

GOVERNMENT RESPONSIBILITIES IN HEALTH CARE SERVICEBASED ON DIGNIFIED JUSTICE

Yusriando
Teguh Prasetyo
I Gusti Ayu Ketut Rachmi Handayani
Anis Masdhurohatun

ABSTRACT

The government has responsibilities related to the implementation of integrated health services as a continuous promotion, preventive, curative and rehabilitative effort, this leads to the consequence of the demands of the role of qualified hospital. In realizing its obligations, government-supervised Hospital is obliged to provide health services in an effort to protect the entire Indonesian nation and state. The principle of regulating the government's responsibility in the health services sector of the Social Security Administration Organization (BPJS) is that the right to health services is a basic human right. In addition, the principle of regulating government responsibility in health services BPJS is a manifestation of the responsibility of the Government to bring the welfare state according to the concept of welfare state in the 1945 Constitution.

A. Introduction

Health is everyone's human right. To create an excellent health care for everyone especially Indonesian people the government's role which synergizes with the community is needed. In Article 28 H paragraph (1) of the 1945 Constitution of Republic of Indonesia stated that every person shall have the right to live in physical and spiritual prosperity, to have a home and to enjoy a good and healthy environment, and shall have the right to obtain medical care.

Article 9 of Law Number 39 of 1999 on Human Rights states that: Every person shall have the right to live, to maintain life and to improve standard of living. Everyone also has the right to live safe, peaceful, happy, prosperous, physically and spiritually. Everyone cannot live without the right to a good and healthy environment. The guarantee of the right to an optimal health care is also contained in Article 4 of Law Number 23 of 1992 concerning health.

The government has responsibilities related to the implementation of integrated health services as a continuous promotion, preventive, curative and rehabilitative effort, this leads to the consequence of the demands of the role of qualified hospital. In realizing its obligations, government-supervised Hospital is obliged to provide health services in an effort to protect the entire Indonesian nation and state.

The enactment of Law No. 40 of 2004 concerning National Social Security System, Indonesia has a Social Security system for all the people, the formation of this Law aims to create a national social security system so that it is necessary to establish an organizational body which is public legal entity and based on the principle of mutual cooperation, non-profit, openness, prudence, accountability, portability, compulsory membership, trust funds, and the results of management of the Social Security Fund should be used entirely for program development and as much as possible for the benefit of participants. As mandated by Law Number 40 of 2004 concerning National Social Security System and later Social Insurance Administration Organization is established through Law Number 24 of 2011 on the Social Insurance Administration Organization (BPJS).

This law mandates the establishment of 2 (two) BPJS namely BPJS Health Care Security and BPJS Manpower. BPJS Health Care Security started to operate the Health Insurance Program on January 1, 2014 and is an institutional transformation of PT Askes (Ltd.). The target of BPJS Health Care Security is the achievement of universal participation in accordance with the path to the National Health Care Insurance in 2019. The vision of BPJS Health Care Security such as 2019 Universal Coverage at the latest January 1, 2019, the entire population of Indonesia has a national health insurance to obtain health care benefits and protection to meet with the basic health needs organized by BPJS Health Care Security that is leading, superior and reliable and becomes good governance as a whole and consistent. Social Insurance Administration Organization, hereinafter abbreviated as BPJS Health Care Security is a legal entity established to organize a health insurance program.

B. Theoretical Framework

1. Citizen Basic Rights in Health Care Service

Article 1 paragraph (1) of Law Number 23 of 1992 on Health, that Health is a prosperous condition of the body, soul, and social that allows every person to be economically productive. Therefore health is the basis of the recognition of the degree of

humanity¹. Without health, a person becomes unequally conditional. Without health, a person will not be able to obtain the other rights. An unhealthy person will diminish right to life, be unable to obtain and live decent work, cannot enjoy right to unite and assemble and express opinions, and cannot obtain education for future. In short, one cannot fully enjoy life as a human being.

The guarantee of the right to health is also contained in Article 12 paragraph (1) of the International Convention on Economic, Social and Cultural Rights adopted by the General Assembly of the United Nations 2200 A (XXI) of 16 December 1966, namely that the States Parties to the Convention recognize the right of everyone to enjoy the highest standards that can be achieved in terms of physical and mental health. The protection of the rights of mother and child is also particular concern in the Convention on the Rights of the Child. Other international instruments on the right to health are also contained in Articles 12 and 14 of the International Convention on the Elimination of All Forms of Discrimination against Women, and paragraph 1 of the Universal Declaration on the Eradication of Hunger and Malnutrition.

On the national scope, Article 28 H paragraph (1) of the 1945 Constitution of the Republic of Indonesia states every person shall have the right to live in physical and spiritual prosperity, to have a home and to enjoy a good and healthy environment, and shall have the right to obtain medical care. Article 9 of Law Number 39 Year 1999 regarding Human Rights states that:

1. Everyone has the right to live, to obtain life and to improve standard of living.
2. Everyone has the right to live safely, peacefully, happily, prosperous, physically and mentally.
3. Everyone has the right to a good and healthy environment.

The guarantee of the right to an optimal health care is also contained in article 4 of Act No. 23 of 1992 on health.

