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## **STATE RESPONSIBILITY IN THE FULFILLMENT OF PUBLIC HEALTH RIGHTS THROUGH JKN: A COMPARATIVE STUDY WITH THE REPUBLIC OF CHINA**

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### **ABSTRACT**

The right to live with an adequate standard for the health and well-being of oneself and one's family is a human right recognized by all countries worldwide. Therefore, the state has a responsibility to provide proper healthcare to improve public health and the well-being of its citizens, where the implementation of social security is a prerequisite for a welfare state. Based on these circumstances, the following issues are formulated: 1) The regulation of the national health insurance system in Indonesia and the Republic of China; 2) The responsibilities of both countries in providing health protection through national health insurance. Objective to analyze the regulation of each national health insurance system in the Republic of China and Indonesia and analyze the legal efforts made by each country to protect its citizens to obtain welfare in terms of health insurance. This study is normative juridical research with a legislative approach, a conceptual approach, and a comparative approach. We employ a documentary study as a data collection method, involving primary, secondary, and tertiary sources related to the topic. Legal material analysis is conducted using a qualitative approach to address the research problems. This method produces descriptive-analytical data in the form of written, verbal, or actual behavior. The secondary data obtained through the documentary study will be analyzed concerning the applicable laws in both countries and compared accordingly. The findings of this thesis indicate that there are similarities and differences in the regulation of national health insurance in the two countries, particularly in terms of history, insurance providers, participation, covered services, and financing. Indonesia has fulfilled its constitutional obligation as stipulated in the 1945 Constitution and Law No. 40 of 2004 on the National Social Security System, which mandates the implementation of the Indonesian National Health Insurance to provide healthcare services for every citizen. Meanwhile, in the Republic of China (Taiwan), the National Health Insurance fulfills the constitutional obligations set forth in the Constitution of the Republic of China. The national health insurance systems in Taiwan and Indonesia have different approaches. Taiwan implements a centralized National Health Insurance, managed by the NHIA, with funding from individual contributions, employers, and government subsidies. In Indonesia, the National Health Insurance is managed by the Health Social Security Agency (Badan Penyelenggara Jaminan Sosial Kesehatan) under the Social Security Agency Act, despite facing accessibility and efficiency challenges. Both countries protect the health rights of their citizens through their respective legal bases. Taiwan relies on the Constitution of the Republic of China and National Health Insurance regulations, while Indonesia uses the 1945 Constitution and related regulations. To improve transparency, funding, and service quality, Indonesia can study Taiwan's National Health Insurance system and strengthen policy evaluation and public education.

Keywords: national health insurance; right to health; state responsibility

### **INTRODUCTION**

Since the Universal Declaration of Human Rights was recognized, many countries, including the United Kingdom, Sweden, Iceland, Norway, and many others, have implemented Universal Health Coverage to date to fulfill the state obligations stipulated in the Universal Declaration of Human Rights. The significance of Universal Health Coverage is reflected in the 67th United Nations General Assembly adopting a resolution on achieving Universal Health Coverage, also known as "Global Health and Foreign Policy" in 2012 (Cha, 2010).

According to the World Health Organization, Universal Health Coverage means that everyone has the right to receive quality health promotion, prevention, treatment, and rehabilitation services efficiently and effectively without discrimination (WHO, 2015). Universal Health Coverage also emphasizes guarantees to prevent financial hardship and burden in the process of receiving these services. The

achievement of Universal Health Coverage can be reviewed based on the concept of the three dimensions of Universal Health Coverage (WHO, 2014).

If a country successfully achieves Universal Health Coverage, individuals, especially the poor and disadvantaged, will be relieved of the personal burden of maintaining and improving their health. Therefore, the state has the responsibility to provide proper healthcare for the improvement of public health and citizens' well-being, where the implementation of social security is a prerequisite of a welfare state. In general, healthcare is part of the social welfare system to reduce the financial burden on citizens. To avoid tragedies and improve the quality of life of its citizens, each country maintains an appropriate and relevant healthcare system based on their social and historical characteristics and operates various health insurance systems (WHO, 2014).

Prior to the establishment of the Employment Social Security Agency, there were only a few social security programs in the health sector for civil servants, retirees, veterans, and private workers organized by several state-owned enterprises including PT Asuransi Kesehatan Indonesia and PT Jaminan Sosial Tenaga Kerja (Team of Socialization and Advocacy Materials for National Health Insurance, 2014). Based on statistics from the Social Security Administration for Health, 275,413,133 people as of August 28, 2024, almost all regions have achieved Universal Health Coverage, but there are still obstacles ranging from the number of active participation which averages at 80%. When compared to other countries including Taiwan, the UK and South Korea that have achieved Universal Health Coverage, the percentage of National Health Insurance participation is still relatively low (Badan Penyelenggara Jaminan Sosial Kesehatan, 2024).

