

Problems of Regulatory Arrangements and The Urgency of Governance Reconstruction in The National Social Security System

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Abstract: National Social Security System constitutes a form of state responsibility in guaranteeing the fulfillment of the public's right to social security as mandated by the 1945 Constitution of the Republic of Indonesia. In its implementation, the administration of the National Social Security System (SJSN) is carried out by the Government together with BPJS Kesehatan and BPJS Ketenagakerjaan as the organizing agencies of national social security programs. Nevertheless, the implementation of the SJSN continues to face various legal and institutional challenges, particularly regarding regulatory disharmony among Law Number 40 of 2004 concerning the National Social Security System, Law Number 24 of 2011 concerning the Social Security Administering Body (BPJS), and Law Number 17 of 2023 concerning Health. Such regulatory inconsistency has resulted in unclear distribution of authority between the Government and BPJS, overlapping institutional functions, and weak coordination in the administration of national social security programs. This study employs a doctrinal legal research method using statutory and library research approaches, analyzed through descriptive-analytical and prescriptive methods. The findings indicate that the regulation of authority relations and governance in the administration of the SJSN has not been implemented optimally. This is reflected in the unclear institutional position of BPJS within Indonesia's constitutional system, the

weak supervisory mechanism, and the dominant role of the Government in several strategic policies concerning the administration of national social security programs. Therefore, legal reconstruction is necessary through regulatory harmonization, clarification of the division of authority between the Government and BPJS, as well as the strengthening of supervisory mechanisms and institutional governance in order to establish a national social security system that is effective, transparent, accountable, and capable of providing legal certainty.

Keywords: NSSS, BPJS, Reconstruction.

Introduction

Health is a fundamental right of every citizen guaranteed by the state and the Constitution, as explicitly stipulated in Article 28H paragraph (1) and Article 34 paragraph (3) of the 1945 Constitution of the Republic of Indonesia. In order to realize this right fairly and equally, the Indonesian government developed the National Health Insurance (JKN) system. Health insurance is an essential element of the healthcare system that significantly impacts individual and public welfare, as it protects citizens from severe financial burdens

resulting from high medical expenses. Health insurance is defined as protection in the form of healthcare coverage enabling participants to obtain health maintenance benefits and protection in fulfilling basic healthcare needs, provided to every person who has paid contributions or whose contributions are paid by the government (Ariyanti & Aisyah, 2025).

The National Health Insurance administered through the National Social Security System (SJSN) is a vital instrument for the state in realizing the constitutional rights of every citizen, as expressly mandated in Article 28H paragraph (3) and Article 34 of the 1945 Constitution of the Republic of Indonesia. The position of social security as a mandatory constitutional right has been reinforced through several Constitutional Court decisions, including Constitutional Court Decision No. 007/PUU-III/2005, Constitutional Court Decision No. 20/PUU-XI/2013, Constitutional Court Decision No. 138/PUU-XIII/2015, and Constitutional Court Decision No. 72/PUU-XVII/2019. These decisions emphasize that the state bears positive obligations to ensure the implementation of a sustainable, equitable, and transparent social security system.

Through Constitutional Court Decision No. 007/PUU-III/2005, the Court provided a constitutional interpretation that the SJSN Law itself affirms the state's obligation concerning the right to social security as part of human rights, as referred to in Article 28H paragraph (3) of the 1945 Constitution, obliging the state to respect, protect, and fulfill such rights. Furthermore, the provision of Article 5 of the SJSN Law closes the opportunity for Regional Governments to develop social security sub-systems within the framework of the national social security system according to the authority stipulated in Article 18 paragraphs (2) and (5) of the 1945 Constitution. This provision is contradictory and highly likely to create multiple interpretations leading to legal uncertainty (*rechtsonzekerheid*), thereby conflicting with Article 28D paragraph (1) of the 1945 Constitution (Indonesian Constitutional Court, 2005).