2. Government Authority in the Health Care Service

Health is a prosperous condition of the body, soul, and social that allows everyone to be protected. The government in this case is responsible for planning, organizing, applying, fostering and supervising the implementation of health efforts that are equitable and affordable to the community. The government is also responsible for the availability of access to information, education, and health care facilities to improve and maintain the highest degree of health². The government's goal of upholding health is to raise awareness, willingness, and healthy living for everyone so that the highest degree of public health is created, as an investment for socially and economically productive human resource development³. In addition to the Government's responsibility to protect the public on health service, the public is also guaranteed under the 1945 Constitution, Law Number 36 of 2009 on Health, and Law No. 39 of 1999 on Human Rights and International Conference on Economic, Social and Culture that has been ratified by Law Number 12 of 2005. The obligation of the Government to fulfill the right to health as a human right has an international juridical foundation in Article 2 paragraph (1) of the Convention on Economic, Social and Cultural Rights. Article 28 I Paragraph (4) of the 1945 Constitution of the Republic of Indonesia states that the protection, promotion, enforcement, and fulfillment of human rights are the responsibility of the state, especially the government. The government obligation is also affirmed in Article 8 of the Human Rights Law. In the health service, Article 7 of the Health Care Law states that the government is in charge of organizing equitable and affordable health efforts by the community. Article 9 of the Health Law states that the government is responsible for improving the degree of public health. Efforts to fulfill the right to health can be completed in various ways including prevention and caring. Prevention efforts include the shaping of conditions that are appropriate for health either to ensure food or work availability, good housing, and a healthy environment. While the caring effort is done with the provision of optimal health services. Health services include social security aspects of health, adequate health facilities, qualified medical staff, and affordable service financing by the community. Article 12 of the Convention on Economic, Social and Cultural Rights describes the steps to be taken to achieve the highest standards of achieving physical and mental health:

¹ Law Number 23 of 1992 concerning Health.

² <http://www.gresnews.com/berita/tips/1830215-hak-hak-dalam-kesehatan/0/> ,diakses pada tanggal 20 Agustus 2017 jam 22.35 WIB.

³ Ibid

1. Provision of reduction of childbirth and the development of healthy children;
2. Enhancing all aspects of environmental and industrial health;
3. Prevention, care and control of all endemic infectious diseases, occupational diseases and other diseases;
4. Creating conditions that ensure the all medical care during illness. The Law concerning Health regulates various efforts that are responsibility of the government to create optimal health service. In general, Article 10 of the Health Law states that in order to create optimal health service for the community, health efforts are carried out with maintenance approach, health promotion (promotion), prevention, curative, and health rehabilitation which are implemented thoroughly, integrated and sustainable.

3. Government Legal Responsibility in Health Services

The Government's responsibility in health services can be viewed from the perspective as human rights⁴. The idea is related to the noble value of human dignity which becomes the idea of modern human rights in which in its development contained in every religious teaching. Meanwhile, the theory of normative human rights focuses on policies and legislation related to government responsibility, including the health insurance sector. In analyzing the legal responsibilities of government in health services in Indonesia, Normative Human Rights theory emphasizes everything that regulates the legal actions of the government. All such regulations must have already been determined in the applicable laws and human rights regulations. The responsibility of the government in health services is included in the obligation of the government to provide protection to legal subjects as the bearer of rights and obligations (*de drager van de rechten en plichten*), be it human (*natuurlijkepersoon*), legal entity (*rechtspersoon*) or position (*ambt*), can perform legal actions based on ability (*bekwaam*) or authority (*bevoegdheid*) owned. The public needs the protection of the Government on the balance or harmony of various interests and values that are disrupted as a result of the crime. The function of the law as a regulatory instrument and protection instrument, aimed at a goal that is to create an atmosphere of legal relationships between legal subjects in harmonious, balanced, peaceful, and fair. Legal objectives will be achieved if each legal subject obtains his / her rights fairly and performs his / her duties in accordance with applicable law. The legal protection for the people is therefore a universal concept. The responsible government puts the principle in perspective of the rule of law. As Paul E. Lotulung states, "each country has its own means and mechanism of how to create the protection of law and also to what extent the legal protection is provided."⁵ Protection embodied through legal action by the government constitutes which is based on acts on the nature of the legal effect. The most important characteristic of legal action taken by governments is unilateral government decisions and decrees. Considering that the action is carried out according to the unilateral will of the government, it is not dependent on the will of the other party and there is no need for a will adjustment (*wilsovereenstemming*) with another party. Normatively, the government's responsibility in health services has begun to be created with the government issuing health legislation and regulation especially in relation to Health Service of Social Insurance Administration Organization (BPJS) in the implementation of its responsibility to the public aiming to get the society to have legal protection in health service. Through the Law, the government assists legal subjects in exercising their rights and obligations, including helping with legal subjects recognize and acknowledge their rights and obligations and in the face of difficulty in obtaining the infrastructure and means of getting their rights, ensuring the exercise of rights and obligations, preventing the occurrence of risks that always threaten themselves (victims) and so forth are forms of protection for all. The protection of the law for the subjects of the law, especially the citizen as expressed in the philosophy of the 1945 Constitution of the Republic of Indonesia and its equivalent in Wade's literary view above is a spirit compatible with the formation and establishment of the Indonesian state, which has been put forward in sub-chapter of the background of this dissertation research. The spirit is even further elaborated in the legislation regulating the National Social Security System, National Health, National Social Insurance Administration Organization and what relates to it.

The protection of the law pursued through a legislation has underlying legal principles. Likewise, the protection of the law pursued through the effort of making and inclusion of its steps through legislation has a purpose, scope, planned through strategy and policy. All these can be found in every major legislation which in accordance with the same purpose that is law protection.

⁵ Paulus E. Lotulung, 1993, *Beberapa Sistem tentang Kontrol Segi Hukum terhadap Pemerintah*, Citra Aditya Bakti, Bandung, hlm. 123.

⁶ Ridwan H. R., *Op. Cit.*, page. 289.

