

LAW REFORM OF THE INDONESIA'S SOCIAL HEALTH INSURANCE FOR THE POST COVID-19 PANDEMIC (A DIGNIFIED JUSTICE PERSPECTIVE)

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Abstract

There have been an existing problem in Indonesia. We have been told that Indonesia's social security system, particularly its national health social insurance (JKN) is not equipped to deal with the health and economic shocks associated with a pandemic such as Covid-19. In this article we look at how Indonesia must prepare to face a possible chalanges, post Covid-19 Pandemic. We argue that the government need to focus on a clear legal strategy to address the medium-and longer-term implications of a pandemic such as Covid-19. Since the pandemic has ended, apart from technicals efforts such as continuing reducing the rate endemic of infection through effective testing and tracing and enforcing social distancing and mobility restrictions, the government need to reform the JKN in order to be able to support all the populations particularly the poor and near-poor. A legal philosophy for the reform scheme is needed to reducing long-term poverty and preventing structural changes in unemployment that undermining the JKN. As a report of a legal research, this paper used normative methodology to examine primary legal material such as legislations pertaining to the JKN. It has been found that the Covid-19 pandemic undermines the JKN in the form of legislations regulating this particular field, and it is needed to be reformed.

Keywords: Indonesia, Social Health Insurance, Dignified Justice Jurisprudence.

1. Introduction

Experts (Robert and Et. al 2020) consider that there is a problem within Indonesia's social security system, particularly the national social health insurance (the JKN). The general statement from experts is that the JKN is not equipped to deal with the health and economic shocks associated with a pandemic such as Covid-19. The truth of this judgment needs to be studied further in the direction of legal science utilised in this paper which is called the Dignified Justice Theoory, the *Indonesian Jurisprudence*. Thus, from this paper, there will be a solution for the Indonesian people in dealing with their JKN problem.

Based on the expert's assessment above, we can clearly see that practically (sociologically); and juridically, the Indonesian National Social Health Insurance (NSHI), the JKN, has weaknesses. It is an undeniable fact is that the JKN is a public scheme or a policy designed before the emergence of a Pandemic like Covid-19. It means that public policies are designed only to address financing for diseases that are not pandemic. As a result, JKN is considered increasingly incompetent as a public policies that must be used to withstand

shocks caused by a Pandemic such as Covid-19, moreover to withstand the Covid-19 Pandemic also results in and is exacerbated by economic shocks.

This paper would like to invite readers to critically, orient to, or use the legal theory of the Indonesian nation, namely the theory of Dignified Justice, as an analytical tool to find the root of the problem of the JKN as stated by the expert above. The investigations or studies and research in this paper are crucial. It does not only have theoretical significance, namely to propose a new theory-based "solution" but also wants to understand whether it is true that the JKN does not have the ability to face challenges, namely the consequences caused by a pandemic such as Covid-19, and how to anticipate the post pandemic. In this regard, this paper also states how the theory of Dignified Justice as a theory of Indonesian national law can be used to reform JKN and show anticipatory scientific solutions. It aims to overcome future impacts of a pandemic, such as Covid-19 for the JKN.

2. Literature Review

Dignified Justice Jurisprudence of the Indonesian Legal Science has been taken into account by the world. This is proven by the publication of various scientific research in the field of law that use the Theory as a tool of analysis and orientation of legal thought in both Reputable International Journals and Scopus-indexed scientific journals. In ('*Legal Aid for Victims of Medical Malpractice*' 2021) for example, it was stated how the Theory is used as a tool to analyze all legal issues, including: ('*Legal Aid for Victims of Medical Malpractice*' 2021). It has been argued there that from the perspective of the Theory, the purpose of the law is not merely to pursue the balancing of triad virtues: justice, efficacy, and certainty as the transitory purposes of the law, but the law must achieve its end, to humanize human beings (*nguwongke uwong*) as the creatures of the Almighty God. It postulates a basis that comes from the Pancasila as the Indonesian *staatsfundamentalnorm* or the Pancasila Legal System. ((Prasetyo 2015); (Prasetyo 2010)).