The Republic of China (Taiwan) has consistently topped global rankings in the evaluation of national healthcare systems. In addition to the Numbeo ranking, Taiwan also ranked first out of 110 countries and regions surveyed in the 2023 edition of CEOWORLD magazine's Health Care Index. Official statistics from the Ministry of Health and Welfare show that Taiwan's National Health Insurance, which has been in place since 1995, covers nearly 100 percent of citizens. In a national survey conducted in 2022, Taiwan's National Health Insurance services achieved a satisfaction rate of 91 percent (Numbeo, 2024).

Taiwan's National Health Insurance System, as one of the representative social insurance programs, contributes to improving national health and promoting social security. Every citizen, except those who receive medical care assistance under the Medical Care Assistance Act as social assistance, is obliged to pay contributions, regardless of their consent to enter into an insurance contract, as participation is compulsory. With compulsory participation, the system prevents "gaps" in the provision of health care to citizens caused by their non-participation for financial reasons (Chen, 2024). Based on the above background, the purpose of this study is to analyze the respective arrangements of the national health insurance systems in the Republic of China and Indonesia and analyze the legal efforts made by each country to protect its citizens to obtain welfare in terms of health insurance.

## **METHOD**

This research falls into the category of normative legal research, normative legal research focuses on analyzing laws and regulations, legal doctrines, and legal principles. This approach was chosen because the material and sources of research come from legal sources, which aim to make law the basis of guidance in the implementation of various public fields in order to create order and justice. In addition, this research also focuses on the comparison of legal systems, especially in the field of health insurance, by highlighting regulations in the health and social security sectors.

This research is descriptive in nature, aiming to describe the obligations of a welfare state in providing health services to its citizens. It also discusses the similarities and differences in membership, procedures, and services provided by national health insurance in Taiwan and Indonesia. The research approaches used include the statute approach, which analyzes the hierarchy and relationship between legal regulations; the conceptual approach, which examines legal concepts and legal norms; and the comparative approach, which compares legal systems, legal norms, doctrines, or legal applications in various jurisdictions.

This research uses secondary data as the main legal material, which is obtained from books, journals, and scientific articles. In addition, the research also uses primary legal materials, such as the constitution and various relevant laws and regulations in Indonesia and Taiwan. In Indonesia, primary legal materials include the 1945 Constitution of the Republic of Indonesia, Law No. 40/2004 on the National Social Security System, and a number of other relevant regulations. Meanwhile, in Taiwan, primary legal materials include The Constitution of the Republic of China, the National Health Insurance Act, and other relevant regulations. Secondary legal materials are obtained from additional literature, such as textbooks, scientific journals, papers, and opinions of legal experts.

Data collection in this research was conducted through a documentary study, which involved reviewing primary, secondary and tertiary sources. This study helped to understand the law of national health insurance and social security from a legal perspective in Taiwan and Indonesia. To analyze the legal materials obtained, a qualitative approach was used. This method generates analytical descriptive data relevant to the research objectives. The analysis was conducted by reviewing and comparing the legal systems applicable in the two countries, particularly in relation to national health insurance, in order to obtain a more in-depth and comprehensive understanding.

## **RESULT AND DISCUSSION**

The National Health Insurance is one of the social security programs provided by the government to ensure the protection and promotion of health for Indonesian citizens. The National Health Insurance as part of the national social security program, participation is mandatory so that every Indonesian citizen is protected and can meet the basic health needs of the community (Ministry of Health Republic Indonesia, 2013). The legal basis for Indonesia National Health Insurance is established in Law Number 24 of 2011 concerning the Social Security Administrative Body, followed by the general guidelines for Good Governance of National Health Insurance, the National Health Insurance board manual, and the National Health Insurance code of ethics (Arman et al., 2019).

As one of the constitutional rights, National Health Insurance is also regulated in Article 28H Paragraph (1) of the 1945 Constitution which states that everyone has the right to physical and spiritual well-being, a place to live, a healthy environment, and health services. Paragraph (3) adds that everyone has the right to social security to develop themselves fully as human beings with dignity. The rights set out in Article 28H Paragraph (1) are the state's obligation to fulfill for all Indonesian citizens. Similarly, Paragraph (3) explains that social security aims to help individuals develop their full potential.

In the Indonesian context, Law No. 40/2004 on the National Social Security System affirms the state's responsibility to guarantee citizens' access to health services through fair and affordable health insurance policies or programs. The government is required to formulate and implement social security system policies, including health insurance, which aim to provide protection to all citizens equally. This is part of the state's effort to fulfill its obligation to ensure that every individual has proper access to health services.

