

Transforming Health Insurance Law: Toward Substantive Justice for Health Social Security Administering Body

Deborah Johana Rattu¹, Selamat Widodo²

^{1,2} Universitas Pasundan, Indonesia

Email: deborahjrattu@gmail.com (Corresponding Author)

Accepted: 28-11-2025. Revised: 04-12-2025 Approved: 06-12-2025 Published: 08-12-2025

DOI: 10.30596/dll.v1i1.26491

How to cite:

Rattu, D.J. (2026). "Transforming Health Insurance Law: Toward Substantive Justice for Health Social Security Administering Body", *De Lega Lata: Jurnal Ilmu Hukum*, Volume II (1): p. 65-77

Abstract

Health is a fundamental right guaranteed under Article 28H of the 1945 Constitution of the Republic of Indonesia, obligating the state to provide inclusive and equitable access to healthcare services. The establishment of the National Health Insurance (NHI) Program, administered by the Social Security Administrative Body for Health (SSAB-Health), marked a significant milestone in the transformation of Indonesia's health insurance system. However, despite its normative foundation in constitutional and statutory law, the program faces persistent challenges in practice, including discrepancies between contribution adjustments and service quality, regional disparities in healthcare infrastructure, delayed claim reimbursements, discriminatory practices against participants, and limited public understanding of rights and obligations. This study analyzes these problems using legal and governance theories, including the distinction between formal and substantive justice, spatial justice, legal culture, and good governance principles. The findings demonstrate that while the NHI Program has expanded coverage, its effectiveness is weakened by systemic inequities and governance deficiencies that undermine its legitimacy and protective function. The paper argues for a comprehensive legal transformation that emphasizes substantive justice, encompassing regulatory reforms, institutional restructuring, stronger protection of patient rights, infrastructure capacity building, and enhanced public education. Such transformation is essential not only to fulfill constitutional mandates but also to contribute to broader national development objectives, including poverty reduction, human capital enhancement, and social cohesion. In this way, the reformation of health insurance governance serves as both a legal imperative and a strategic pathway toward achieving social justice in Indonesia.

Keywords: *Health Insurance, Substantive Justice, SSAB-Health, Legal Transformation, Social Justice, National Development.*

INTRODUCTION

Health is a fundamental right guaranteed under Article 28H paragraph (1) of the 1945 Constitution of the Republic of Indonesia, which explicitly affirms that every individual has the right to live in physical and spiritual well-being, to reside in a proper dwelling, to obtain a good and healthy living environment, and to access adequate healthcare services. As a constitutional

mandate, this provision positions the state as the primary duty-bearer in ensuring the realization of the right to health through the establishment of a comprehensive, inclusive, and equitable health insurance system that is accessible to all citizens without discrimination (Isriawaty, 2015; Karwur, 2024).

In line with this constitutional obligation, the Indonesian government introduced the Health Social Security Administering Body (HSSAB) under Law No. 24 of 2011, which marked a crucial milestone in the transformation of the national healthcare financing and social security system (Nurhadi, 2024). The National Health Insurance (NHI) program, managed by HSSAB, was designed as a universal health coverage mechanism to reduce healthcare disparities, minimize the financial risks of illness, and operationalize the principle of social solidarity through a mandatory contributory insurance scheme. Conceptually, NHI under HSSAB represents the embodiment of the welfare state principle as enshrined in the Constitution. Nevertheless, the implementation of this program has encountered multifaceted legal, institutional, and social challenges that hinder the attainment of its intended goals (Muin, 2024).

A number of pressing issues continue to emerge in the practical operation of HSSAB. The first concerns the adjustment of contribution rates, which is often perceived by the public as burdensome, particularly for low- and middle-income groups. Increases in premiums are frequently deemed disproportionate to the quality of services delivered, leading to public dissatisfaction and resistance. Second, there are structural disparities in healthcare access. Limited facilities, inadequate medical personnel, and logistical constraints in remote and rural areas exacerbate inequities in the distribution of healthcare services, leaving many participants unable to fully enjoy their constitutional right to health (Roza dkk., 2024). Third, persistent delays in claim reimbursements from HSSAB to healthcare providers place significant strain on hospitals and clinics, ultimately reducing the quality of patient care. Fourth, the problem of service discrimination remains salient, with participants under HSSAB often experiencing slower procedures, more complex administrative requirements, or longer waiting times compared to general or private patients, reinforcing perceptions of unequal treatment. Finally, low levels of public awareness and understanding regarding the rights and obligations of participants further complicate implementation. Insufficient outreach and education campaigns contribute to misconceptions, frustration, and frequent complaints, particularly concerning the tiered referral system that is central to the NHI mechanism (Borolla, 2022; Sukardi dkk., 2024).