The Dignified Justice Theory or the Dignified Justice Jurisprudence and the Indonesian Philosophy of Law has been developed in order to liberate the Indonesian legal thinking from the very long and hegemonial or domineering *rechtsidee* coming from outside the Pancasila legal systems. The fundamentals of the Dignified Justice theory are based on Pancasila as the highest norm or the highest law in the Pancasila Legal System as impliedly recognised but strongly pointed out in the Article 1 sub (3) UUD NRI Tahun 1945; that Indonesia is the law state or popularly recognised as a state based on the rule of law (Prasetyo 2016b). Pancasila Legal system is not a Civil Law System inherited from the colonial Continental Legal Ideas, nor it is based on the Common Law System inherited from the Anglo Saxon and American or related common law systems. Pancasila Legal System is the independent and sovereign legal system (Kameo and Prasetyo 2021). The Pancasila Legal System has its own legal principles, particularly based on the five tenets, the Highest and the Staatsfundamental Norm Pancasila (Prasetyo 2016a).

The basic principles in the Pancasila Legal System as a sovereign legal system are: 1. The law is a living law that is stipulated by the legislators in the Pancasila Legal System as the supreme being. The law derived all of its spirit from Pancasila, it is the knowledge of the Almighty God as stated in the first tenet (the virtue) of the Pancasila that is inseparable from the other four tenets. With this first principle in mind, the Indonesian legal system believes that all norms and institutions derived their spirit of the law, from Pancasila and each of them is completed and systemic. Pancasila is a self-sufficient legal system and is supreme in Indonesia. In the case of gaps and lacunae, the system will fill the gaps or lacunae by itself; 2. As a supreme legal system, the Pancasila Legal System will not simply pursue the temporal virtues such as justice, efficacy, and certainty, but at the end, the System will reach

the heart of law which is the foremost feature of the Law, that makes human beings humane (*nguwongke uwong*). (Prasetyo 2020).

The same happened with the Indonesian Health System (the Indonesian National Health Insurance), the JKN, it must have also been based on the theory of Dignified Justice, Pancasila has become the establishment of the country which was formulated in the Preamble to the 1945 Constitution of the Republic of Indonesia. The system is based on legal ideals (*rechtsidee*) within the Law. It means that all pervading Indonesian legal ideas cannot be separated from Pancasila as the Supreme Law of the Republic of Indonesia (NKRI). The system has been built to protect the people. It is formulated in the Fourth Paragraph of the Preamble to the 1945 Constitution of the Republic of Indonesia, that the Indonesian State Government (the Pancasila) was formed to: "...protect the entire Indonesian nation and the entire homeland of Indonesia and to promote public or social welfare state, educate the nation's life, and participate in carrying out world order based on liberty, lasting peace and social justice..."

Taking into account the general legal principles in the Pancasila Legal System as stated above, it is logical to adopt the following view. Public policies, including public policies in the health sector, in this case the JKN, must not allow anyone in the Pancasila Legal System, let alone let thousands of people fall into poverty, or even die. In fact, people may die because they are sick, but do not have enough money in their wallets for treatment. Concerning the problems raised by the expert at the beginning of this article, according to the theory of Dignified Justice, the Indonesian Health System should not be built based on a super capitalist system. Because in such a system, even in a government-owned hospital, it is still possible for a citizen to fall into poverty or die when a disaster strikes him. In this regard, there is an opinion that in the practice of the health sector before National Health Insurance was a failure, people were not protected from falling into poverty or even dying. Many cases have been reported by the media about the sad experiences of millions of people in the face of the disaster they suffered (Thabrany 2015a).

