

Legitimation Of National Health Services Law: The Right to Health for All Citizens

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Abstract

Legal legitimacy of national health services is recognition or approval from the public for the laws governing national health services. This legal legitimacy is important to maintain the stability and continuity of national health services. The right to health is a human right recognized by various international legal instruments, including the Universal Declaration of Human Rights and the International Covenant on Economic, Social and Cultural Rights. The right to health is a fundamental right, because it is a prerequisite for the fulfillment of other human rights. The national health service law in Indonesia mandates that everyone has the right to health. However, in practice, there are still many people who cannot access quality and affordable health services. This is caused by various factors, including limited resources, lack of public awareness about the importance of health, and discrimination against vulnerable groups. Increasing the legal legitimacy of national health services can be done through various efforts, including: a) Disseminating information about the law: The government needs to socialize and educate the public about the laws governing national health services; b) Improving the quality of health services: The government needs to improve the quality of health services, both in terms of availability, affordability and quality; c) Increasing the accessibility of health services: The government needs to increase the accessibility of health services, so that people can easily access the health services they need; and d) Increasing the legal legitimacy of national health services is important for realizing the right to health for all citizens.

Keywords legal legitimacy, national health services, right to health, society

INTRODUCTION

The National Health Insurance Program was launched in early 2014, which is a comprehensive health protection program that includes promotion, treatment and rehabilitation services for all Indonesian people. The main aim of health insurance is to improve access and quality of health services so that participants obtain health services and protection to meet their basic health needs (Department of Health of the Republic of Indonesia, 2004).¹

Therefore, when using medical services, service quality is an important factor. Assessment of good service quality is not only limited to physical recovery from illness, but also includes service delivery, communication, information, courtesy, timeliness, responsiveness, adequate facilities and physical environment. Quality health services have become a social need that determines the success of national development.

The National Health Service Guarantee Program not only aims to increase accessibility to health services, but also protects the public from financial risks that can arise due to high health costs. So the National Social Security System Law provides a clear legal basis to guarantee that health insurance is not a right limited to certain groups, but is the right of

¹Setiawan, M. Dwi, et al. "Analysis of the Quality of Health Services for the National Health Insurance Program (A: Systematic Review)." *Tambusai Education Journal* 6.2 (2022): 12869-12873.



every citizen, regardless of social, economic or geographic background. The problem formulation in this writing is as follows:

1. What is the Legal Legitimacy of the National Health Service?
2. How does the National Health Insurance Service reflect human rights principles, especially the right to health for all levels of society?

METHOD

Based on the explanation above, the problem formulation that will be raised in this research uses normative juridical research methods. Normative juridical research is a legal research approach that focuses on the analysis of applicable legal norms or regulations. This research method aims to understand, interpret and apply legal norms using a normative approach through studying legal documents such as laws, articles of association and court decisions.²

Normative juridical research often refers to written legal norms and requires legal interpretation skills to understand the meaning and relevance of these norms in a particular context.³This approach is usually used to review the legal framework, identify legal gaps, or formulate a legal opinion on an issue.

RESULTS AND DISCUSSION

Legal Legitimacy of the National Health Service

Legitimacy is the ability of an entity, action, or decision to be accepted by society as correct, appropriate, or appropriate. In a social, political, or legal context, legitimacy refers to the ability of a power, government, or action to survive or be maintained based on support from society.

The legal legitimacy of the National Health Service lies in the public's awareness or approval of the laws and regulations that regulate it. This legal legitimacy is important to maintain the stability and continuity of the National Health Service. The aspects of the Legal Legitimacy of the National Health Service include:

- a. *Substantive Aspect*. Legal legitimacy is related to the substance of legal regulations governing the national health service system. These regulations need to be in line with the values and norms that apply in society, while ensuring that the community's needs for quality and affordable health services are met.
- b. *Procedural Aspects*. The procedural aspect is legal legitimacy related to the stages of forming legal regulations governing national health services. These laws need to be produced through a democratic process that involves active participation from the community.
- c. *Implementation Aspects*. This aspect is legal legitimacy related to the execution of legal regulations governing national health services. Implementation of this law needs to be carried out effectively and efficiently, aiming to provide optimal benefits for society.⁴

²Soerjono Soekanto, *Legal Research Methods*, (Jakarta: Rajawali Pers, 2009), p. 25.

³Jimly Asshiddiqie, *Legal Research Methods*, (Jakarta: Sinar Graphics, 2010), p. 80

⁴Junef, Muhar. "Law Enforcement in the Context of Spatial Planning to Realize Sustainable Development." P-ISSN Legal Research Journal 1410 (2021): 5632.

Based on the three aspects above, the legal legitimacy of national health services must be in line with the values and norms that apply in society with a democratic legal process and these legal regulations can be implemented to regulate national health services so that goals are achieved effectively and efficiently.