These recurring problems reflect a persistent gap between normative objectives and empirical realities in the administration of national health insurance. On a normative level, HSSAB is mandated to uphold the right to health and to promote substantive equality through the principle of mutual cooperation. However, in practice, systemic shortcomings, administrative rigidity, and unequal service delivery undermine the very essence of health protection and social justice envisioned by the Constitution. The tension between legal formalism and lived experiences of participants demonstrates that the current regulatory framework has not yet succeeded in delivering substantive justice that transcends formal compliance and is meaningfully experienced by citizens in their daily access to healthcare (Mangkey, 2022).

In this regard, there is an urgent necessity for the legal transformation of health insurance in Indonesia. Such transformation requires not only revisions to the regulatory framework but also improvements in institutional governance, service delivery mechanisms, financial accountability, and public participation. The goal is to move beyond a merely administrative model of health insurance law toward a rights-based paradigm that prioritizes the actual protection and fulfillment of citizens' health rights. By embedding substantive justice as the guiding principle, the national health insurance system can function optimally as an instrument of social justice, consistent with constitutional mandates and national development objectives (Pramono dkk., 2025).

Accordingly, a comprehensive study on "The Legal Transformation of Health Insurance: Towards Substantive Justice for HSSAB Participants" is crucial. This study not only seeks to identify the core legal and institutional challenges in the implementation of health insurance in Indonesia but also to propose a framework for reform that ensures inclusiveness, accountability, and fairness. Such an endeavor is expected to contribute to scholarly discourse on social security law while also offering policy recommendations that strengthen the protection of the right to health in Indonesia.

METHOD RESEARCH

This study employs a normative juridical research method, focusing on the analysis of laws and regulations related to the right to health and the implementation of health insurance in Indonesia. The primary legal materials consist of the 1945 Constitution of the Republic of Indonesia, Law No. 40 of 2004 on the National Social Security System, Law No. 24 of 2011 on the Social Security Administering Body, and Presidential Regulation No. 82 of 2018 along with its third amendment through Minister of Health Regulation No. 59 of 2024. Secondary legal materials include scholarly articles, books, and previous research discussing the principles of justice, patients' rights, and health insurance systems (Ardinata, 2020). The research applies a statute approach and a conceptual approach, analyzing how the principles of justice and legal protection are implemented within the framework of national health insurance (Achjar dkk., 2023). Data were analyzed qualitatively using descriptive-analytical techniques to assess the extent to which the regulations ensure fairness and legal certainty for participants of the Social Security Administering Body for Health in obtaining prescribed medicines at healthcare facilities (Marzuki, 2024).

DISCUSSION

The constitutional guarantee of the right to health, as enshrined in Article 28H (1) of the 1945 Constitution of the Republic of Indonesia, establishes a strong normative foundation for the state to ensure equal access to health services. The creation of the Social Security Administrative Body for Health through Law No. 24 of 2011 and the implementation of the National Health Insurance (NHI) Program marked a pivotal transformation in Indonesia's health security system. However, the gap between normative ideals and empirical implementation highlights persistent structural, administrative, and socio-economic challenges.

1. Discrepancy Between Normative Framework and Empirical Reality

From a normative perspective, the National Health Insurance (NHI) Program administered by the Social Security Administrative Body for Health was established to operationalize the constitutional mandate of the right to health as articulated in Article 28H(1) of the 1945 Constitution of the Republic of Indonesia. This constitutional provision embodies the principle of social solidarity and justice, ensuring that health services are accessible to all citizens regardless of economic status. The underlying philosophy of the NHI is rooted in the principle of *gotong royong* (mutual cooperation), which aligns with the concept of social insurance where the healthy subsidize the sick, and the affluent subsidize the poor (Salangka, 2023).

