



STATE RESPONSIBILITY TOWARD PARTICIPANTS OF THE NATIONAL HEALTH INSURANCE: A WELFARE STATE AND GOOD GOVERNANCE PERSPECTIVE

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Abstract

This study examines the state's responsibility toward participants of Indonesia's National Health Insurance (JKN) program from the perspectives of welfare state theory and good governance principles. Drawing on constitutional mandates, statutory frameworks, and international health governance standards, the discussion highlights the legal, social, and administrative obligations of the Indonesian government to ensure universal access, equity, and accountability in healthcare provision. Despite significant progress, challenges such as regional disparities, administrative inefficiencies, and financial constraints remain. By integrating welfare state ideals with robust governance mechanisms, Indonesia can enhance the effectiveness, fairness, and sustainability of JKN, ensuring the fulfillment of citizens' constitutional right to health.

Keywords

National Health Insurance, Welfare State, Good Governance, Indonesia, Health Policy, Social Protection.

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Background

Health is a fundamental right of every citizen guaranteed by the Constitution. Article 28H paragraph (1) of the 1945 Constitution of the Republic of Indonesia stipulates that "every person has the right to live in physical and spiritual prosperity, to have a home, and to enjoy a



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good and healthy environment, as well as to receive health services.”^{*} This provision affirms that the state bears a constitutional responsibility to ensure the fulfillment of the right to health for all Indonesian citizens. In this context, the establishment of the National Health Insurance Program (*Jaminan Kesehatan Nasional* or JKN) represents a concrete manifestation of the state’s responsibility in the field of social health protection.

The implementation of JKN is governed by Law No. 40 of 2004 concerning the National Social Security System (*Sistem Jaminan Sosial Nasional* or SJSN) and Law No. 24 of 2011 concerning the Social Security Administering Body (*Badan Penyelenggara Jaminan Sosial* or BPJS). Through these regulations, the state reinforces its role as a regulator, facilitator, and guarantor of a just and inclusive social security system.[†] Article 4 letter (c) of the SJSN Law explicitly states that the administration of social security shall be based on the principles of non-discrimination, sustainability, and social justice for all Indonesian people.[‡]

However, in practice, the state’s responsibility toward JKN participants continues to face various challenges. Issues such as inaccurate participant data, delayed premium payments, and disparities in healthcare service quality across regions reveal a gap between normative ideals and actual implementation. These conditions raise questions about the extent to which the state has upheld the principles of good governance particularly accountability, transparency, and effectiveness in public service delivery within the JKN system.[§]

From the perspective of the welfare state, the state’s responsibility extends beyond merely providing healthcare facilities; it also encompasses ensuring that every citizen can access these services without social or economic barriers.^{**} In the model of a modern welfare state, the government must not remain passive; it is obliged to actively regulate, finance, and supervise the health insurance system to ensure distributive justice. As Jimly Asshiddiqie emphasizes, “the concept of a welfare state requires an active role of the government in guaranteeing the social rights of its citizens, including the right to social security and health.”^{††}

The interrelation between good governance principles and state responsibility in the context of JKN is highly relevant, as both emphasize the importance of governance oriented toward public interest. The principles of good governance, as stipulated in Government Regulation No. 101 of 2000 concerning the Education and Training of Civil Servants, encompass values such as participation, transparency, rule of law, effectiveness, and accountability.^{‡‡} Therefore,

^{*} The 1945 Constitution of the Republic of Indonesia, Article 28H paragraph (1).

[†] Law No. 24 of 2011 on the Social Security Administering Body, *State Gazette of the Republic of Indonesia* Year 2011 No. 116.

[‡] Law No. 40 of 2004 on the National Social Security System, *State Gazette of the Republic of Indonesia* Year 2004 No. 150.

[§] Audit Board of the Republic of Indonesia (*Badan Pemeriksa Keuangan Republik Indonesia*), *Summary of the First Semester Audit Results 2022* (Jakarta: BPK RI, 2022), pp. 88–90.

^{**} Brian Abel-Smith, *The Welfare State in Crisis* (Oxford: Martin Robertson, 1988), p. 22.