Jimly Asshiddiqie, as cited by A'an Efendi and Freddy Poernomo, argues that the substance of Article 28D paragraph (1) of the 1945 Constitution aligns with the principles of due process of law and equality before the law, where justice must be certain and certainty itself must also be just. According to A'an Efendi and Freddy Poernomo, equality before the law is known as the principle of *isonomy*, which signifies equality between the state and individuals before the law. This view is supported by John Marshall's perspective that the state possesses the authority to impose its will upon the three instruments (individuals, the state, and citizens), making complete equality impossible. State officials are granted special powers, and the principle of *isonomy* requires that legal rules granting such authority to state officials be precise, while courts are tasked with maintaining equal balance between citizens and state officials to prevent oppression of rights determined by law (A'an Efendi and Freddy Poernomo, 2022).

Through Constitutional Court Decision No. 72/PUU-XVII/2019, the Court considered that the design for transforming PT TASPEN (Persero) into BPJS Ketenagakerjaan contained uncertainty due to inconsistency in institutional design choices and the absence of certainty regarding the fate of participants, particularly concerning schemes that should reflect guarantees and potential reductions in participant benefits (Constitutional Court Decision Number 33/PUU-XIV/2016, 2016). Consequently, employment social security management

is not fully integrated through a single-door system under BPJS Ketenagakerjaan. This institutional dualism has developed into significant inconsistency between constitutional principles affirmed by the Constitutional Court and implementing regulations.

The phenomenon of regulatory disharmony is clearly visible in the provisions of the SJSN Law, the BPJS Law, and most recently, the 2023 Health Law. One example of inconsistency between the SJSN Law and the BPJS Law concerns Article 11 letter d of Law No. 24 of 2011, which states that BPJS directly enters into cooperation agreements with healthcare facilities. Meanwhile, Article 24 paragraph (1) of Law No. 40 of 2004 stipulates that agreements are made between BPJS and healthcare facility associations, resulting in uncertainty among healthcare facilities regarding whom to formally partner with in cooperation arrangements (Ariyanti & Aisyah, 2025). This situation eventually led to a crucial issue concerning overlapping government intervention in the authority of the Social Security Administering Body (BPJS), where the Government mandates health insurance programs for all citizens, thereby obscuring BPJS independence and the principle of good social governance (President of the Republic of Indonesia, 2023).

From the outset of the drafting process of the 2023 Health Law, labor unions rejected the inclusion of the SJSN Law and the BPJS Law within the Health Bill omnibus law cluster, arguing that this would subordinate BPJS Kesehatan under the Ministry of Health. Bivitri Susanti argued that health and social security are two distinct matters and therefore should not be regulated together within the Health Bill. This is because social security regulates different aspects from the health cluster, such as financial management used to pay social security benefit claims and others, thereby embodying a different paradigm (Ady Thea DA, 2023).

Conceptually, legislation should promote the welfare of society as a whole, encompassing both the state and the people. Therefore, laws and regulations must exist within a sound and quality legal system that requires harmony among regulatory materials and prevents contradictions or overlaps. Consequently, efforts are necessary to improve regulatory quality from the outset by integrating processes while avoiding institutional dualism or conflicting authorities in development planning and legislative drafting (Diani Sadiawati, 2019).

This regulatory inconsistency has the potential to hinder the fulfillment of constitutional mandates because existing accountability mechanisms are not yet fully aligned with Constitutional Court directives. Without regulatory harmonization and a clear reconstruction of governance regarding the authority relationship between the Government and BPJS, the implementation of the SJSN will continue to face structural obstacles in providing optimal social security. Therefore, this research is highly urgent in formulating a legal reconstruction design capable of realigning the implementation of the SJSN with the framework of constitutional rights and Constitutional Court decisions.

Research Problems

Based on the foregoing background, the research problems are formulated as follows:

1. What are the regulatory problems between the SJSN Law, the BPJS Law, and the 2023 Health Law that are inconsistent with constitutional principles following Constitutional Court decisions?

How can a legal reconstruction design be formulated to reorganize authority relations and governance of the SJSN implementation between the Government and BPJS?

Methodology

This study constitutes doctrinal legal research using a library research approach to qualitatively examine and analyze inconsistencies between Constitutional Court decisions and statutory regulations concerning social security under the SJSN Law, the BPJS Law, and the 2023 Health Law. Data analysis was conducted descriptively-analytically to examine normative transformations following Constitutional Court decisions and prescriptively to formulate a legal reconstruction model for SJSN administration aligned with the principles of good social governance and constitutional rights frameworks. Through this method, the research is directed toward identifying points of regulatory disharmony and providing legislative solutions for restructuring the governance of the national social security system, particularly regarding the authority relationship between the Government and BPJS.