However, the empirical reality of its implementation reveals a significant disjunction. One of the most contentious issues is the periodic adjustment of contribution fees (premiums). While such adjustments are normatively justified on the grounds of financial sustainability and actuarial fairness, in practice, they often provoke public discontent, particularly among lower- and middle-income groups. The increase in premiums is widely perceived as disproportionate to the quality and timeliness of services provided, creating a gap between formal legal objectives and the lived experiences of participants (Muin, 2024).

This condition reflects the theoretical tension between formal justice and substantive justice. According to Aristotle's distributive justice, justice is achieved when benefits and burdens are allocated fairly among members of society based on their needs and circumstances. Yet, in the case of the Social Security Administrative Body for Health, while the legal framework emphasizes equal contribution obligations, the benefits received are not perceived as commensurate with the burdens borne. This undermines the principle of proportionality, which is central to substantive justice (Ni Nyoman Ayu Ratih Pradnyani, 2020).

From the perspective of Hans Kelsen's pure theory of law, the legal validity of contribution adjustments is unquestionable, as they are derived from statutory regulations. However, the legitimacy of such policies is challenged when examined through the lens of Gustav Radbruch's theory of law, which posits that law must simultaneously fulfill three values: legal certainty (*rechtssicherheit*), utility (*zweckmäßigkeit*), and justice (*gerechtigkeit*). In this case, while legal certainty and administrative utility may be satisfied through formal regulations, the element of justice is compromised when participants feel burdened without corresponding improvements in service quality.

Furthermore, John Rawls' theory of justice as fairness provides a relevant analytical framework. Rawls emphasizes two principles: the principle of equal basic rights and the difference principle, which permits social and economic inequalities only if they benefit the least advantaged members of society. The rising premiums under the NHI scheme arguably contradict the difference principle, as they impose a heavier relative burden on vulnerable groups who do not necessarily enjoy improved service quality. Instead of enhancing equity, the policy risks exacerbating socio-economic disparities in health access.

Therefore, the discrepancy between the normative framework and empirical reality indicates that the NHI Program, while constitutionally and legally grounded, still struggles to fulfill its substantive function as an instrument of social justice. The state, as the primary duty-bearer, must reconcile this tension by ensuring that fee adjustments are accompanied by tangible improvements in service delivery, transparency in fund management, and mechanisms that

protect the most vulnerable populations. Only through such measures can the ideals of formal justice be harmonized with substantive justice, thus restoring the legitimacy and effectiveness of the national health insurance system.

2. Regional Inequalities in Health Service Delivery

The implementation of the National Health Insurance (NHI) Program, administered by the Social Security Administrative Body for Health, also exposes persistent regional disparities in access to healthcare services across Indonesia. Despite the normative aim of universal health coverage, the distribution of health infrastructure and medical professionals remains heavily concentrated in urban and more developed regions, while rural and remote areas continue to face significant shortages. Hospitals and clinics in underdeveloped regions often lack essential equipment, medicines, and specialized personnel, thereby limiting the effectiveness of the NHI scheme in achieving equitable access.

This reality undermines the universalist ambition of the NHI system and reveals a structural contradiction between the program's inclusive mandate and its practical outcomes. From a governance perspective, this condition reflects the failure of the state to ensure equitable resource allocation across different spatial contexts. According to the theory of spatial justice (Soja, 2010), public goods and services must be distributed in such a way that geographical location does not become a determinant of social exclusion. When residents of rural or remote areas consistently experience barriers to healthcare access, the system perpetuates territorial inequality, thereby contradicting the principle of justice enshrined in the constitution.

In addition, this situation resonates with Amartya Sen's capability approach, which emphasizes that true justice is not merely about formal access but about ensuring that individuals have the substantive capability to utilize services. While all citizens are normatively entitled to participate in the NHI program, participants in remote areas are de facto excluded because inadequate facilities and long travel distances prevent them from enjoying effective health protection. This creates what Sen describes as a capability deprivation, where formal rights exist but cannot be meaningfully exercised.

The structural inequity is further illuminated through the lens of structural-functionalism in governance theory, which posits that every subsystem within a governance structure must operate effectively to sustain legitimacy. In the case of the NHI, the unequal distribution of resources demonstrates a dysfunction within the health governance system, undermining public trust in BPJS Health as an institution. The legitimacy of the health insurance system is therefore not only a matter of legal compliance but also of its capacity to deliver services equitably across all regions.