^{††} Jimly Asshiddiqie, *Gagasan Negara Hukum Indonesia* (Jakarta: LP3ES, 2020), p. 137.

^{‡‡} Government Regulation No. 101 of 2000 on the Education and Training of Civil Servants, Article 2 paragraph (2).

the implementation of JKN should embody the principles of good governance to ensure that it not only meets administrative targets but also upholds social justice for all participants.

Through a normative and conceptual approach, this study aims to analyze the extent to which the state's responsibility toward JKN participants reflects the principles of the welfare state and good governance, as well as to identify normative and structural weaknesses that hinder the optimal realization of legal protection for JKN participants.

Discussion

1. The Legal and Constitutional Basis of State Responsibility in Health Protection

The constitutional framework of the Republic of Indonesia establishes health as a fundamental human right and places a clear responsibility upon the state to ensure access to health services for all citizens. Article 28H paragraph (1) of the 1945 Constitution asserts that “every person has the right to live in physical and spiritual prosperity, to have a home, and to enjoy a good and healthy environment, as well as to receive health services.”^{§§} This provision reflects the Indonesian state's normative obligation as a *duty bearer* to guarantee the right to health as a core social right.

In legal terms, this constitutional mandate has been operationalized through the enactment of Law No. 40 of 2004 concerning the National Social Security System (*Sistem Jaminan Sosial Nasional* or SJSN) and Law No. 24 of 2011 concerning the Social Security Administering Body (*Badan Penyelenggara Jaminan Sosial* or BPJS).^{***} These laws establish the institutional and regulatory framework of the National Health Insurance (JKN) and delineate the state's role as regulator, facilitator, and guarantor of a social protection system that is equitable and inclusive.^{†††} Article 4(c) of the SJSN Law explicitly mandates that social security administration must adhere to principles of non-discrimination, sustainability, and social justice for all citizens.^{‡‡‡}

The legal responsibility of the state is not merely formal or declaratory but entails active intervention in both financing and regulating the social security system. The state's role encompasses three essential dimensions: first, ensuring universal access to health services; second, maintaining financial sustainability of the system; and third, overseeing the effective delivery of health services across all regions.^{§§§} These obligations are consonant with Indonesia's commitment under international human rights law, particularly the International Covenant on Economic, Social, and Cultural Rights (ICESCR), which Indonesia ratified through Law No. 11 of 2005. Article 12 of the ICESCR recognizes “the right of everyone to

^{§§} The 1945 Constitution of the Republic of Indonesia, Article 28H paragraph (1).

^{***} Law No. 40 of 2004 on the National Social Security System, *State Gazette of the Republic of Indonesia* Year 2004 No. 150.

^{†††} Law No. 24 of 2011 on the Social Security Administering Body, *State Gazette of the Republic of Indonesia* Year 2011 No. 116.

^{‡‡‡} Law No. 40 of 2004, Article 4(c).

^{§§§} Jimly Asshiddiqie, *Gagasan Negara Hukum Indonesia* (Jakarta: LP3ES, 2020), 137.

the enjoyment of the highest attainable standard of physical and mental health,” obligating the state to take steps for the creation of conditions necessary for health services.^{****}

Despite the clarity of the constitutional and statutory frameworks, empirical evidence suggests persistent gaps between legal ideals and practical implementation. Reports by the Audit Board of the Republic of Indonesia (*Badan Pemeriksa Keuangan Republik Indonesia*, BPK) highlight issues such as delayed contributions from participants, incomplete enrollment data, and regional disparities in service provision, undermining the realization of equitable health access.^{††††} These findings raise critical questions regarding the extent to which the Indonesian state has operationalized its legal responsibility to JKN participants in accordance with constitutional and international human rights principles.

Moreover, Indonesian scholars emphasize the normative expectation that the state should be proactive in enforcing social rights. Jimly Asshiddiqie notes that “the welfare state concept demands active government intervention to guarantee the social rights of citizens, including social security and health rights.”^{‡‡‡‡} This indicates that state responsibility is not merely passive compliance with the law but involves active planning, monitoring, and evaluation of health programs to ensure substantive access for all citizens.