Result and Discussion

Problems in the Regulation of the National Social Security System Administration

The National Social Security System (SJSN) is one of the Indonesian government's efforts to provide social security protection for all citizens, including healthcare and employment protection. This system aims to ensure that every citizen is protected from health and employment risks such as illness, workplace accidents, and old age (Siti Kunarti; Tedi Sudrajat, 2024). The state requires its citizens to be registered in the SJSN through BPJS, including foreign nationals who have worked in Indonesia for at least six months, who are also required to participate in the social security program (Wahab, 2021).

The implementation of the SJSN faces numerous challenges, particularly in terms of coordination among related institutions. Ultimately, public services and social protection are disrupted due to weak institutional coordination. Several issues arise in this regard. First, there is the problem of institutional role distribution within the National Social Security System. Differences and overlaps in regulations and authority between BPJS Kesehatan and regional governments have resulted in inconsistencies between central and regional policies (Siti Kunarti; Tedi Sudrajat, 2024). For example, regional health insurance programs (Jamkesda) designed for poor and underprivileged communities have generated policies exceeding collectible receivables, which in the long term may disrupt hospital cash flow (Firdaus, 2014).

Since 2004, the regulation of the SJSN in the health sector has been decentralized, whereas BPJS Kesehatan operates in a centralized manner. This situation limits the involvement of regional governments in the planning and implementation of health insurance programs. The inability to obtain relevant data has hindered regional governments from formulating healthcare policies tailored to local community needs. On the one hand, this condition becomes increasingly complicated because local Health Offices are responsible for general supervision of the health sector, while BPJS Kesehatan is responsible for administering the National Health Insurance (JKN). This lack of clarity often

causes regional policies to be inconsistent with JKN policies established by BPJS Kesehatan. Operationally, this condition also contributes to inefficiency in healthcare services (Siti Kunarti; Tedi Sudrajat, 2024).

In principle, financial relations between the central and regional governments are recognized through several approaches, namely: money follows function (fund allocation is based on the functions, duties, and responsibilities of each organizational unit), function follows money (budget allocation is determined based on functions, duties, or priority programs to be implemented), or a hybrid approach based on the transfer of authority and financial management. These three principles emphasize that financial relations are formed when governmental affairs are delegated from the Central Government to Regional Governments (Nursadi, 2020).

Second, there are limitations concerning the role of the National Social Security Council (DJSN) in decision-making processes. Despite its responsibility to formulate general policies, DJSN often acts merely as an advisory body without the authority to enforce the implementation of its policies. Consequently, many policies formulated by DJSN cannot be effectively implemented. This condition reduces DJSN's ability to undertake targeted system improvements and provide evidence-based recommendations. Furthermore, DJSN is unable to conduct comprehensive analyses regarding the impact of social security policies on public welfare due to limited access to data.

DJSN also faces problems related to weak supervisory systems and poor inter-agency coordination. As the institution responsible for coordinating the national social security operational system, DJSN should have the capacity to facilitate proper coordination among stakeholders, including relevant ministries, regional governments, and BPJS. However, in practice, DJSN frequently encounters difficulties in harmonizing the interests and policies of various parties, resulting in inconsistent social security programs and potentially creating gaps in social protection for the public (Siti Kunarti; Tedi Sudrajat, 2024).

From the perspective of legislative legal theory, normative conflicts within the same level of regulation, such as conflicts between statutes, may be resolved through legal principles. These include the principle of *lex specialis derogat legi generali* (specific laws override general laws) and *lex posterior derogat legi priori* (newer laws override older laws). Nevertheless, the application of these principles does not always resolve issues when the regulated substance concerns broad public interests and has significant administrative implications (Ariyanti & Aisyah, 2025).