Article 27 paragraph (2) provides that Every citizen shall have the right to work and to earn a humane livelihood, Article 31 determines that Every citizen has the right to receive education. Meanwhile, article 32 determines that the state shall advance the national culture of Indonesia among the civilizations of the world by assuring the freedom of society to preserve and to develop cultural values, and article 34 determines that impoverished persons and abandoned children shall be taken care of by the State. While chapter 33 regulates the economy shall be organized as a common endeavor based upon the principles of the family system, and determines that the production branches which are important to the people and the earth and water, and the natural wealth within them are under the power of the state.

After the amendment of the 1945 Constitution, especially with the second amendment, the articles on economic and welfare of the people are added, namely with article 28H namely: (1) Every person shall have the right to live in physical and spiritual prosperity, to have a home and to enjoy a good and healthy environment, and shall have the right to obtain medical care. (2) Every person shall have the right to receive facilitation and special treatment to have the same opportunity and benefit in order to achieve equality and fairness. (3) Every person shall have the right to social security in order to develop oneself fully as a dignified human being. (4) Every person shall have the right to own personal property, and such property may not be unjustly held possession of by any party.

In the Constitution of the Republic of Indonesia there are provisions in Article 28I Paragraph (4) which is also the result of the second amendment, it is stated The protection, advancement, upholding and fulfilment of human rights are the responsibility of the state, especially the government. Based on Article 28I paragraph (4) it appears that the protection, advancement, upholding, and fulfillment of the rights formulated as human rights in the Constitution are the responsibility of the state and especially the government. There is no longer a special provision requiring the government to take concrete steps to enforce and create the various rights mentioned in the Constitution result in its manifestation to remain bias, depend on government's preference.

In addition to article 28H, other articles concerned with the obligations or in this case the responsibility of the government in fulfilling the welfare of the community are also formulated in bias circumstance. This is shown in articles 31 (on education) and 34 (on social security and health care). If the constitution-makers want the various rights to be formulated in real life in Indonesia, it will be more real if the formulation of rights is accompanied by the formulation of "obligations" that must be done by the government.

C. Research Methods

The approach method used in this research is non doctrinal research (empirical approach). Based on the view of Soetandyo Wignjosoebroto, empirical research is in the form of empirical studies to find theories about the process of working law in society⁷.

This method was used considering the issues that will be discussed are related to the Reconstruction of Government Responsibility in Health Services of Social Security Administration Organization (BPJS) based on dignified justice.

The non-doctrinal method is a method used to solve the problem by researching secondary data first and then proceed with conducting research on primary data to find legal reality in the field⁸. In addition to research on primary data, research was also conducted on the articles contained in Law No. 40 of 2004 on National Social Security System and Implementation of Social Security Administration Organization through Law No. 24 of 2011 on the Social Security Administration Organization.

D. Analysis and Discussion

In principle, the arrangements in Article 28H, Article 33 and Article 34 of the 1945 Constitution of the Republic of Indonesia can be used as evidence that the development of general welfare, particularly in providing services and social security (health) is the duty or responsibility of the Government and the right of every citizen.

⁷Soetandyo Wignjosoebroto, 2002, *Hukum, Paradigma, Metode dan Dinamika Masalahnya*, Huma, Jakarta, h, 147. Lihat juga Joko Purwono, 1993, *Metode Penelitian Hukum*, Departemen Pendidikan dan Kebudayaan RI, UNS, Surakarta, hlm, 17-18.

⁸Soerjono Soekanto, 1982, *Pengertian Penelitian Hukum*, UI Press, Jakarta, page, 7.

Law Number 40 of 2004 concerning National Social Security System and Law Number 24 of 2011 regarding the Establishment of Social Security Administration Organization (BPJS) and Presidential decree Number 12 of 2013 on National Health Insurance stipulated since January 1, 2014 is a form of Government commitment to concrete the mandate of the constitution and independence, namely the provision of welfare. For instance, in the form of health protection guarantee for all in Indonesia. The establishment of the Social Security Administration Organization (BPJS) health care security as the provider of Health Insurance is the answer and responds to the Government (State) on the challenges of health development in the present and in the future.

National Health Insurance System continues to be perfected with various policies (public policy), which is formulated in the applicable laws and regulations. This is significant given that health development is increasingly complex in line with the complexities of democratic development, decentralization and globalization and other challenges that are also heavier, rapidly changing and, often uncertain⁹. Not only the demands of the Constitution, the current health development policy is directed at improving access and quality of health services in order to accelerate the achievement of Millennium Development Goals (MDGs) targets.

The focus of health development policy is mainly on: prevention of nutrition problems, reduction of maternal, infant and child mortality, disease control and environmental sanitation, health human resources development, availability improvement, affordability, equity, quality and drug use and drug and food supervision; development of health insurance financing system, and improvement of health efforts that ensure the integration of primary, secondary and tertiary health care¹⁰.

Health programs related to health policies include health promotion program policies and community empowerment; healthy environmental program policies; health program policies; health service program policies; individual health efforts program policies; program policies on disease prevention and eradication; community nutrition improvement program policies; health resource program policies; and program policy and health development management.

Taking into account, the above description shows that health policy is not solely meaningful to cure the disease alone. Health policy is broadly meaningful. Includes all aspects of the health sector, especially in promotion and prevention efforts by not ignoring curative (treatment) and rehabilitation efforts. The Government's responsibility for health services is not only a matter of the Central Government. In the era of regional autonomy according to Law No. 23 of 2014, the health sector is one of the affairs that become regional affairs. This makes the local government should prepare and improve services in the health sector as a whole.

Considering the description of applied theory, especially system theory, as stated earlier, the National Social Security system established by Law No. 40 of 2004 on the National Social Security System. Health services thus adhere to other regulatory principles, namely systemic principles. In such system, the Implementation of Social Security is stipulated by Law, namely Law Number 24 of 2011 on BPJS.