National Health Insurance's vision is to ensure quality and sustainable healthcare for all Indonesians. Its mission includes improving service quality, expanding coverage nationwide, ensuring program sustainability, strengthening policies through stakeholder collaboration, and enhancing organizational capacity with professional human resources, effective management, and reliable infrastructure (Djati, 2023).

The National Health Insurance's vision program aims to achieve universal health coverage for the entire Indonesian population by January 1, 2019. As of October 31, 2024, it has covered 277,538,004 people, or approximately 98.25% of the population (Qori et al., 2023). Research conducted by Anesha Gita in 2017 was entitled "The Legal Comparative Study of the 3M (Medisave, Medishiel Live, and Medifund) Healthcare System in Singapore and National Health Insurance Scheme in Indonesia". The results of the study stated that the Indonesian government is responsible for implementing national health insurance as an effort to fulfill the right to health protection through PT. Askes and PT. Jamsostek, as well as the same is done by Singapore which fulfills its responsibilities as a country by creating a 3M care system. This study also compares the health insurance of the two countries regarding membership, medical care and services covered, insurance company providers, government subsidies, and health insurance coverage.

The Constitution of the Republic of China explicitly recognizes the "right to live a humane life" as part of the basic social rights or social security. This right describes the basic characteristics of the right to life. The State has the responsibility to ensure and guarantee the lives of its citizens through the promotion of social welfare and social security, as stipulated in Article 157 and Article 155 of the Constitution of the Republic of China. The Constitution of the Republic of China makes the right to health and social security an integral part of state responsibility. This reflects a commitment to the welfare and protection of all its citizens. To protect human rights from various threats, legal arrangements are needed that aim to prevent health losses, for example due to illness. One example is the National Health Insurance System, which is a tangible form of the state's efforts to fulfill its responsibilities.

Taiwan's health insurance system, known as National Health Insurance, is a comprehensive program designed by the Taiwanese government to ensure universal health access for all its citizens. The system adopts a social security model, reflecting the state's approach in carrying out its constitutional obligation to protect the health welfare of its citizens. National Health Insurance in Taiwan and National Health Insurance in Indonesia are both designed to ensure and protect the right to a life worthy of health and well-being, as stipulated in the Universal Declaration of Human Rights. Both seek to achieve universal health coverage as part of their commitment to social welfare. Taiwan managed to achieve Universal Health Coverage within a short period of time after the implementation of the National Health Insurance in 1995, while Indonesia, through the National Health Insurance that started in 2014, is still in the progressive process towards universal coverage.

Through National Health Insurance and National Health Insurance, both countries have established health financing systems that aim to ensure people's access to health services, protect against financial risks due to health costs, and create the basis for a decent and dignified life. However, the approaches of these two systems have significant differences. In contrast, Indonesia's National Health Insurance emphasizes the fulfillment of the right to social security, with the main challenges being service quality, funding sustainability, and inequality of access in remote areas. As a vast country with a diverse population, Indonesia faces geographical and logistical barriers that Taiwan does not. Even so, the National Health Insurance continues to gradually expand coverage and improve service quality.

Another difference lies in the speed of implementation and the maturity level of the system. Taiwan's National Health Insurance has achieved stability in its operations, while Indonesia's National Health

Insurance is still in the development phase with a need for continuous evaluation and innovation. These two systems demonstrate how each country's social, economic, and geographical background influences its approach to designing health policy. Overall, although both systems have similar goals in realizing universal health, Taiwan's National Health Insurance has become a more advanced model, while Indonesia's National Health Insurance still faces major challenges towards achieving the same. This reflects the importance of policy adaptation based on a country's specific needs and conditions.

## CONCLUSION

The national health insurance systems in the Republic of China (Taiwan) and Indonesia have different approaches. Taiwan implements a centralized National Health Insurance, managed by the National Health Insurance Agency, with funding from individual contributions, employers, and government subsidies. In Indonesia, the Social Health Insurance Agency manages the National Health Insurance under the Social Security Agency Law, with challenges in accessibility and efficiency of services. Both countries make legal efforts to protect their citizens in obtaining welfare. Taiwan ensures protection through the Constitution of the Republic of China and National Health Insurance regulations that support the sustainability of the system. In Indonesia, the 1945 Constitution and related regulations are the legal basis for the implementation of the National Health Insurance, with regulatory updates to improve the system and ensure that health insurance benefits can be accessed fairly by all people. Indonesia needs to study Taiwan's National Health Insurance system to improve transparency, funding, and quality of National Health Insurance services. In addition, policy evaluation and public education should be strengthened to ensure the program runs optimally and equitably.

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