Problems in the legislative drafting process frequently occur at almost every stage, including the post-enactment stage, which is not explicitly regulated under the Law on Legislative Drafting (UU PPP), namely supervision and evaluation. These problems arise due to overlapping authority in legislative formation. There are two root causes of such overlapping authority. First, authority has indeed been regulated under the Law on Legislative Drafting, but only in a coordinative manner, making it incapable of controlling and making rapid and strategic decisions. Second, institutional authority in legislative drafting is not clearly regulated, resulting in various initiatives that are uncoordinated and

tend to conflict with one another due to strong sectoral ego and differing legal bases among institutions (Diani Sadiawati, 2019).

In this context, both BPJS and the SJSN possess their own specific characteristics, making it difficult to determine which one constitutes the absolute *lex specialis*. Within the Indonesian legal system, the existence of the Constitutional Court provides an avenue for judicial review of laws considered contradictory or normatively ambiguous. However, judicial review is reactive in nature and requires considerable time and resources. Legislative harmonization, either through statutory amendments or the formulation of implementing regulations, constitutes a more strategic option to prevent similar conflicts in the future. Such harmonization efforts require political will and active participation from cross-sector stakeholders, including policymakers, academics, and society at large (Diani Sadiawati, 2019).

These issues demonstrate that restructuring the SJSN cannot merely rely on coordinative efforts among institutions but requires a comprehensive legal reconstruction. A paradigm shift is necessary to view the state's responsibility not merely as an administrative service provider, but as a guarantor of citizens' constitutional rights. This reconstruction must include:

- a. Cross-Sectoral Norm Harmonization, namely firm synchronization among the SJSN Law, the BPJS Law, and the 2023 Health Law in order to prevent authority conflicts that may harm participants' rights.
- b. Implementation of Good Social Governance Principles, ensuring that the relationship among the Government, DJSN, and BPJS is positioned within a framework of professional, independent governance free from sectoral ego.

Ultimately, the success of the SJSN largely depends on the extent to which lawmakers are capable of translating constitutional mandates and Constitutional Court decisions into operational regulations. Without a consistent and harmonious model of legal reconstruction based on the principles of the welfare state, social security in Indonesia will remain trapped in administrative problems and institutional ego that hinder its essential function as an instrument for public protection.

Legal Reconstruction Design to Reorganize Authority Relations and Governance in the Administration of the National Social Security System Between the Government and BPJS

The National Social Security System (SJSN) in Indonesia is a framework designed to provide social protection for all citizens. This concept reflects the Government's effort to address inequality, protect society from social and economic risks, and improve public welfare. The SJSN in Indonesia encompasses various programs covering important aspects of life, such as healthcare, employment, and social protection. Through this system, every citizen is expected to be able to fulfill their basic living needs in the event of circumstances that may result in the loss or reduction of income due to illness, workplace accidents, unemployment, old age, or retirement (Denicha Hamdani, Maudina Dwiastuti, 2024).

The SJSN is founded upon human rights and the constitutional rights of every individual and represents the state's responsibility in national economic development and

social welfare. SJSN is regulated under Law Number 40 of 2004 concerning the National Social Security System (SJSN Law), which was subsequently implemented through Law Number 24 of 2011 concerning the Social Security Administering Body (BPJS Law) (Kartika, 2023).

BPJS Ketenagakerjaan (Employment Social Security Administering Body) is a social security program that constitutes the responsibility and obligation of the state to provide certain socio-economic protection, implemented through an insurance mechanism. Furthermore, BPJS Ketenagakerjaan is specifically designated for workers. Within this social security system, there are two BPJS institutions, namely BPJS Ketenagakerjaan and BPJS Kesehatan, each having different functions. BPJS Ketenagakerjaan is intended exclusively for workers, while BPJS Kesehatan is intended for all citizens (Muhammad Iqbal Hanafri, Leo Fajar Gustomi, 2018).

Article 3 of Law Number 24 of 2011 concerning the Social Security Administering Body stipulates that BPJS aims to ensure the fulfillment of decent basic living needs for every participant and/or their family members (Law Number 24 of 2011 on the Social Security Organizing Agency (BPJS), 2011) BPJS administers the social security system based on nine principles, namely mutual cooperation, non-profit orientation, transparency, prudence, accountability, portability, mandatory participation, trust fund management, and the principle that all returns from Social Security Fund management shall be entirely utilized for program development and for the greatest benefit of participants. The primary objective of BPJS is to ensure the implementation of social security and the fulfillment of decent basic living needs for every participant and their family members (Lampung, 2023).