Ideally, healthy life is a most basic right or human rights and a prerequisite for a human being to function normally, to become humane. A person's normal function is to grow and develop, play when he is a baby until school age, learn when he is in school age, work after school age, live a healthy life and nurture children and grandchildren when they are old. But the disaster of illness can come at any time. Minor illness disasters, for example, a cold. It can be handled with ease. But a major illness can cause people to sell their property and become poor. Even as stated above, there may be people who die "wasted" by the hospital. Taking into account the objective in the perspective of the theory of Dignified Justice as stated above, that Pancasila is the highest legal standard in the life of society; and the state, the condition of the people who may suffer should not occur. Pancasila has determined a very crucial standard which is as formulated in the First Tenet and inseparable from other tenets, Belief in One Almighty God.

Health services based on the perspective of legal purposes, according to Pancasila, are not mere trading commodities. Health services are both provided by the government and the private sector, especially those provided by the government. According to the central government, local governments must pay attention to the legal objectives based on Pancasila, as stated above. So it is necessary to form a rational and realistic strategy, namely a juridical idea to build a system that can provide the health services needed by the people. That system should be the basis of the JKN discussed in this article.

3. Research Method

The methodology used in this article to solve the problem, including the method used to conduct the analysis, is what is called the legal research method, or normative legal research. With the methods data is collected from the primary source of legal materials such

as legislations and legal textbooks and also; journals. The Authors examined the subjects of the JKN. The data collected is analyzed deductively. Before the analysis, the data collected is stated without any interpretation. The Theory as described above is a major premise. The data collected is explored or examined syllogistically the major premise and the minor premise to find judgments (Prasetyo 2019). The results presented here are several narratives from the formulation of the provisions of the legislations governing the JKN. The narratives presented as the result of the research are not interpreted. The data or legal materials that have been collected from the formulations of the articles or principles of laws governing the JKN are then compiled in such a way. Then, discussed or explored to *answer* the issues raised in this research and achieve the stated objectives in conducting this research and writing.

4. Result and Discussion

As stated above, the Covid-19 pandemic has undermined the JKN. It happened through two channels: increasing unemployment (or reducing hours worked and earnings) in the labor market and crowding out non-Covid-19-related care in the healthcare sector. Active JKN memberships had fallen. Due to the Covid-19 Pandemic, it is unable people to contribute or pay premiums that are mandatory by law to be paid by them as participants of the JKN Program. To solve the problem, we must return to the former legal idea based on Pancasila that has been raised long before the JKN was designed. It demands that JKN not use an insurance model but using a premium payment model by the government. The funds for health insurance premiums is similar to the British model, taken from the state budget.

Such Pancasila's, *rechtsidee* is certainly not without reason. Several arguments below prove that it is a hard fact that the practice of financing the treatment of Covid-19 patients during the pandemic is taken from the State Budget or borne by the State. The state maneuvers by cutting the ministry's official travel budget; not only that, the same treatment happens in the regional budget.

That is a hardproof, since the impact of Covid-19, 5.4 million as premium contributions were withdrawn for many workers. This number is equivalent to 2.7% of the total active JKN membership (BPJS Kesehatan 2020). To a large extent, this is the result of an estimated 3.5 million formal and informal workers losing their jobs since March 2020. The drop in active JKN membership was especially large in the informal sector, falling by 2.4 million (or 16%) from January to September 2020. The formal sector membership also experienced a decline, especially in the second quarter: between March and June, the active membership fell by 0.5 million (or 2%). Since JKN membership includes the worker's family, the whole family will drop out of the JKN system if a formal sector worker loses JKN coverage through unemployment.

The JKN has been running for years since the program started running in 2014. Without Covid-19 alone, there have been major problems with the JKN that continue to occur every year. The problem is the deficit of the Health Social Security Fund (DJS) (Poerwanti and Et. al 2021). Even though the Government's policy is issued to fix the DJS deficit, and there is no Covid-19 pandemic, the deficit continues. The government continues to strive for the JKN to ensure health services for Participants continue to be sustainable by issuing Presidential Regulation Number 64 of 2020 (64/20) concerning the Second Amendment to Presidential Regulation 82 of 2020. The issuance of Presidential Regulation 64/2020 was carried out during the Covid-19 pandemic. The government policy is expected to help a person's ability to pay insurance premiums or contributions. Judging from the theory of Dignified Justice, the policy is in line with the ultimate goal in the soul of the Indonesian nation (*Volkgeist*) or the applicable regulations derived their spirit from Pancasila

that governing JKN. Health is manifesting respect for the values of human rights of citizens as enshrined in Articles 28 and 34 of the 1945 Constitution of the Republic of Indonesia.

