of the agency suspected of carrying out national health insurance (JKN) fraud, as well as the reasons for reporting.

The follow-up to reporting suspected fraud is detection. Currently in Indonesia, the number of reports of suspected fraud is still minimal, which hinders the

process of detecting potential fraud. Other challenges faced in the detection process include the limited human resources to process the available data.<sup>12</sup> The Healthcare and Social Security Agency has a lot of claim data that can be used as a source of potential fraud detection. However, limited technology and human resources hinder this process. Furthermore, this large amount of data has not been optimally utilized to develop potential fraud detection technology. Investigations are carried out to confirm the alleged national health insurance (JKN) fraud, an explanation of what happened, and the background / reasons thereof. The challenge faced in Indonesia is that currently there are no special investigators for health service fraud. In contrast to the United States, which already has a special investigator profession for fraud cases in the health sector, which is a member of the Association of Healthcare Fraud Investigators (AHFI). After the investigation process, the investigator will provide recommendations for sanctions for the perpetrators who are proven to have committed fraud. Firm sanctions for perpetrators of fraud will have a deterrent effect. In Minister of health regulations Number 36 of 2015, administrative sanctions can be given to perpetrators of fraud. However, currently these sanctions have not yet been firmly applied.

There are legal problems related to the management of the National Social Security (JSN), which includes the structure, substance and culture of law. In the National Social Security (JSN) structure, the transfer of the Savings Fund and Civil Servant Insurance Company (Taspen) and the Social Insurance of the Armed Forces of the Republic of Indonesia Company (Asabri) from the Ministry of the Indonesia State-Owned Enterprises to Healthcare and Social Security Agency in 2029 requires a period of 25 years, although juridically in accordance with statutory regulations, it is unrealistic. The formation of the National Social Security System Regulation and the Healthcare and Social Security Agency Regulation has changed the government's obligation to fulfill the right to people's health into an obligation of the people to pay contributions so that the right to health is fulfilled, which is not in accordance with the norms of Article 28

H Paragraph (3) of the 1945 Constitution. The problem with the legal culture that was found was that there was fraud that occurred in various fields, from the basic to the high ranking officials. The management of national social security is carried out by accelerating the transfer of management of the Savings Fund and Civil Servant Insurance Company (Taspen) and the Social Insurance of the Armed Forces of the Republic of Indonesia Company (Asabri) from the Ministry of the Indonesia State-Owned Enterprises to Healthcare and Social Security Agency, then synchronizing several laws and regulations in the field of social security systems.

### Conclusion

There are legal problems related to the management of the National Social Security (JSN), which includes the structure, substance and culture of law. In the National Social Security (JSN) structure, the transfer of the Savings Fund and Civil Servant Insurance Company (Taspen) and the Social Insurance of the Armed Forces of the Republic of Indonesia Company (Asabri) from the Ministry of the Indonesia State-Owned Enterprises to Healthcare and Social Security Agency in 2029 requires a period of 25 years, although juridically in accordance with statutory regulations, it is unrealistic. The formation of the National Social Security System Regulation and the Healthcare and Social Security Agency Regulation has changed the government's obligation to fulfill the right to people's health into an obligation of the people to pay contributions so that the right to health is fulfilled, which is not in accordance with the norms of Article 28 H Paragraph (3) of the 1945 Constitution. The problem with the legal culture that was found was that there was fraud that occurred in various fields, from the basic to the high ranking officials. The management of national social security is carried out by accelerating the transfer of management of the Savings Fund and Civil Servant Insurance Company (Taspen) and the Social Insurance of the Armed Forces of the Republic of Indonesia Company (Asabri) from the Ministry of the Indonesia State-Owned Enterprises to Healthcare and Social Security Agency, then synchronizing several laws and regulations in the field of social security systems.

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