The relationship between the Government and BPJS is fundamentally coordinative and supervisory in nature. The Government formulates policies and exercises supervision, while BPJS administers programs based on policies established by the state. However, in practice, this authority relationship still gives rise to various issues, particularly concerning the unclear limits of authority and accountability patterns in the administration of the SJSN.

The implementation of the National Social Security System continues to demonstrate numerous problems indicating that the authority relationship between the Government and BPJS has not operated optimally. These problems are primarily reflected in the lack of clarity regarding the division of responsibilities between the Government and BPJS in strategic policymaking processes and in the management of social security program financing. This condition creates uncertainty concerning the limits of each party's authority, thereby potentially causing overlapping functions, weak institutional coordination, and inefficiency in administering national social security programs (Team, 2022).

BPJS Kesehatan and BPJS Ketenagakerjaan were fundamentally established as public legal entities granted authority by the state to independently and professionally administer social security programs. Such status should provide BPJS with sufficient authority to carry out operational functions in social security administration without excessive governmental intervention. However, in practice, the Government continues to play a dominant role in various operational policies of BPJS, particularly in determining contribution rates, managing program financing, and formulating healthcare service policies.

On one hand, governmental involvement is necessary as a manifestation of the state's responsibility to ensure the sustainability of the national social security system. On the other

hand, this condition creates ambiguity regarding the limits of authority and the level of independence of BPJS as a social security administering body. Consequently, the authority relationship between the Government and BPJS lacks clear boundaries, thereby potentially resulting in overlapping authority, institutional accountability uncertainty, and obstacles in strategic policymaking concerning national social security administration. Another issue that emerges is weak inter-institutional coordination in the administration of the SJSN. Relationships among ministries, BPJS, healthcare facilities, and regional governments frequently fail to operate effectively, thereby affecting the quality of public services. Such coordination problems result in delays in services, discrepancies in participant data, and issues concerning healthcare financing.

The governance of the National Social Security System also continues to face various challenges affecting the effectiveness of social security program implementation. Problems such as financing deficits within BPJS Kesehatan, delays in claim payments to hospitals, and the suboptimal supervisory mechanism demonstrate that the governance system of national social security administration still contains fundamental weaknesses. This condition reflects structural problems in regulating the authority relationship between the Government and BPJS, particularly concerning the division of responsibilities, supervisory mechanisms, and institutional coordination in administering national social security programs (Nasional, 2021).

The unclear institutional position of BPJS Kesehatan and BPJS Ketenagakerjaan within Indonesia's constitutional system can be observed from the provisions of Law Number 24 of 2011 concerning BPJS, which classify BPJS as a "public legal entity" as stipulated under Article 1 point 1 and Article 7 of the BPJS Law (Inilah.com, 2026). However, the law does not provide a clear explanation regarding BPJS's institutional position within Indonesia's constitutional structure, namely whether BPJS constitutes an independent state institution, a non-ministerial government institution, or a public entity under governmental control.

This ambiguity is reflected in the dualistic character of BPJS authority. On one hand, BPJS is granted independent authority to manage social security funds, administer programs, and formulate operational policies as a public legal entity (Jatna, 2022). On the other hand, BPJS remains subject to governmental supervision and control, particularly by the President and relevant ministries, including in determining strategic policies such as contribution adjustments, financing policies, and the direction of social security program administration.

The Government's strong involvement in BPJS policies can be seen in the adjustment of National Health Insurance contribution rates, which have repeatedly been determined through Presidential Regulations rather than independently by BPJS as the program administrator (Presidential Regulation of the Republic of Indonesia Number 75 of 2019 Concerning Amendment to Presidential Regulation Number 82 of 2018 on Health Insurance, 2019). In addition, supervision of BPJS is also conducted simultaneously by multiple institutions, including the President, the National Social Security Council (DJSN), the Financial Services Authority in certain aspects, the Audit Board of Indonesia, and the House of Representatives (DPR RI). The existence of multiple supervisory institutions

demonstrates the absence of a clear institutional design and accountability pattern for BPJS within Indonesia’s constitutional system.