It is formulated in Article 28 H paragraph (1) of the 1945 Constitution of the Republic of Indonesia that: everyone has the right to live in physical and spiritual prosperity, to have a place to live, and to have a good and healthy environment and have the right to obtain health services. Furthermore, Article 28 H paragraph (2) of the 1945 Constitution of the Republic of Indonesia stipulates that: Everyone has the right to get special facilities and treatment to obtain equal opportunities and benefits to achieve equality and justice. Article 28 H paragraph (3) of the 1945 Constitution of the Republic of Indonesia contains an affirmation that: Everyone has the right to social security that allows his or her full development as a dignified human being. Meanwhile, in Article 34 Paragraph (1) of the 1945 Constitution of the Republic of Indonesia, it is formulated that: The poor and neglected children are cared for by the State. Then in paragraph (2), it is stated that the State shall develop a social security system for all people and empower the weak and incapable following human dignity. Paragraph (3) stipulates that: The State is responsible for the provision of proper healthcare facilities and public service facilities.

Authors see that in the arrangement according to the 1945 Constitution of the Republic of Indonesia which is oriented towards the welfare of the people (*social welfare state*), it has actually been accepted as a First Agreement which is not an ideology, manipulative or deceptive. It is juridically binding and must be obeyed, especially by State Government. According to the Authors, in the perspective of the theory of Dignified Justice, both in the formulation of state objectives in the Fourth Paragraph of the 1945 Constitution of the Republic of Indonesia and in the formulation of the articles of the 1945 Constitution of the Republic of Indonesia as stated above, the JKN must adhere to the obligation the fulfillment of what is called *universal health coverage (UHC)*.

Fortunately the attempt has only been done in an elitist manner, for Civil Servants. Then, it has been gradually aim at all the people in this Pancasila state. Approximately 70 years after Pancasila, which was formulated as the highest law in the Preamble to the 1945 Constitution of the Republic of Indonesia on August 18, 1945 only a few parts of the people received guarantees from the government, local government, and Askes for civil servants. For approximately 70 years after the Proclamations of the Indonesian Independence, about half of the population still live in poverty. For example, if a sick disaster happens, some people will fall easily into poverty. However, some government officials still think that illness is not material, so cost relief or exemption from expensive medical fees still has to wait for about 70 years. That is the root of the problem in this paper, namely that there are many facts here and there, as seen in daily life that many public policies, especially in this case, the JKN still need to be reformed.

If it is not reformed, the Government, especially in JKN which is according to the formulation of state objectives in the Preamble of the 1945 Constitution of the Republic of Indonesia and Pancasila and the articles in the 1945 Constitution of the Republic of Indonesia as stated above, will be accused of committing "a waiver to protect lives", because without adequate treatment people who are seriously ill will die. Because there are people who think that many high-ranking officials in this country don't really care about the nation's rice. The promise in the state objectives as formulated in the Fourth Alenia of the 1945 Constitution of the Republic of Indonesia to protect all the interests of the people is considered invalid for protection against sickness:

...our high-ranking officials do not have the political will to help others, to save the lives of others, to free the nation from suffering from serious illness, to restore the productivity of others, and to live healthy together. State budget spending is only for extravagance. A person who owns a car and returns home with subsidized

gasoline/diesel costs is not an example of that spree. For more than ten years, the Government of this country has disbursed fuel subsidy funds that reach thousands of trillions. In fact, if some of the funds are used to treat people who are dying, their disease can be cured or their suffering reduced. On the other hand, the thousands of trillions of funds are enjoyed by motorized vehicle owners or renters, motor vehicle sellers, toll road owners, and motor vehicle manufacturers. The suffering of the people of the country who recognize the teachings of God Almighty as the basic guideline in every joint of the state and protect the people. (Thabranly 2015b).