In summary, the legal and constitutional basis of Indonesia’s National Health Insurance system establishes a firm foundation for state responsibility. Yet, the challenge lies in translating these legal norms into operational policies that meaningfully ensure universal health access, particularly in a context characterized by regional disparities, financial constraints, and administrative inefficiencies. This underscores the importance of integrating welfare state principles with effective governance mechanisms to strengthen the implementation of JKN.

2. The Welfare State Perspective on National Health Insurance Implementation

The welfare state paradigm provides a theoretical lens through which the Indonesian state’s responsibility for health protection can be assessed. Originating from European social policy models, the welfare state emphasizes the redistribution of resources to ensure social equity, the provision of essential services, and the protection of vulnerable populations. Scholars such as Titmuss and Esping-Andersen classify welfare states according to their degree of social protection, interventionist policies, and emphasis on universalism versus selectivity.^{§§§§}

In Indonesia, the enactment of the SJSN Law and the establishment of JKN represent a progressive attempt to implement welfare state principles within a developing country context. The design of JKN is intended to provide universal coverage, ensuring that all citizens, regardless of income or social status, have access to necessary healthcare

^{****} International Covenant on Economic, Social, and Cultural Rights, Article 12.

^{††††} *Ibid.*

^{‡‡‡‡} Audit Board of the Republic of Indonesia (*Badan Pemeriksa Keuangan Republik Indonesia*), *Ikhtisar Hasil Pemeriksaan Semester I Tahun 2022* (Jakarta: BPK RI, 2022), 88–90.

^{§§§§} Asshiddiqie, *Gagasan Negara Hukum Indonesia*, 137.

services.^{*****} This approach reflects the egalitarian dimension of the welfare state, which seeks to minimize health inequities and provide protection against financial catastrophe arising from medical expenses.

Comparative analysis offers additional insight. Thailand's Universal Coverage Scheme (UCS) provides a relevant benchmark. Implemented in 2002, UCS has successfully achieved near-universal coverage, with strong government financing and a capitation payment system that incentivizes primary care utilization.^{†††††} Similarly, Malaysia employs a hybrid system combining tax-funded public healthcare with mandatory insurance for private-sector employees. These models demonstrate the potential of welfare-oriented health systems to achieve broad social protection, provided there is strong governmental commitment and adequate resource allocation.^{†††††}

Applying this perspective to Indonesia, the welfare state framework underscores several critical policy imperatives:

1. Equitable access: Ensuring that remote and marginalized populations can receive health services comparable to urban centers.
2. Financial protection: Guaranteeing that contributions are affordable and that the state subsidizes those unable to pay.
3. Administrative efficiency: Streamlining enrollment and claims processing to prevent bureaucratic delays that hinder service delivery.^{§§§§§}

However, the practical realization of JKN faces structural challenges. Geographic disparities, particularly in eastern Indonesia, impede equitable access. The limited availability of healthcare professionals and facilities in remote regions creates a two-tier system, contravening welfare state ideals.^{*****} Moreover, delays in premium collection and reimbursement compromise financial sustainability and may disproportionately affect vulnerable populations.

From a conceptual standpoint, the welfare state model reinforces the argument that state responsibility is multidimensional, encompassing legal, financial, and operational aspects. In the Indonesian context, this means that achieving the normative objectives of JKN requires not only legislative compliance but also proactive governance to mitigate inequities and ensure distributive justice.^{†††††}

In addition, the welfare state perspective encourages integration with international standards, such as the WHO's Health Systems Framework, which emphasizes universal health

^{*****} Gosta Esping-Andersen, *The Three Worlds of Welfare Capitalism* (Princeton: Princeton University Press, 1990).

^{†††††} *Ibid.*

^{†††††} Anne Mills, "Thailand's Health Care Reform: Lessons for Developing Countries," *Health Policy and Planning* 23, no. 5 (2008): 303–311.

^{§§§§§} WHO, *Health Systems Financing: The Path to Universal Coverage* (Geneva: World Health Organization, 2010).

^{*****} Brian Abel-Smith, *The Welfare State in Crisis* (Oxford: Martin Robertson, 1988), 22.