Juridically, as stated above BPJS is a constitutional mandate run by the Government to provide Social Security Health protection for all. In addition to the legislation as stated above, the principle of delegation on the policy of Implementation of Social Security System is also regulated in the form of Local Regulation. For example regent regulation as a derivative regulation of Regulation of the Minister of Health No. 28 of 2014 on JKN Technical Guidelines. In the delegated policy, the target is the poor people whose fund have not been covered by the Public Health Insurance (Jamkesmas) funded by the Central Government. The reality proves that despite so many policies of health services for people, but the availability of health facilities is still minimum. Similarly, other constraints of limited health personnel in remote areas, in comparison with existing health facilities and health workers in urban areas.

⁹Soetandyo Wignjosoebroto, 2002, *Hukum, Paradigma, MetodadanDinamikaMasalahnya*, Huma, Jakarta, h, 147. LihatjugaJokoPurwono, 1993, *MetodePenelitianHukum*, DepartemenPendidikandanKebudayaan RI, UNS, Surakarta, hlm, 17-18.

¹⁰SoerjonoSoekanto, 1982, *PengertianPenelitianHukum*, UI Press, Jakarta, hlm,7.

The problem does not stop. In practice the problem is encountered, among others, there is a tendency for the public to assume that the Social Security Administration organization (BPJS) Health Care Security bears all the financing of health services according to the wishes or needs. Whereas the type of Health Insurance program services with BPJS membership provided is subject to the package system and the principles of efficiency. This led to drug services using generic drugs and limited both in terms of type and amount given to participants BPJS. This regulatory principle can be found in the formulation of the Decree of the Minister of Health No. 328 / Menkes/ IX / 2013 on the National Formulary. Compared to health services before BPJS, BPJS system is much different from the types of services provided in previous health insurance programs such as Public Health Insurance (Jamkesmas) or Askes Participation in which providers can prescribe patent medicines to patients who have been resistant to certain types of drugs¹¹.

The problem with other health care policy principles is the culture of the community. Generally, people still have low awareness of health care, clean and healthy living culture (PHBS). In the principle of Government responsibility, a healthy and clean life culture is a form of health care that is promotional (enhancement) and preventive. Such in everyday life, if some people have not made health as a necessity. In everyday life, people only come to health facilities when they are ill to obtain services that are curative (treatment) and rehabilitative (recovery).

They are eager to obtain prompt and satisfactory health services, both at Puskesmas level and individual physicians who become First Level Health Facilities (FKTP I), as well as Public Hospital which becomes Advanced Health Facility (FKTP II). The culture of society is very implicate in image of Government in health service implementation. Because in addition to the availability of facilities and infrastructure, practically, there are Health Service Providers (Puskesmas and Hospitals as Provider in particular) when people need they have not made a clear cooperation agreement with BPJS to provide services in referral mechanism and cost.

Problems also arise related to BPJS Health Care Security payment system to provider. As stated in Article 39 paragraph (1) of Presidential Decree No. 12 of 2013 on National Health Insurance (JKN), payment of BPJS Health to FKTP I with Capitation system. The payment is made pre-effort based on the participants registered in FKTP I. The use of capitation funds is to pay for medical services (60%) calculated on different points for each health profession. Differences in points calculation on each health profession cause a sense of injustice for the officers. As in providing services to patients cannot be done by one profession only but required good cooperation between relevant officers according to the flow of service.

Capitation Fund for Health Services and Support of Operational Costs at FKTP I Owned by Local Government. The above phenomenon affects the function of BPJS Health which was originally intended to provide assurance to all community either civil servant, military / police, poor people, independent communities both in urban and rural areas. The impact or implication, which is still experiencing many obstacles both in terms of administration and technical.

If the above description is analyzed from the welfare state theory, then the National Social Security System which is considered as a manifestation of the state welfare state still contains legal vacuum (gab) which has implications for the service to its people. There is still a vacancy (gab) in Law Number 24 of 2011 on BPJS as the organizer of National Health Insurance with the payment of capitation system and Case Base Group (INA-CBGs). The vacuum was precisely the result of Presidential Regulation No. 12 of 2013 on National Health Insurance Jo Presidential Decree No. 111 of 2013 on Health Insurance as a guideline for the implementation of the Health Insurance Program with participation BPJS. The state found in this study seemed to justify the view of JimlyAsshiddiqie. According to Asshiddiqie, despite all expectations towards reform, democratization and liberalization, the concept of the welfare state in the 1945 Constitution of the Republic of Indonesia still leaves the issue of problems to be contemplated¹².

The National Social Security System with the DMPS is considered nonprofit, established as a National Health Insurance provider throughout Indonesia. These Government policies are macro and tend to be generalized across Indonesia, especially to private providers. Also visible in top down policies that still dominate. In the case of health facilities in disadvantaged and remote areas are still far from adequate to be able to run the program to the fullest.

¹¹Complain of ex participants of AskesBahrudinand Isnaniahex participants of Jamkesmas, during interview in outpatient patient in RSUD Sultan Imanuddinand Puskesmas, in 15 March 2014.

Capitation funds are also allocated as operational cost of service assistance (40%). Guidelines for the use of capitation funds are stipulated in the Regulation of the Minister of Health No. 19 of 2014 on the Use of National Health Insurance Capitation Fund for Health Services and Support of Operational Costs at FKTP I Owned by Local Government. The above phenomenon affects the function of BPJS Health which was originally intended to provide assurance to all community either civil servant, military / police, poor people, independent communities both in urban and rural areas. The impact or implication, which is still experiencing many obstacles both in terms of administration and technical.