The values of human rights in the formulation of the articles of the Constitution of the Republic of Indonesia that have been formulated above should continue to be passed down by legislators in the laws and regulations below. For example, it is included as a soul in Law Number 40 of 2004 concerning the National Social Security System (UU SJSN) and Law No. 24 of 2011 concerning the Social Security Administering Body (UU BPJS). As is known, the SJSN Law stipulates the JKN program as one of the social security programs in the national social security system.

The problem arises because the SJSN Law stipulates two principles for the implementation of JKN, namely social insurance, and equity. The integration of the two principles of social protection should be a mandate from the articles in the 1945 Constitution of the Republic of Indonesia as stated above. This integration, according to the Authors, can be realized as a reform agenda by the Government by no longer subsidizing JKN contributions for the poor and the underprivileged. However, the Government becomes the payer of premiums or *insurance premiums* as an obligation that can be carried out in stages and starts from the JKN program.

So far, the two principles are still separate and have not been united above have been implemented by establishing mandatory participation and the stages of its implementation, insurance contributions or premiums according to the amount of income, JKN benefits following medical needs, as well as the management of participants' trust funds by non-profit organizing bodies. By prioritizing prudence, accountability, efficiency, and effectiveness. Authors note that according to many parties, the formulation of the articles in the 1945 Constitution of the Republic of Indonesia above, the principle for a more precise JKN implementation should be equity, not social insurance, which is mandatory for all participants. There is a kind of "lawsuit" from some parties that if the Government can spend 300 trillion Rupiah a year for subsidies for owners and the motor vehicle industry; why the Government is not able to make the people healthy, productive, and competitive as mandated in the articles of the 1945 Constitution of the Republic of Indonesia above only by paying equity for all the people of 150 Trillion Rupiah a year.

As is known, the initial insurance premiums of BPJS Health in 2014, for example, initially for class III treatment rooms, were 25,500 Rupiah per person per month, class II 42,500 Rupiah per month, and class I 59,500 Rupiah per month. In the first year, the social security fund had a deficit of Rp 1.65 trillion. It means, for the sustainability of health insurance, the Government is helping. If the government helps by 2 trillion out of the 300 trillion used to subsidize fuel, then the BPJS health deficit in the first year can easily be overcome, and the Health Social Security or Insurance program will be sustainable.

In connection with that, the good news needs to be stated here that if it is based on the merger of the two principles of administering JKN as stated above, namely social insurance and equity, in essence, it is the principle of the State Government, which in the Preamble to the 1945 Constitution of the Republic of Indonesia was formed to protect the entire Indonesian nation and all of Indonesia's bloodshed and to promote public welfare, educate the nation's life, and participate in carrying out world order based on freedom, eternal peace, and social justice. This principle has shown the political will that should be, otherwise, it is

said that the standard of compliance with legal obligations is outlined as a state goal in the Fourth Alenia of the Preamble to the 1945 Constitution of the Republic of Indonesia so that the Government provides an equity principle-based budget of 20 Trillion Rupiah to be able to pay the so-called Contribution Assistance Recipients (PBI) (Thabrany 2015c). Moreover, more than 132.6 million poor and underprivileged people are BPJS Health (JKN) participants for free (PBI). A sizable portion of the population gets services equivalent to Class 3 and a fee of IDR 42,000 per person per month. The compulsory insurance premium or contribution is borne by the Government through the State Budget for Contribution Assistance Recipients (PBI) of 96.6 million people. Meanwhile, the regional government will pay 36 million people in the APBD. Reforms to JKN have been carried out with Presidential Decree 64/2020, which has begun to introduce contributions from local governments for PBI APBN.

It should be stated here that the existence of the two principles of JKN implementation above is a description of the legal principles that are followed in a normal atmosphere. Because when JKN was held for the first time, the Government had not thought about or anticipated that one day this country and the world would be hit by a pandemic like what happened in Covid-19. So, it is only natural that the expert, as stated at the beginning of this article, that if the JKN situation, according to the initial draft above, if it had to take into account the situation during the Covid-19 pandemic, it would, of course, be more sinister.