Law Number 40 of 2004 is the main legal foundation for the National Health Insurance Service (JKN). This law provides legitimacy and a solid legal framework for the implementation of health insurance programs in Indonesia.⁵ Therefore, the state is responsible for ensuring health services for the poor and needy. This law guarantees social protection and welfare for all Indonesian citizens and provides a legal basis for adequate fulfillment of basic living needs.

In this regard, Health Service Guarantee has a health system, where the Health system is a network of health service providers (supply side) and the people who use these services in each region (demand side), as well as countries and organizations that provide these resources, in humans and in material form.⁶

The health system is not limited to a set of regulatory, financial and service provider institutions, but also includes a diverse group of organizations that provide input into health services, particularly human and physical resources, such as facilities, tools and knowledge and technology.

National Health Insurance Services Reflect Human Rights Principles in terms of the right to health for all levels of society

Human rights (HAM) are a collection of rights that are inherent in every individual simply because they are human, without regard to factors such as race, religion, gender, or social status. Human Rights principles affirm the dignity of every individual and recognize that they have basic rights that must be recognized, respected and protected by the government and society.⁷

Based on this, the human rights of every human being must be recognized, respected and protected. Human rights include various civil and political rights such as the right to freedom of opinion, the right not to be tortured, and the right to freedom of religion, and economic, social and cultural rights, the right to education, work and health, as well as collective rights relating to certain groups or communities.

One of the human rights includes the health sector, so access to health services is very important, because human rights ensure that all individuals have the right to access quality health services without discrimination. This includes efforts to provide affordable and easily accessible health services for the entire community.⁸

⁵Law of the Republic of Indonesia Number 40 of 2004 concerning the National Social Security System.

⁶SALANGKA, ATHALIA REVANNA. "SUPERVISION FOR THE HEALTH SOCIAL SECURITY ADMINISTRATING AGENCY (BPJS) IS SEEN FROM STATE ADMINISTRATIVE LAW." LEX PRIVATUM 12.3 (2023).

⁷ Triputra, Yuli Asmara. "Implementation of Global Human Rights Values into the Indonesian Legal System Based on Pancasila." Legal Journal ius quia iustum 24.2 (2017): 279-300.

⁸ Universal Declaration of Human Rights (UDHR), Article 25: (1) Everyone has the right to an adequate standard of living which includes food, clothing, housing, health care and necessary social services. In addition, everyone has the right to social security in the event of incapacity due to loss of employment, accident or



To receive these services those who carry out state functions are appointed and paid by the community. According to this understanding, state service to the community is not a gift that must be requested by the community, but rather the community has the right to demand it, as regulated in the human rights article in the field of Health. Article 28H of the 1945 Constitution stipulates that:⁹

- a. Every person has the right to live in physical and spiritual prosperity, to have a place to live, and to have a good and healthy living environment and the right to receive health services.
- b. Everyone has the right to receive special facilities and treatment to obtain the same opportunities and benefits in order to achieve equality and justice
- c. Every person has the right to social security that enables his/her full development as a dignified human being.
- d. Everyone has the right to have private property rights and these property rights may not be taken over arbitrarily by anyone.

Based on Presidential Regulation Number 80 of 2019 concerning Health Insurance, national health insurance services for the right to health for the entire community consist of, firstly, promotive health services, which are health services that aim to improve health and prevent disease. Examples of promotive services are health education, immunizations and periodic health checks. Second, preventive health services are health services that aim to prevent disease or disease complications. Examples of preventive services are the provision of medicines, medical procedures, and rehabilitation. Third, curative health services are health services that aim to treat disease or complications of disease. Examples of curative services are inpatient, outpatient, and surgery. Fourth, rehabilitative health services which aim to restore body functions that have been disrupted due to illness or accident. Examples of rehabilitative services are physiotherapy, occupational therapy, and speech therapy.¹⁰In accordance with the above, the National Health Insurance service provides for the right to health so that all people get national health insurance through the Health Social Security Administering Body (BPJS) which has been created by the government.

CONCLUSION

The conclusion of this research confirms that National Health Insurance not only has a strong legal basis but is also an effective tool for realizing the right to health of all Indonesian citizens. Even though there are challenges, efforts to maintain and strengthen the legal legitimacy of National Health Insurance are the key to achieve a vision of inclusive and sustainable health.

One of the human rights includes the health sector, namely National Health services, the right to Health for the entire community which is contained in the 1945 Constitution

circumstances beyond their control. (2) Pregnant women and children have the right to special protection and care. All children, whether born within or outside of marriage, have the right to receive special protection and attention from society and the state.

⁹The 1945 Constitution of the Republic of Indonesia

¹⁰Putri, Prima Maharani, and Patria Bayu Murdi. "Health services in the era of national health insurance as a program of the social health security administering body." *Journal of Legal Discourse* 25.1 (2019): p. 80

article 28H which states that every person has the right to social security which enables his/her full development as a dignified human being. So, one of the national health insurance services is the Health Social Security Administering Body (BPJS).

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