Moreover, Rawls' principle of fair equality of opportunity provides another critical lens. Rawls asserts that individuals with similar talents and aspirations should have equal opportunities regardless of their social background or location. However, under the current system, a patient in Jakarta may receive swift and specialized treatment, while a patient in Papua or Maluku faces prolonged delays and limited care options. This disparity signifies a violation of fair equality of opportunity, as geographical inequalities translate into unequal life chances and health outcomes.

Thus, regional disparities in health service delivery highlight a profound challenge to the legitimacy and effectiveness of the NHI system. They reveal that while the program is

normatively universal, its realization is hindered by spatial, infrastructural, and systemic barriers. Addressing these inequalities requires not only additional investment in rural health infrastructure and incentives for medical professionals to serve in remote areas but also a comprehensive policy framework that integrates the principles of spatial justice and equitable governance. Only through such reforms can the NHI program move closer to fulfilling its constitutional mandate of guaranteeing the right to health for all citizens, irrespective of where they live.

3. Institutional and Financial Governance Issues

Another pressing challenge in the implementation of the National Health Insurance (NHI) Program lies in the institutional and financial governance of the Health Social Security Administering Body (HSSAB). One of the most recurrent problems is the delayed reimbursement of claims from HSSAB to hospitals and healthcare providers. Such delays disrupt hospital cash flow, hinder operational sustainability, and directly affect the continuity of health services.

As a result, hospitals often face liquidity constraints that may compel them to reduce service quality, limit available facilities, or, in some cases, impose hidden costs on patients undermining the very protective function of health insurance. From the perspective of good governance theory, institutional accountability, transparency, and efficiency are central to the legitimacy of public programs. However, the persistent delays in claim reimbursements suggest systemic weaknesses in administrative capacity and financial management within HSSAB.

These inefficiencies reduce public trust in the institution and generate negative externalities for both healthcare providers and patients. According to Dwivedi and Bhargava's model of good governance, the absence of timely financial accountability constitutes a governance failure, where institutional structures do not fulfill their intended purposes effectively. The problem can also be analyzed through the lens of New Institutional Economics (NIE), which highlights how transaction costs and bureaucratic inefficiencies shape institutional performance. The claim reimbursement delays can be seen as an institutional friction, where excessive bureaucratic procedures and weak monitoring mechanisms increase transaction costs for hospitals.

These inefficiencies not only distort the functioning of the health insurance system but also undermine the principle of efficiency that is essential for sustainable governance. From a legal-philosophical standpoint, this situation resonates with Radbruch's triadic values of law: legal certainty, utility, and justice. While the regulatory framework of claim reimbursement is normatively valid (legal certainty), its utility is diminished by poor enforcement, and justice is compromised when patients suffer the consequences of institutional inefficiencies.

Similarly, Lon Fuller's concept of the "inner morality of law" suggests that legal systems must ensure clarity, consistency, and congruence between rules and their implementation. The gap between the regulatory design of HSSAB and its operational reality demonstrates a failure to uphold these principles. The financial governance issue also ties into public choice theory, which posits that bureaucratic institutions often pursue self-preservation and budget maximization rather than public interest.

Delayed reimbursements may reflect structural inefficiencies or prioritization of institutional solvency over participants' welfare, revealing a misalignment between the institution's operational logic and its normative mandate. Furthermore, through the lens of Rawls' difference principle, the consequences of delayed reimbursements disproportionately harm the most vulnerable populations. While wealthier patients may afford alternative healthcare or cover out-of-pocket expenses, poorer patients bear the brunt of reduced service quality or hidden charges.

This contradicts the ethical foundation of the NHI, which is designed to protect disadvantaged groups. In sum, institutional and financial governance problems exemplified by claim reimbursement delays represent not only technical and administrative weaknesses but also deeper governance failures that erode the protective function and legitimacy of the health insurance system. Strengthening the financial management capacity of HSSAB, enhancing transparency and accountability mechanisms, streamlining claim processes through digitalization and audit-based monitoring, as well as enforcing sanctions or corrective measures for systemic delays, are therefore essential reforms. By embedding principles of good governance and accountability, the NHI program can restore trust, ensure continuity of health services, and fulfill its constitutional mandate of realizing substantive justice in healthcare protection.