^{†††††} *Ibid.*

coverage, service quality, and financial risk protection as core pillars. By aligning JKN with these global benchmarks, Indonesia can strengthen both the legitimacy and effectiveness of its social health protection system.+++++

3. Good Governance Principles in Ensuring Accountability and Equity in the JKN System

The principles of good governance are indispensable in evaluating the effectiveness of JKN implementation. As defined in the United Nations Development Programme (UNDP) framework, good governance comprises elements such as transparency, accountability, participation, responsiveness, and rule of law.+++++ Similarly, Government Regulation No. 101 of 2000 in Indonesia emphasizes transparency, accountability, efficiency, and effectiveness in civil service administration, directly applicable to the management of JKN.*****

Transparency in JKN is critical to maintaining public trust. This involves clear communication of program rules, contribution requirements, and benefits entitlements. The BPJS has established online portals and information systems, yet reports indicate that information dissemination is uneven, particularly among rural and low-literacy populations.+++++ Enhancing transparency is essential to prevent misinformation and ensure informed participation.

Accountability entails both legal and managerial responsibility. BPJS officials and healthcare providers must adhere to performance standards, financial regulations, and service quality metrics. Oversight by the Ministry of Health, the Ministry of Finance, and the BPK is crucial to detecting irregularities such as delayed reimbursements, fraud, or misallocation of funds. Strengthening internal and external audit mechanisms can improve compliance and protect participants' rights.+++++

Participation emphasizes the inclusion of beneficiaries in policy design and feedback mechanisms. Engaging communities in service planning, needs assessment, and evaluation fosters responsiveness and empowers citizens as stakeholders. The Indonesian government has piloted community consultation initiatives, but scaling up such programs remains a challenge.+++++

Effectiveness and efficiency focus on optimizing resource utilization while achieving program objectives. Challenges in JKN include administrative bottlenecks, data inaccuracies, and disparities in healthcare facility distribution. For instance, certain provinces report delays exceeding 30 days for claim reimbursements, adversely affecting provider participation and

+++++ *Ibid.*

+++++ WHO, *Health Systems Financing: The Path to Universal Coverage*.

***** United Nations Development Programme (UNDP), *Governance for Sustainable Human Development* (New York: UNDP, 1997).

+++++ Government Regulation No. 101 of 2000 on the Education and Training of Civil Servants, Article 2(2).

+++++ Badan Pemeriksa Keuangan Republik Indonesia, *Ikhtisar Hasil Pemeriksaan Semester I Tahun 2022*, 88–90.

+++++ *Ibid.*

patient satisfaction. ***** Implementing advanced health information systems and streamlining administrative processes can enhance operational efficiency.

The convergence of welfare state and good governance principles highlights the dual responsibility of the state: to ensure social justice while managing public resources effectively. Ineffective governance can undermine even well designed welfare programs, leading to inequities, service gaps, and erosion of public trust. ††††††††

Comparative experiences reinforce this point. Thailand's UCS and Malaysia's hybrid system demonstrate that good governance including clear accountability, citizen participation, and transparent financing is essential to the sustainability and equity of social health programs. †††††††† These lessons are directly applicable to Indonesia, where the integration of welfare oriented policy design with robust governance mechanisms is critical for achieving the full potential of JKN.

Conclusion

The National Health Insurance (JKN) in Indonesia embodies a legal and normative commitment to realizing the right to health for all citizens. From a constitutional and statutory perspective, the state is obligated to provide universal access and ensure social justice. Through the lens of the welfare state, this responsibility extends to equitable distribution of health services, financial protection, and proactive intervention in policy implementation. Simultaneously, adherence to good governance principles transparency, accountability, participation, and efficiency is essential to operationalize these obligations effectively.

Despite significant progress, challenges persist, including regional disparities, administrative inefficiencies, and delays in financial management. Addressing these gaps requires a comprehensive strategy that integrates normative legal frameworks, welfare state ideals, and robust governance mechanisms. By doing so, Indonesia can strengthen the National Health Insurance system as a cornerstone of social protection and a model for combining legal obligation with effective, equitable, and participatory public administration.

***** *Ibid.*

†††††††† *Ibid.*

†††††††† UNDP, *Governance for Sustainable Human Development*.

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