If the above description is analyzed from the welfare state theory, then the National Social Security System which is considered as a manifestation of the state welfare state still contains legal vacuum (gab) which has implications for the service to its people. There is still a vacancy (gab) in Law Number 24 of 2011 on BPJS as the organizer of National Health Insurance with the payment of capitation system and Case Base Group (INA-CBGs). The vacuum was precisely the result of Presidential Regulation No. 12 of 2013 on National Health Insurance Jo Presidential Decree No. 111 of 2013 on Health Insurance as a guideline for the implementation of the Health Insurance Program with participation BPJS. The state found in this study seemed to justify the view of Jimly Asshiddiqie. According to Asshiddiqie, despite all expectations towards reform, democratization and liberalization, the concept of the welfare state in the 1945 Constitution of the Republic of Indonesia still leaves the issue of problems to be contemplated¹².

The National Social Security System with the DMPS is considered nonprofit, established as a National Health Insurance provider throughout Indonesia. These Government policies are macro and tend to be generalized across Indonesia, especially to private providers. Also visible in top down policies that still dominate. In the case of health facilities in disadvantaged and remote areas are still far from adequate to be able to run the program to the fullest.

As a result there are still many people who are less satisfied with the available health services and opt for out-of-town treatment. From the applied theory of public policy, in line with Jenkins's view, one of the key points of policy understanding is; that policy is an act of government that aims to create the welfare of the community and should be implemented by the organizational unit executor¹³. The reality has not been properly implemented.

Similarly found in the observations of field researchers in daily, it was found that the Regional General Hospital with management using the system of the Regional Public Service Agency (BLUD) has not been adhering to the principle of healthy business. That is, there are times when it seems that managers still have a notoriously bureaucratic, procedural and passive bureaucrat mindset. Such bureaucratic culture cannot be transformed into a sudden entrepreneurial culture. If it is noticed, there is still an inevitability of bureaucratic organization because of the fact that the service and the bureaucrat's point of view are too branding for formal accountability. The entrepreneur management culture that provides services to the community which is more oriented to increased revenue is still out of sight.

In the culture of entrepreneurship the principle of service is that the higher the income, the greater the reward to the workers. Conversely, if the performance does not increase it will be penalized to workers who do not have a good performance. This reconstruction has implications for the need for a change of legal culture to fulfill the responsibility of the Government in health services to the public. Changes in the culture of new law will have implications for the increased motivation and creativity of workers in improving services to public services, so that the service is directed to the fulfillment of the needs of society as well as the effort to create social justice for the community¹⁴

¹² Further stated that the development towards liberalization whether in politic of economy recently and will grom in the future basically the opposite of the existed principle of the prosperous state. *Negara Kesejahteraan Realitas Masa Depan*, ignition speech of professor, Faculty of Law UI, 1998, page.18 (In Djauhari, 2008, *Politik Hukum Negara Kesejahteraan Indonesia*).

¹³ Hanif Nurcholis, 2005, *Teori dan Praktek Penterintahandan Otonomi Daerah*, Grasindo, Jakarta, h

¹⁴ Agung Kurniawan, 2003, *Trasnformasi Pelayanan Publik*, Pembaharuan, Yogyakarta, hlm.3-4.

E. Conclusions

The principle of regulating the government's responsibility in the health services sector of the Social Security Administration Organization (BPJS) is that the right to health services is a basic human right. In addition, the principle of regulating government responsibility in health services BPJS is a manifestation of the responsibility of the Government to bring the welfare state according to the concept of welfare state in the 1945 Constitution. Health policy is not solely meaning to cure the disease alone. Health policy is broadly meaningful. Includes all aspects of the health sector, especially in enhancement and prevention efforts by not ignoring treatment and rehabilitation efforts. The Government's responsibility for health services is not only a matter of the Central Government. In the era of regional autonomy according to Law No. 23 of 2014, the health sector is one of the affairs that become regional affairs. This makes the local government should prepare and improve services in the health sector as a whole.

REFERENCES

A. Books

- Abdussalam. R, 1997, *Penegakan Hukum di Lapangan oleh POLRI*, Dinas Hukum Polri, Jakarta.
- Andersen, J,G, 2012. *Welfare States and Welfare State Theory*, Centre for Comparative Welfare Studies, Working Paper.
- Attamimi. A. Hamid S, 1990, *Peranan Keputusan Presiden Republik Indonesia dalam Penyelenggaraan Pemerintahan Negara*, Disertasi, Fakultas Pascasarjana Universitas Indonesia, Jakarta.
- Barb Toews, 2006, *Little Book of Restorative Justice for People in Prison: Rebuilding the Web of Relationships*, PA Good Books.
- Barda Nawawi Arief, 2008, *Mediasi Penal: Penyelesaian Perkara Pidana di Luar Pengadilan*, Pustaka Magister, Magister.
- _____, 2013, *Kapita Selekta Hukum Pidana*, Cetakan Ketiga, Citra Aditya Bakti, Bandung.
- Budiardjo, Prof. Miriam, editor, *Masalah Kenegaraan*, Gramedia, 1982.
- _____, 1984, penyunting, *Simposium Kapitalisme, Sosialisme, Demokrasi*, Pt. Gramedia, Jakarta.
- Cummings, Milto C. dan David Wise, *Democracy Under Pressure*, Harcourt Brace Jovanovich Publishers, 1985.
- Cunnean. Chris, 2007, *Reviving Restorative Justice Traditions?*, dalam Gerry Johnstone & Daniel W. Van Ness (Ed), *Handbook of Restorative Justice*, Cullompton, Devon, Willan Publishing.
- Bentham. Jeremy, 1943, *An Introduction to the Principles of Moral and Legislation*, Ed., J. Bowring. Oxford University Press, Oxfor.
- Davis, K. C., 1969, *Discretionary Justice: A Preliminary Inquiry*, University of Illinois Press, Urbana.
- Denzin, Norman K. dan Y. S. Lincoln, 2011, *The Sage Handbook Of Qualitative Research Edisi Ketiga*, dialihbahasakan oleh Dariyatno, (Yogyakarta: Pustaka Pelajar
- Dressler. Joshua, 2006, *Understanding Criminal Law*, Fourt Edition, LexisNexis, Charlottesville.
- Dror, Yehezkel, 1971, *Ventures in Policy Science, Concepts and Application*, (New York, Oxford, Jerusalem: Elsevier
- Endang Prasetyowati, 2010, *Metode Penelitian Hukum*, Cetakan Pertama, Fakultas Hukum Universitas 17 Agustus 1945, Surabaya.
- Hafidzh, Jawade, 2014, *Reformasi Kebijakan Hukum Birokrasi Pengadaan Barang Dan Jasa Pemerintah Dalam Mencegah Terjadinya Tindak Pidana*, Disertasi Program Doktor Universitas Diponegoro, Semarang.
- Harahap. M. Yahya, 1985, *Pembahasan Permasalahan dan Penerapan KUHAP*, Sarana Bakti Semesta, Jakarta.