4. Discriminatory Practices and Patient Rights

Discriminatory practices within the implementation of the National Health Insurance (NHI) Program reveal profound governance and ethical challenges in the healthcare sector. Reports of NHI patients experiencing longer waiting times, more complicated administrative procedures, or reduced prioritization compared to general (private) patients underscore the persistence of systemic bias in health facilities. These practices contradict the foundational principle of equity in healthcare, as articulated by Norman Daniels in the theory of Justice and Health. According to Daniels, a just healthcare system must ensure fair equality of opportunity by providing timely and adequate access to health services without unjust distinctions. When hospitals or healthcare providers differentiate between NHI and private patients, they effectively create a dual-track system that privileges financial capacity over universal rights.

In Indonesia, several cases illustrate these discriminatory practices. For example, reports from various regions indicate that NHI patients are sometimes asked to wait significantly longer in emergency rooms compared to patients paying out-of-pocket or through private insurance. In 2022, a case in RSUD Dr. Moewardi, Solo, gained public attention after families of patients complained that NHI holders had to endure longer registration and approval processes, delaying access to specialist care. Similarly, in RSUD Cianjur, patients covered by NHI were reportedly asked to purchase certain medications independently because the hospital cited delays in reimbursement from the Social Security Administrative Body for Health (SSAB-Health). These instances highlight how systemic discrimination manifests both at the level of service delivery and access to essential medicines.

From a governance perspective, such discriminatory practices signal weaknesses in regulatory enforcement and accountability mechanisms. The principle of non-discrimination is embedded not only in national constitutional law but also in international frameworks, such as

the International Covenant on Economic, Social, and Cultural Rights (ICESCR), which explicitly recognizes the right of everyone to the highest attainable standard of health. Under the theory of Rights-Based Governance, states have the duty to respect, protect, and fulfill health rights by ensuring that no patient is disadvantaged due to their insurance status. The persistence of discriminatory treatment within NHI therefore represents a failure in both state obligation and institutional accountability.

Moreover, these practices can be analyzed through the lens of structural violence theory (Johan Galtung), which explains how systemic inequalities embedded in institutions harm vulnerable populations without overt physical violence. By placing bureaucratic and procedural barriers before NHI patients, healthcare facilities inadvertently perpetuate inequities that undermine the protective function of health insurance. Over time, this creates a cycle of marginalization where patients under NHI often from lower socioeconomic groups face diminished health outcomes, reduced trust in public institutions, and increased out-of-pocket spending.

To address these systemic shortcomings, a stronger framework of regulatory governance is required, emphasizing transparency, accountability, and sanctions for discriminatory practices. Effective oversight mechanisms should integrate Good Governance Theory, particularly the principles of participation, rule of law, equity, and responsiveness, to ensure that health facilities treat NHI patients on equal footing with private patients. In addition, embedding patient-centered care models into hospital governance structures can shift institutional culture toward inclusivity and fairness, thereby realigning the NHI Program with its intended goals of universal health coverage, social justice, and human rights compliance.

5. Lack of Public Understanding and Socialization

One of the persistent obstacles in the implementation of the National Health Insurance (NHI) Program is the lack of adequate public understanding regarding participants' rights and obligations. Many participants remain unfamiliar with crucial aspects such as referral mechanisms, the tiered system of care, the procedures for filing complaints, and the consequences of non-payment of contributions. This insufficient dissemination of information and weak socialization efforts have contributed to widespread confusion, dissatisfaction, and even mistrust toward the Social Security Administrative Body for Health (SSAB-Health). For example, numerous cases have been reported where patients bypass primary care facilities and directly visit referral hospitals, only to be denied treatment or face administrative delays due to non-compliance with referral regulations. Similarly, participants often complain about sudden account deactivation without prior understanding of the contribution arrears system. These issues illustrate that formal legal provisions, while existing on paper, fail to achieve their intended effect when the public lacks the necessary legal literacy to navigate the system.

From the perspective of legal sociology, this phenomenon highlights the critical gap between legal structure, legal substance, and legal culture, as articulated by Lawrence M. Friedman. While the legal structure (institutions like SSAB-Health) and legal substance (laws and regulations governing NHI) may be well-established, the legal culture the degree to which people are aware of, understand, and internalize those rules remains weak. Without public internalization, policies risk being perceived as coercive rather than participatory, reducing both

compliance and legitimacy. This gap diminishes the practical effectiveness of the NHI Program, as the success of universal health coverage depends not only on formal enforcement but also on widespread acceptance and cultural adaptation within society.