Problems in administering the National Social Security System are not solely caused by technical issues in program implementation, but also by weaknesses in legal regulations governing the authority relationship between the Government and BPJS. The provisions of Law Number 40 of 2004 concerning the SJSN and Law Number 24 of 2011 concerning BPJS have not fully established clear boundaries between the Government as regulator and BPJS as administrator of social security programs. This condition creates ambiguity regarding the scope of authority, supervisory mechanisms, and institutional accountability within the administration of the SJSN (Law of the Republic of Indonesia Number 40 of 2004 Concerning the National Social Security System, 2004).

One of the fundamental weaknesses can be identified in the regulation concerning the position of BPJS as a public legal entity. The BPJS Law indeed stipulates that BPJS is a public legal entity directly accountable to the President. However, the law does not clearly define BPJS’s institutional position within Indonesia’s constitutional framework. This ambiguity gives rise to uncertainty as to whether BPJS constitutes an independent state institution, a non-ministerial government institution, or a public entity operating under governmental control. Consequently, the authority relationship between the Government and BPJS remains unclear (Law Number 24 of 2011 on the Social Security Organizing Agency (BPJS), 2011).

All figures and tables should be cited in the main text as Figure 1, Table 1, etc.

Table 1.

Aspect		Independent State	Non-Ministerial	BPJS
		Institution	Government Institution	
Legal Basis for Establishment	Law	Presidential Regulation	BPJS Law	
Accountable To	Public/Law	President	President	
Position within Government Structure	Independent	Executive Branch	Not explicitly defined	
Financial Management	Independent	State Budget (APBN)	Social Security Funds	

The table above demonstrates that the characteristics of BPJS contain elements resembling both an independent state institution and a government implementing institution. However, existing laws and regulations have not explicitly clarified the institutional classification of BPJS within Indonesia’s constitutional structure. This condition creates ambiguity in the authority relationship between the Government and BPJS (Hidayatulloh, 2025).

Weaknesses in legal regulation are also reflected in the supervisory mechanism over BPJS. In practice, supervision of BPJS is conducted by multiple institutions simultaneously, including the President, the National Social Security Council (DJSN), the House of Representatives (DPR RI), the Audit Board of Indonesia, and relevant ministries. The

existence of numerous supervisory bodies indicates that the supervisory system in administering the SJSN has not been integrated. This condition potentially creates overlapping supervisory authority and unclear institutional accountability mechanisms for BPJS.

Regulations concerning the authority relationship between the Government and BPJS in strategic policymaking processes also remain unclear and insufficiently comprehensive. In practice, the Government continues to play a dominant role in various operational policies of BPJS, including determining National Health Insurance contribution rates through Presidential Regulations (Mulyati et al., 2019). This condition demonstrates that BPJS's position as a public legal entity has not fully reflected institutional independence in administering social security programs. Consequently, the authority boundaries between the Government as regulator and BPJS as program administrator remain ambiguous, thereby potentially creating uncertainty in institutional functions and accountability.

Regulatory disharmony also constitutes one of the factors demonstrating the weakness of legal regulation in the administration of the National Social Security System. Several provisions within the SJSN Law, the BPJS Law, and other implementing regulations remain insufficiently integrated and, in some respects, generate differing interpretations. This condition results in inadequate legal certainty in implementing national social security programs, particularly regarding the division of authority between the Government and BPJS, program financing responsibilities, and supervisory mechanisms over social security administration (Mohammad Syaiful Aris; Dita Elvia Kusuma Putri, 2024).

Based on these various problems, legal reconstruction of SJSN administration is necessary to clarify the authority relationship between the Government and BPJS, strengthen supervisory mechanisms, and establish more effective, transparent, accountable, and participant-oriented social security governance. Based on the various problems in the administration of the National Social Security System, legal reconstruction of the authority relationship regulation between the Government and BPJS is required to create a clearer, more integrated, and more effective social security administration system (Santoso, 2014).