- H. L. A. Hart. 2008-xxxvi, Punishment and Responsibility, Essays in the Philosophy of Law, Ed., I, Oxford University Press Inc., New York.
- Irianto, SulistyowatidanShidarta, 2013Metode PenelitianHukum, Konstelasi dan Refleksi, Jakarta: Yayasan Pustaka Obor Indonesia
- Johnstone. Gerry, 2002, Restorative Justice: Ideals, Debates, Values, Cullompton, Devon, Willan Publishing.
- Kelsen.Hans, 1995, Teori Hukum Murni: Dasar-Dasar Ilmu Hukum Normatif Sebagai Ilmu Empirik-Deskriptif, Rimdi Press, Tanpa Kota Terbitan.
- Kohen, Arie, 2012, The Personal and Political: Forgiveness and Reconciliation in Restorative Justice, Critical Review of International Social and Political Phylosophy.
- Kusuma. Mahmud, 2009, Menyelami Semangat Hukum Progresif; Terapi Paradigmatik Aims Lemahnya Penegakan Hukum Indonesia, Yogyakarta: Antony Lib bekerjasama, LSHP
- Leonard. Tommy, 2013, Pembaharuan Sanksi Pidana Berdasarkan Falsafah Pancasila dalam Sistem Hukum Pidana di Indonesia, Disertasi, Program Doktor Ilmu Hukum, PascaSarjana Universitas Jaya Baya, Jakarta.
- Lexy,J. Moleong. 1996, Metodologi Penelitian Qualitative, Bandung: PT Remaja Rosdakarya
- Milovanovic. Dragan, 1994, A Primer in the Sociology of Law, Harrow and Heston, New York.
- Moleong. Lexy, 2002, Metodologi Penelitian Kualitatif, Remaja Rosdakarya, Bandung.
- Moeljatno, 1993, Asas-Asas Hukum Pidana, Rineka Cipta, Jakarta.
- _____, 2000, Perbuatan Pidana dan Pertanggungjawab dalam Hukum Pidana, Yogyakarta: Seksi Kepidanaan Fakultas Hukum Universitas Gadjah Mada.
- Muladi dan Nawawi Arief Barda, 1992, Teori-Teori dan Kebijakan Pidana, Alumni, Bandung.
- Naqvi, Haedar. 2003, Menggagas Ilmu Ekonomi Islam, terj. M. Saiful Anam dan M. UfuqulMubin, Yogyakarta: PustakaPelajar.
- PudiRahardi, 2007, HukumKepolisian (Profesionalisme dan Reformasi POLRI), Laksbang Mediatama, Surabaya.
- Rajidi.Lili, dan IB Wyasa Putra, 2003, Hukum Sebagai Sistem, Remaja Rosdakarya, Jakarta.
- Ridwan HR, HukumAdministrasi Negara, Jakarta: PT. Raja Grafindo, 2006.
- Rousseau, , 1974, The Essensial Rousseau, Penterjemah: Lowell Bair, The New American Library Inc.
- Satjipto Rahardjo, 1983, Hukum dan PerubahanSosial: suatu Tinjauan Teoritis Pengalaman-Pengalaman di Indonesia, Alumni, Banung.
- _____, 1983, Masalah Penegakan Hukum, Sinar Baru, Bandung.
- _____, 2000, Rekonstruksi Pemikiran Hukum di Era Reformasi, Makalah disampaikan dalam Seminar Nasional Menggugat Pemikiran Positivisme di Era Reformasi, PDIH, UNDIP, Semarang, 22 Juli 2000.
- Soerjono Soekanto dan Sri Mamudji, 2003, Penelitian Hukum Normatif, Suatu Pengantar Singkat, Raja Grafindo Persada, Jakarta.
- Soerjono Soekanto, 1982, Pengertian Penelitian Hukum, Universitas Indonesia Press, Jakarta.
- _____, 1986, Pengantar Penelitian Hukum, Jakarta: Universitas Indonesia Press, Jakarta.