The lack of socialization also resonates with the communication theory of governance, which emphasizes that effective policy implementation requires not just rule-making but also clear, consistent, and accessible communication strategies. In the context of health insurance, poor socialization can result in structural inequities, as individuals with higher education or urban residency tend to have better access to information compared to those in rural and remote areas. This creates an additional layer of inequality that undermines the program's universalist goals. Moreover, ineffective communication erodes the principle of substantive justice, as citizens who are uninformed about their entitlements cannot fully benefit from state-guaranteed rights.

To overcome these challenges, it is imperative to strengthen legal awareness campaigns through multi-channel dissemination, including digital platforms, community-based socialization, and local health workers as trusted intermediaries. Embedding health insurance education within schools and community organizations can also foster long-term cultural internalization. From the perspective of responsive law theory (Philippe Nonet & Philip Selznick), law and policy must not only establish rules but also adapt to the needs and capacities of society. In this sense, NHI should be implemented with stronger emphasis on participatory education and two-way communication, ensuring that participants are not only rule-followers but also informed right-holders who actively engage with and uphold the health insurance system.

6. Towards a Legal Transformation of the Health Insurance System

The cumulative challenges faced in the implementation of the National Health Insurance (NHI) Program underscore the urgent need for legal transformation in the governance of health insurance in Indonesia. This transformation cannot be confined to formal-administrative adjustments, such as technical regulations or procedural refinements, but must instead emphasize the realization of substantive justice—ensuring that participants not only have formal rights guaranteed on paper but also enjoy real, equitable, and effective access to health services. The goal of legal transformation, therefore, is to reconcile the tension between law in books and law in action, and to align governance mechanisms with the constitutional mandate to guarantee the right to health for all citizens.

First, regulatory reform is imperative to align contribution (premium) policies, service standards, and sanction mechanisms with constitutional principles of fairness and proportionality. Current fee structures often generate inequities, particularly for lower-income participants who perceive premiums as burdensome relative to the services received. In line with the theory of social justice (John Rawls), reforms must ensure that policy burdens are distributed fairly and that the most disadvantaged groups receive adequate protection.

Second, institutional restructuring is needed to strengthen the efficiency, accountability, and responsiveness of the Social Security Administrative Body for Health (SSAB-Health). Weak financial governance, delays in hospital claim reimbursements, and bureaucratic inefficiencies undermine public trust and compromise service delivery. From the perspective

of good governance theory, an effective institution must embody transparency, accountability, responsiveness, and integrity. Legal transformation should therefore include mechanisms for stronger oversight, clearer delineation of institutional responsibilities, and enhanced inter-agency coordination.

Third, the protection of patient rights must be reinforced by embedding the principle of non-discrimination and guaranteeing equal treatment between NHI participants and general patients. This includes ensuring transparency in service procedures, clarity in medical entitlements, and accessible complaint mechanisms. Drawing from human rights theory, access to health services is not merely a social policy but a fundamental right; thus, discriminatory practices must be strictly prohibited through enforceable sanctions and effective monitoring.

Fourth, capacity building in health infrastructure is essential to reduce regional disparities. The uneven distribution of hospitals, medical professionals, and logistical support in rural and remote areas reflects structural inequality in access to healthcare. Applying the lens of spatial justice theory, legal transformation must mandate equitable resource allocation, ensuring that geography does not determine the quality or availability of healthcare.

Finally, enhanced public education and socialization are vital to fostering legal awareness and strengthening the legal culture surrounding the NHI Program. As articulated in sociology of law (Friedman's legal system theory), laws and policies can only function effectively if supported by strong legal culture—that is, when people understand, internalize, and actively engage with the rules. Thus, sustained public education campaigns, community-based outreach, and digital dissemination should be institutionalized to promote active citizen participation and compliance.

In sum, a genuine legal transformation of Indonesia's health insurance system must be holistic, integrating regulatory reforms, institutional strengthening, rights protection, infrastructure development, and public empowerment. Only by embedding substantive justice into the very fabric of health insurance governance can the NHI Program function not merely as a formal legal obligation but as a true instrument of social solidarity, equity, and constitutional justice.