Taking into account the description of the theory of Dignified Justice, which adheres to the postulate of the purpose of the law, it explains that the theory is not only pursuing temporary matters such as justice, usefulness, and legal certainty but more than that, the purpose of law must be to humanize humans as creatures created by God Almighty in society. Then, an argument that is judgment-based or in the perspective of Dignified Justice theory needs to be put forward here on a minor premise, namely the state of the JKN program described above.

Reforms, as mentioned above, can be carried out on the regulation of income from social security funds in Law No 24 of 2011. The law stipulates that income from social security funds comes from 1. Social security contributions, including contribution assistance. 2. The results of the development of the Social Security Fund. 3. The proceeds from the transfer of assets of the social security program, which became rights of participants from BUMN that organize the program Social Security. 4. Other legal sources by the laws and regulations. Reforms can be carried out by removing the first source and replacing it with a JKN funding source that comes from the APBN and APBD. So, in this case, it is necessary to remove the two principles stated above, namely the principle of social insurance and the principle of equity, and be replaced them with the British model which finances the NHS with the State Budget.

The Government has made efforts in 2020 by making improvements and encouraging the acceleration of JKN reform. The reform effort was carried out using juridical instruments, namely through Presidential Decree 64/2020. In other words, Presidential Decree 64/2020 is a manifestation of the Government's commitment to developing a sustainable and equitable health insurance ecosystem. Presidential Regulation 64/2020 was prepared to follow up on the recommendation of the Supreme Court (MA) decision in Decision Number 7 P/HUM/2020 dated February 27, 2020. In its consideration, the Panel of Judges at that time emphasized the need for holistic improvements from upstream to downstream, which included systems, management, and service. One form of reform carried out is the adjustment of JKN (insurance premium) contributions starting July 1, 2020, based on the spirit of gotong royong. This means that the spirit of participants can help the less fortunate, and healthy participants to help those who are sick or at high risk. Through the principle of cooperation, national health insurance can foster social justice and sustainability for all Indonesian people.

The reform based on the principle of Indonesian unity can be seen in the contributions of PBP and BP participants. It is regulated in Presidential Decree 64/2020, starting July 1, 2020, the premium for PBP and BP Class 1 participants is adjusted to 150,000 Rupiah per person per month. Meanwhile, the premium for PBP and BP Class 2 participants is 100,000 Rupiah per person per month. The contribution is still relatively far below the actuarial calculation. Class 1 and Class 2 participants are still assisted by other membership segments. Participants who cannot afford Class 1 and Class 2 health services can move to Class 3, which only pays 25,500 IDR per person per month. The compulsory health insurance premium is much cheaper than the rate for the poor of 42,000 Rupiah, which is paid by the state. The remainder, which is the difference of 42,000 Rupiah minus 20,500 Rupiah, which is 16,500 per person per month will be assisted by the Central Government and Regional Government through the PBP and BP class III participant contribution assistance scheme.

Coinciding with the issuance of Presidential Decree No. 64 of 2020 during the pandemic, reform through Presidential Decree No. 64 of 2020 is carried out by way of relaxation of contributions. Taking into account the Covid-19 pandemic situation, in Presidential Decree No. 64 the Year 2020 JKN participants who are in arrears in contributions can reactivate their membership by only paying off arrears for 6 months. Thus, there is a waiver from the obligation to pay off for 24 months.