The problems in administering the National Social Security System indicate an urgent need for legal reconstruction concerning authority relations and governance between the Government and BPJS. Problems such as unclear authority distribution, regulatory disharmony, weak institutional coordination, and deficiencies in supervision and financing demonstrate that the existing legal system governing national social security administration has not succeeded in establishing effective and integrated governance. Therefore, legal reconstruction is required to establish a social security administration system that provides certainty of authority, clear institutional accountability, and more optimal supervisory mechanisms.

Legal reconstruction concerning authority relations and governance in the administration of the National Social Security System must be carried out to establish a clearer, more effective, and legally certain national social security system. The need for such reconstruction arises from the continuing ambiguity regarding the division of authority between the Government and BPJS, weak supervisory mechanisms, and suboptimal institutional governance in administering national social security programs (Wibisono, 2025). In the perspective of constitutional law and administrative law, restructuring

authority relations is essential to clearly separate the functions of regulator and operator in social security administration, thereby preventing overlapping authority and institutional accountability ambiguity.

Constitutionally, the state bears an obligation to guarantee the public's right to social security as stipulated in Article 28H paragraph (3) and Article 34 paragraph (2) of the 1945 Constitution of the Republic of Indonesia. Article 28H paragraph (3) states that every person has the right to social security enabling their full development as dignified human beings. Meanwhile, Article 34 paragraph (2) emphasizes that the state shall develop a social security system for all citizens and empower underprivileged and vulnerable members of society in accordance with human dignity. These constitutional provisions demonstrate that social security administration constitutes a state responsibility that cannot be entirely delegated to the administering body (President of the Republic of Indonesia, 2023).

This condition is evident in the practice of strategic policymaking within national social security programs, particularly in determining National Health Insurance contribution rates through Presidential Regulations. For example, Presidential Regulation Number 64 of 2020 concerning the Second Amendment to Presidential Regulation Number 82 of 2018 concerning Health Insurance directly regulates the amount of participant contributions in the National Health Insurance program (Presidential Regulation of the Republic of Indonesia Number 64 of 2020 Concerning the Second Amendment to Presidential Regulation Number 82 of 2018 Concerning Health Insurance, 2020). This demonstrates that the Government continues to dominate strategic BPJS policymaking, thereby preventing BPJS's institutional independence as a public legal entity from operating optimally.

The legal reconstruction design should therefore be directed toward clarifying the functional division between the Government and BPJS. The Government should be positioned as the primary regulator possessing authority in regulatory formulation, national policymaking, supervision, and ensuring the sustainability of the national social security system. Meanwhile, BPJS should be firmly positioned as the operator administering social security programs with operational independence in providing services to participants.

Conclusion

Based on the results of this study, it can be concluded that the problems in the administration of the National Social Security System (SJSN) originate from the lack of harmonization among Law Number 40 of 2004 concerning the National Social Security System, Law Number 24 of 2011 concerning the Social Security Administering Body (BPJS), and Law Number 17 of 2023 concerning Health. Such regulatory inconsistency has created ambiguity in the authority relationship between the Government and BPJS, particularly regarding regulatory functions, supervision, financing, and strategic policymaking in the administration of the national social security system. In addition, weak inter-institutional coordination, overlapping authority, regulatory disharmony, and suboptimal supervisory mechanisms have caused the governance of the SJSN to operate ineffectively, lacking transparency and accountability.

This study also finds that the institutional position of BPJS as a public legal entity has not been clearly regulated within Indonesia's constitutional system, thereby creating ambiguity regarding its level of independence and institutional accountability. This condition has resulted in significant governmental intervention in BPJS operational policies and potentially hinders the implementation of good social governance principles in the administration of the national social security system.

Therefore, legal reconstruction concerning governance and authority relations between the Government and BPJS is necessary through regulatory harmonization, clarification of institutional function distribution, and strengthening of an integrated supervisory system. The Government should be positioned as the primary regulator and supervisor responsible for national policies and the sustainability of the social security system, while BPJS should be granted a clearer institutional position as an operator administering social security programs with operational independence and professionalism in providing services to participants. Through such legal reconstruction, it is expected that the administration of the SJSN will operate more effectively, provide legal certainty, and realize social protection and welfare for all citizens in accordance with the constitutional mandate.

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