- _____, 2002, Faktor-Faktor Yang mempengaruhi Penegakan Hukum, Raja Grafindo Persada, Jakarta.
- Soetandyo Wigiyosubroto, 2002, Hukum, Paradigma, Metode dan Dinamika Masalahnya, Huma, Jakarta.
- _____, 2013, Pergeseran Paradigma dalam Kajian-Kajian Sosial dan Hukum, Setara Press, Malang.
- Sunggono, Bambang, 2013, Metode Penelitian Hukum, Jakarta:Rajawali Pers.
- Suparmin, 2012, Model PolisiPendamai Dari Perspektif Alternative Dispute Resolution (ADR) Studi Penyelesaian KonflikAntarPartaiPolitik, Undip Press dengan Wahid Hasyim University Press, Semarang.
- Suteki, 2008, Rekonstruksi Politik Hukum tentang Hak Menguasai Negara Atas Sumber Daya Air Berbasis Nilai Keadilan Sosial (Studi Terhadap Privatisasi Pengelolaan Sumber Daya Air), Disertasi pada Program Doktor Hukum Universitas Diponegoro, Semarang.
- SuyudMargono, 2000, ADR(Alternative Dispute Resolution) &Arbitrase, Proses PelembagaanAspekHukum,Ghalia Indonesia, Jakarta.
- Syamsudin, M. 2007, OperasionalisasiPenelitianHukum, (Jakarta: RajaGrafindoPersada,
- Teguh Prasetyo dan Abdul Halim Barkatullah, 2011, Ilmu HukumdanFilsafatHukumStudi Pemikiran Ahli Hukum Sepanjang Zaman, Cetakan Keempat, PustakaPelajar, Yogyakarta.
- _____,2012, Filsafat, Teori, dan Ilmu Hukum Pemikiran Menuju Masyarakat yang Berkeadilan dan Bermartabat, Cetakan Kesatu, Raja Grafindo Persada, Jakarta.
- Teguh Prasetyo dan AriePunomosidi, 2014, Membangun Hukum Berdasarkan Pancasila, Nusamedia, Yogyakarta.
- Teguh Prasetyo, 2010, Hukum Pidana, EdisiRevisi, Raja Grafindo Persada, Jakarta.
- _____, 2013, Hukum dan Sistem Hukum Berdasarkan Pancasila, Edisi Kesatu, Media Perkasa, Yogyakarta.
- _____, 2015, Keadilan Bermartabat, Perspektif Teori Hukum, Cetakan Pertama, Nusa Media, Bandung.
- _____, Sistem Hukum Pancasila (Sistem, Sistem Hukum dan Pembentukan PeraturanPerundang-Undangan di Indonesia): Perspektif Teori Keadilan Bermartabat, Cetakan Pertama, Nusa Media, Bandung, 2016.
- Vredenberg, 1999, MetodedanTeknikPenelitianMasyarakat, Jakarta, Gramedia
- Wacks.Raymond , 2006, Philosophy of Law a Very Short Introduction, Oxford University Press, Oxford.
- Wade, H.W.R., 1986, Administrative Law, English Language Book Society/Oxford Press University, Fifth Edition, Reprinted, Oxford.
- Warassih,Esmi, 2010, Pranata Hukum Sebuah Telaah Sosilogis, (Semarang: Badan Penerbit Universitas Diponegoro
- Zamroni, 1992, PengembanganPengantarTeoriSosial, Yogyakarta: Tiara Yoga.
- B. Laws
- Undang-UndangDasar Negara Republik Indonesia Tahun 1945 (UUD 1945);
- Undang-Undang No.1 Tahun 1946 tentangHukumPidana (KUHP);
- Undang-Undang No. 8 Tahun 1981 tentangHukumAcaraPidana (KUHP);
- Undang-UndangNomor 17 Tahun 2003 tentangKeuangan Negara (Lembaran Negara Republik Indonesia Tahun 2003 Nomor 47, TambahanLembaran Negara Republik Indonesia Nomor 4286);
- Undang-UndangNomor 40 Tahun 2004 tentangSistemJaminanSosialNasional (Lembaran Negara Republik Indonesia Tahun 2004 Nomor 150, TambahanLembaran Negara Republik Indonesia Nomor 4456);

Undang-Undang Nomor 24 Tahun 2011 tentang Badan Penyelenggara Jaminan Sosial (Lembaran Negara Republik Indonesia Tahun 2011 Nomor 116, Tambahan Lembaran Negara Republik Indonesia Nomor 5256);

Undang-Undang Nomor 32 Tahun 2004 tentang Pemerintahan Daerah (Lembaran Negara Republik Indonesia Tahun 2004 Nomor 125, Tambahan Lembaran Negara Republik Indonesia Nomor 4437) sebagaimana telah diubah terakhir dengan Undang-Undang Nomor 12 Tahun 2008 tentang Perubahan Kedua Atas Undang-undang Nomor 32 Tahun 2004 tentang Pemerintahan Daerah (Lembaran Negara Republik Indonesia Tahun 2008 Nomor 59, Tambahan Lembaran Negara Republik Indonesia Nomor 4844);

Peraturan Pemerintah Nomor 101 Tahun 2012 tentang Penerima Bantuan Iuran (Lembaran Negara Republik Indonesia Nomor 264 Tahun 2012, Tambahan Lembaran Negara Republik Indonesia Nomor 5372);

Peraturan Presiden Nomor 12 Tahun 2013 tentang Jaminan Kesehatan (Lembaran Negara Republik Indonesia Tahun 2013 Nomor 29) sebagaimana telah diubah dengan Peraturan Presiden Nomor 111 tahun 2013 tentang Perubahan Atas Peraturan Presiden Nomor 12 tahun 2013 tentang Jaminan Kesehatan (Lembaran Negara Republik Indonesia Tahun 2013 Nomor 255);

Peraturan Presiden Nomor 32 Tahun 2014 tentang Pengelolaan Pemanfaatan Dana Kapitasi Jaminan Kesehatan Nasional Pada Fasilitas Kesehatan Tingkat Pertama Milik Pemerintah Daerah.