Reforms are also evident in the Government's efforts to cover the deficit of DJS Health that has occurred since the beginning of the program's implementation. Starting in 2015, the Government has injected aid funds into DJS Health. The assistance provided by the Government in 2015 was a form of Government intervention in the form of 5 trillion State Equity Participation (PMN). Consisting of 3.46 trillion Rupiah as a substitute for operational funds and 1.5 trillion Rupiah of pure PMN. Considering that DJS Health is still in a deficit condition, in 2016 the Government intervened similarly to the above pattern, namely using the PMN mechanism of 6.8 trillion Rupiah. Slightly different things were done by the Government in 2017 and 2018. The mechanism used is no longer in the form of PMN but in the form of spending of 3.6 trillion Rupiah for 2017 and 10.3 trillion rupiahs for 2018. Through the spending mechanism, government assistance It is not the responsibility of DJS Health to return the funds to the Government.

The assistance for assistance stated above proves that solving the problem of the DJS Health deficit, which relies solely on premium contributions from participants is still not economical. This is then made worse by the COVID-19 pandemic, the time for completion has not yet been determined. The pandemic, as well as the current world economic situation, is expected to lower the macroeconomic level, which will have an impact on PBP and BP's income. As a result, this will reduce the ability to pay contributions and the original problem will reoccur, namely the occurrence of arrears in contributions.

Adhering to the directives according to the Dignified Justice theory, it can be said here that the government has attempted to carry out reforms through the formulation of the meaning or definition of Health Insurance. It was stated in Presidential Regulation 82 of 2018 concerning Health Insurance which was amended for the second time by Presidential Regulation 64 of 2020 that what is meant by guarantee or can be equated with the general term, namely insurance is health protection so that Participants obtain health care benefits and protection in meeting basic health needs that are needed. given to everyone. In addition to the burden that is given to everyone, in the meaning of the legislation it is stated that the guarantee is given to those who have paid the Health Insurance Contribution or the Health Insurance Contribution is paid by the Central Government or the Regional Government. That meaning sends a clear message that the Government has tried hard to be the party that bears the cost of treating the sick. Such is the state's goal as mandated in the Preamble to the 1945 Constitution of the Republic of Indonesia, which states that the state improves the

welfare of the people. In the Fourth Amendment to the 1945 Constitution of the Republic of Indonesia, this goal was further emphasized, namely by developing a social security system for the welfare of all people.

The national social security system which includes JKN is a state program that aims to provide certainty of social protection and welfare for all people. This is also in line with the formulation of Article 28H paragraph (1), paragraph (2), and paragraph (3) and Article 34 paragraph (1) and paragraph (2) of the 1945 Constitution of the Republic of Indonesia which have been stated above. In addition, in the Decree of the People's Consultative Assembly Number X/MPR/2001, the President is tasked with establishing a national social security system to provide more comprehensive and integrated social protection for the community. The SJSN Law and the BPJS Law further prove that the Indonesian people already have a Social Security system for all Indonesians to provide social protection for the community that is more comprehensive and integrated.

The number of JKN participants has reached more than 82% of the total population. The composition of the said participation is as follows. Participants who fall into the category of Contribution Assistance Recipients (Health Insurance Program for the poor and the underprivileged, paid for by the Central Government through the APBN and the Regional Government through the APBD) have far exceeded 133.5 million people or more than 59.9%. Meanwhile, participants who are not Contribution Assistance Recipients consist of Wage Recipient Workers or anyone who works for the employer by receiving a salary or wages. Those who fall into this group include civil servants, BUMN, BUMD, and the private sector. The number of these participants has exceeded 54.1 million people or 24.2%. There are also participants from Non-Wage Recipient Workers or anyone who works or does business at their own risk who can pay contributions. They include doctors/midwives practicing, the private sector, traders/service providers, farmers/breeders, fishermen, drivers, and cart bikes. Their number is estimated at 30.4 million people or 13.6%. The next participants are those who are referred to as non-workers or any person who is not part of the community who is registered and whose contributions are paid by the Central/Regional Government, PPU, and PBPU. Their number is about 5 million people or 2.2%.