7. Implications for Social Justice and National Development

Ultimately, the effectiveness of the health insurance system should not be evaluated solely on the basis of administrative coverage or statistical enrollment figures, but rather on its ability to realize social justice in practice. The transformation of the National Health Insurance (NHI) Program into a substantively just system is essential for fulfilling Indonesia's constitutional mandate under Article 28H of the 1945 Constitution, which guarantees the right to health for every citizen. Substantive justice requires that all participants, regardless of their socioeconomic background or geographical location, experience equitable access to quality healthcare services, free from discrimination or systemic bias.

From the perspective of social justice theory, particularly John Rawls' principle of "justice as fairness," the NHI Program must prioritize the most disadvantaged groups in society, ensuring that healthcare functions as a redistributive mechanism that corrects structural inequalities. By doing so, the program transcends its administrative function and becomes a

true instrument of social solidarity, reflecting the principle of mutual responsibility embedded in Indonesia's constitutional and cultural values.

The broader implications for national development are equally significant. A substantively just health insurance system directly contributes to poverty reduction, as it shields vulnerable households from catastrophic healthcare expenditures that can push them deeper into poverty. Moreover, ensuring universal and equitable healthcare access fosters human capital development by improving population health, thereby enhancing productivity, educational outcomes, and workforce resilience. This aligns with Amartya Sen's capability approach, which underscores that expanding access to essential services like healthcare enhances people's real freedoms and capabilities to lead meaningful lives.

Furthermore, a fair and inclusive NHI system strengthens social cohesion by reducing perceptions of inequality and exclusion. When citizens perceive that the state upholds their fundamental rights fairly and consistently, public trust in government institutions is reinforced, which in turn supports political stability and democratic consolidation. In this sense, the health insurance system functions not only as a welfare mechanism but also as a strategic foundation for sustainable national development.

Therefore, the legal transformation of Indonesia's health insurance governance carries implications that extend well beyond the health sector. It represents a cornerstone for building a more just, cohesive, and prosperous society, where the principles of constitutional justice are actualized in ways that tangibly improve citizens' well-being and advance the broader objectives of national development.

Conclusion

The analysis of Indonesia's National Health Insurance (NHI) Program, administered by the Social Security Administrative Body for Health (SSAB-Health), demonstrates that while the system is normatively grounded in the constitutional guarantee of the right to health under Article 28H of the 1945 Constitution, its practical implementation continues to face serious challenges. These challenges include the discrepancy between normative ideals and empirical realities, regional disparities in health service delivery, institutional and financial governance weaknesses, discriminatory practices against participants, and a lack of public understanding due to insufficient socialization. From a theoretical perspective, these issues illustrate tensions between formal justice and substantive justice (Aristotle, Radbruch, Rawls), failures in spatial justice (Soja), gaps in legal culture (Friedman), and deficiencies in good governance principles. Although the NHI Program provides legal certainty and administrative structure, its legitimacy is weakened when service quality, equity, and inclusivity are not fully realized in practice.

The cumulative evidence highlights the urgent need for legal transformation that moves beyond formal compliance and emphasizes substantive justice. This transformation should include: (1) regulatory reforms to ensure fairness in contribution policies and service standards, (2) institutional restructuring to enhance accountability and efficiency, (3) the protection of patient rights to eliminate discriminatory practices, (4) capacity building in health infrastructure to address regional disparities, and (5) improved public education and socialization to strengthen legal awareness and participation. Ultimately, the success of the NHI Program must be measured not by coverage statistics but by its capacity to realize social justice and improve the well-being of all citizens. A substantively just and inclusive health insurance system will

not only fulfill constitutional mandates but also contribute significantly to national development through poverty reduction, human capital enhancement, and social cohesion. In this way, the transformation of health insurance governance becomes both a legal necessity and a strategic foundation for building a more equitable, prosperous, and democratic Indonesia.