C. Scientific/international journal:

Pierson, Christopher dan Francis G. Castels (eds.), *The Welfare State Reader* (Cambridge: Polity Press, 2006)

Teguh Prasetyo, Pancasila the Ultimate of All the Sources of Laws (A Dignified Justice Perspective), *Journal of Law, Policy and Globalization*, International Institute for Science, Technology and Education (IISTE), Vol. 54, October 2016.

_____, Criminal Liability of Doctor in Indonesia (From A Dignified Justice Perspective), *International Journal of Advanced Research (IJAR)*, 1(10).

OECD, Organisation for Economic Cooperation and Development, *Setting a Sustainable Path toward Universal Health Coverage*, Indonesia Policy Brief, October, 2016.

Ian Forde et. al., Resolving the challenges in the international comparison of health systems: The must do's and the trade-offs, *Health Policy*, Journal home page: www.elsevier.com/locate/healthpol.

World Health Organization 2017, *The Republic of Indonesia, Health System Review, Health Systems in Transition* Vol. 7 No. 1 2017.

US-AID, *Private Sector Health Care in Indonesia*, September 2009, The Health Systems 20/20 cooperative agreement, funded by the U.S. Agency for International Development (USAID) for the period 2006-2011.

Vin Gupta, et. al., *Politics and Universal Health Coverage — The Post-2015 Global Health Agenda*, *The New England Journal of Medicine* Downloaded from nejm.org on August 30, 2017. For personal use only. No other uses without permission. Copyright © 2015 Massachusetts Medical Society.

Esmi Warassih, *Penelitian Socio Legal*, 2006, Makalah Workshop Pemutakhiran Metodologi Hukum, Bandung.

D. INTERNET:

<http://kalteng.bps.go.id/>

http://pdel.kotawaringinbaratkab.go.id/index.php?option=com_content&view=article&id=736:bupati-beberkan-15-program-prioritas&catid=42:beritaumum&Itemid=12

<http://www.depkes.go.id/downloads/SKN%20final.pdf>.

Badan pusat statistik Kalimantan tengah diunduh pada 13 maret 2014 pada situs <http://kalteng.bps.go.id/>

DepartemenKesehatan, diunduhpadatanggal 12 maret 2014 padasitus yang beralamat,
<http://www.depkes.go.id/downloads/SKN%20final.pdf>.

Diunduhpadatanggal 12 maret 2014, darisitus yang beralamat di
<http://repositorv.usu.ac.id/bitstream/123456789/38405/3/Chapter%20H.rxl.f>.

Gianfranco Poggi, The Development of the Modern State "Sociological
Introduction, (California: Standford University Press, 1992), h. 126.
Available URL

:<http://books.google.co.id/books?id=DT1vrXjRH10C&pg=PA126&lpg=PA126&dq#v=onepage&q&f=false>.
Diaksespadatanggal 15 Agustus 2012.

KebijakanPerencanaan Dan PenganggaranBidangKesehatanTahun 2013 UntukMencapai Target RPJMN 2009-2014,
Disampaikan dalam Rapat Koordinasi Teknis Tahun Anggaran 2012 Ditjen Bina Gizi dan KIA Surabaya, 15-18 Juli
2012, www.gizikia.depkes.go.id.

Mursalim, Membedah Sistem Jaminan Sosial di delapan Negara, <http://jamsos.blogspot.com/2013/02/membedah-sistem-jaminan-sosial-di.html>

Mashab Utility NaskahBukuFilsafatHukum, diunduhpada 11 maret 2014, padasitus
<http://asikinzainal.blogspot.com/2012/10/mashab-utility.html>

NaskahAkademikRancanganUndang-UndangKesejahteraanSosial, DepartemenSosial, Teks 9 Januari 2008, h. 34 dapatdiunduh
di URL :<http://www.dniks.org/newsletter/NA-ruu-kesos-20080109.pdf>.

Anonim, PembiayaanKesehatan Di Berbagai Negara dalam[http://hpm.fk.ugm.ac.id/hpmlama/images/Blok I/sesi
6 7 19_yh blok%20i pern b%20kes%20di%20berbaeai%20neeara%202012.pdf](http://hpm.fk.ugm.ac.id/hpmlama/images/Blok%20I/sesi%206%2019_yh_blok%20i_pern_b%20kes%20di%20berbaeai%20neeara%202012.pdf)

HasbullahThabrany, SejarahAsuransiKesehatandalam [http
^/staff.ui.ac.id/system/files/users/hasbullah/material/babisejarahasuransikesehatan edited, pdf](http://staff.ui.ac.id/system/files/users/hasbullah/material/babisejarahasuransikesehatan%20edited.pdf) diakses 11 Maret 2015.

Uni Sosial Demokrat, Upaya Menjamin Kesehatan dan Sosial Penduduk, dalam [http://www.unisosdem.org/article
detail.php?aid=2718&coid=2&caid=19&gid=3](http://www.unisosdem.org/article_detail.php?aid=2718&coid=2&caid=19&gid=3) diakses HMaret2015

<http://aiphss.org/wp-content/uploads/2014/12/pembagian-wewenang-kesehatan.pdf>

Yusriando
yusriando@unprimdn.ac.id
Universitas Prima Indonesia

Teguh Prasetyo
prof.teguh.prasetyo@gmail.com
Universitas Satya Wacana

I Gusti Ayu Ketut Rachmi Handayani
ayu_igk@staff.uns.ac.id
Universitas Sebelas Maret

Anis Masdhurohatun
anism@unissula.ac.id
Universitas Islam Sultan Agung