The people's "resistance" against the JKN program model can be seen in the lawsuit from the Indonesian Dialysis Patient Community (KPCDI) or the judicial review of Presidential Decree No. 75 of 2019 concerning Health Insurance. The Supreme Court responded to the people's lawsuit through Decision (MA) No: 7 P/HUM/2020. In essence, the Supreme Court believes that Article 34 paragraph (1) and paragraph (2) of Presidential Regulation Number 75 of 2019 concerning the increase in Health Insurance contributions organized by BPJS Health for classes I, II, and III have no binding legal force. The Supreme Court's decision then raised concerns, about if there would be an acceleration of the JKN deficit if participant contributions were to refer to Presidential Regulation 75/2019 starting in 2014. So following the Supreme Court's decision, significant steps were taken to maintain the sustainability of the program.

As stated above, the Government then drafted a second amendment to Presidential Regulation No. 82 of 2018. The Presidential Regulation in question is Presidential Regulation No. 64 of 2020. The Presidential Regulation was drafted using the mechanism for submitting initiative permits to the President. The initiator of the preparation of the Presidential Regulation is the Minister of Finance, coordinated by the Directorate General of Budget or technically carried out by the Directorate of Harmonization of Budgeting Regulations. The main objectives of Presidential Decree 64/2020 are to reform or improve the contribution structure, improve dues payment compliance, and provide relaxation during the Covid-19 pandemic.

It is said that the substance of Presidential Regulation Number 64 of 2020 and Regulation of the Minister of Finance Number 78/PMK.02/2020 has given birth to a broad

impact on the community regarding the sustainability of the JKN program. However, there is a follow-up problem, namely the need for additional budgetary burdens for the Central Government and Regional Governments.

Pandemic has had an impact on Indonesia. Millions of people have contracted Covid-19. The government took steps to suppress the spread of Covid-19 by establishing a Large-Scale Social Restriction (PSBB) policy. The policy is stated in a legal product known as Government Regulation Number 21 of 2020 concerning Large-Scale Social Restrictions (PSBB). PSBB is a policy of limiting certain activities of residents in an area suspected of being infected with Covid-19.

There are millions of workers affected by Covid-19 in 7 Industrial Sectors, namely: more than 1.9 million in the Garment/Textile sector; 12 thousand in the restaurant and restaurant sector, the food and beverage industry in transportation is more than 459 thousand, in the aviation business, there are 532 thousand workers affected. The construction sector, namely the procurement of goods and services is stopped/transferred to the cost of handling Covid-19. Trade in goods and services such as malls are quiet, shops are closed. In the manufacturing sector, there are more than 250,000 workers affected. Employers choose not to pay their employees in full or not to pay benefits, including social security protection benefits. The company's inability to pay employment social security contributions, including JKN, can massively have an impact on the amount of the Social Security Fund, which has been stated above is always in a deficit.

5. Conclusions and Suggestions

Indicators of reform have been seen during the Pandemic. It encouraged the Government to take policies to save the economy through the National Economic Recovery (PEN) program. The PEN program aims to protect, maintain, and improve the economic capacity of business actors in running their businesses during the Covid-19 pandemic. It is hoped that the PEN program will be able to help the JKN and improve its performance to sustain the Indonesian economy.

The government also helps relax or relieve JKN contributions that must be paid by employers/business entities that are forced to delay payment of employment social security contributions, including JKN contributions from their workers. They do it as part of their strategy to deal with the business climate that is still not good. In addition to postponing the obligation of employment social security contributions, some employers reduce the number of employees or even close the business entity. Thus, the purpose of providing relaxation is the protection of labor social security rights for participants. Relaxation also eases the burden on employers and participants, as well as, maintains the sustainability of employment social security protection programs, including the JKN, and supports efforts to recover the economy and business continuity.

The problem is that such patchy policies still need to be rethought based on the Dignified Justice theory, especially learning from the handling of the Covid-19 Pandemic. So, from the perspective of the theory of Dignified Justice, to anticipate the post-Covid-19 pandemic, the Government needs to re-contemplate the spirit of the nation (*volkgeist*) in the Fourth Paragraph of the Preamble to the 1945 Constitution of the Republic of Indonesia as mentioned above, namely that the State Government was formed to protect the entire Indonesian nation and all Indonesian's bloodhood based on Pancasila.

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