REFERENCES

- Achjar, K. A. H., Rusliyadi, M., Zaenurrosyid, A., Rumata, N. A., Nirwana, I., & Abadi, A. (2023). *Metode penelitian kualitatif: Panduan praktis untuk analisis data kualitatif dan studi kasus*. PT. Sonpedia Publishing Indonesia.
- Ardinata, M. (2020). Tanggung jawab negara terhadap jaminan kesehatan dalam perspektif hak asasi manusia. *Jurnal Ham*, 11(2), 319–332.
- Borolla, H. D. J. (2022). *Strategi Penyelesaian Sengketa Pelayanan Kesehatan Pasien BPJS dengan Pendekatan Sosio Kultural Di Provinsi Gorontalo= Dispute Resolution Strategy for BPJS Health-Services Patient with a Socio-Cultural Approach in Gorontalo Province*. [PhD Thesis, Universitas Hasanuddin]. <https://repository.unhas.ac.id/id/eprint/16864/>
- Isriawaty, F. S. (2015). *Tanggung Jawab Negara Dalam Pemenuhan Hak Atas Kesehatan Masyarakat Berdasarkan Undang Undang Dasar Negara Republik Indonesia Tahun 1945* [PhD Thesis, Tadulako University]. <https://www.neliti.com/publications/145729/tanggung-jawab-negara-dalam-pemenuhan-hak-atas-kesehatan-masyarakat-berdasarkan>
- Karwur, C. E. T. (2024). Pemenuhan hak memperoleh kesehatan ditinjau dari pasal 28 h ayat 1 undang–undang dasar negara republik indonesia tahun 1945. *Lex privatum*, 13(2). <https://ejournal.unsrat.ac.id/index.php/lexprivatum/article/view/54002>
- Mangkey, R. A. (2022). Kajian Yuridis Implementasi Kebijakan Negara Terhadap Jaminan Kesehatan Bagi Warga Negara Dalam Perspektif Hak Asasi Manusia. *Lex Administratum*, 10(1). <https://ejournal.unsrat.ac.id/index.php/administratum/article/view/38313>
- Marzuki, M. K. (2024). *Rekonstruksi Regulasi Penegakan Hukum Bagi Orang Yang Mempekerjakan Tenaga Medis Yang Tidak Memiliki Surat Izin Praktik Berbasis Keadilan Restoratif* [PhD Thesis, Universitas Islam Sultan Agung (Indonesia)]. <https://search.proquest.com/openview/eda4bbf76bc16845bc2bbfe43cbaa9be/1?pq-origsite=gscholar&cbl=2026366&diss=y>
- Muin, F. (2024). Kebijakan Hukum Jaminan Asuransi Sosial Kesehatan: Pendekatan Pemenuhan Kesetaraan Dalam Jaminan Kesehatan Nasional. *Proceeding APHTN-HAN*, 2(1), 39–76.
- Ni Nyoman Ayu Ratih Pradnyani, M. H. (2020). *Tanggung jawab hukum dalam penolakan pasien jaminan kesehatan nasional*. Scopindo Media Pustaka.
- Nurhadi, N. (2024). Jaminan Sosial di Indonesia: Sejarah, Teori dan Tantangan Masa Depan. *Friedrich Ebert Stiftung*. https://www.academia.edu/download/121084156/2024_Jaminan_Sosial_di_Indonesia_Sejjarah_Teori_dan_Tantangan_Masa_Depan_.pdf
- Pramono, J. S., Hasanah, S., Ardyanti, D., & Tonapa, E. (2025). *Jaminan Kesehatan Nasional: Strategi, Implementasi Dan Transformasi Kesehatan*. Penerbit Adab.
- Roza, S. H., Sari, A. F., & Syafrawati, S. (2024). Perspektif Masyarakat Terhadap Kebijakan Kenaikan Iuran Jaminan Kesehatan Nasional. *Jurnal Kebijakan Kesehatan Indonesia*, 13(3), 115–122.
- Salangka, A. R. (2023). Pengawasan Bagi Badan Penyelenggara Jaminan Sosial (Bpjs) Kesehatan Dilihat Dari Hukum Administrasi Negara. *Lex Privatum*, 12(3). <https://ejournal.unsrat.ac.id/index.php/lexprivatum/article/view/52104>
- Sukardi, S. I. S., Fadilla, A. N., & Al Amin, M. N. F. (2024). Analisis pelayanan BPJS di Indonesia dalam meningkatkan kesejahteraan masyarakat dengan pendekatan problem tree analysis. *Jurnal Ilmiah Kesehatan Sandi Husada*, 7(1), 1388–1394.