

## **REVIEW ON THE ACADEMIC PAPER AND HEALTH DRAFT BILL (RUU KESEHATAN)**

### **1. Social Security is a Constitutional mandate**

The Indonesian Constitution of 1945 ordains that the State is obliged to ensure its citizen's rights to justice and welfare. Article 28H paragraph 2 which also regulates the social security says "Every person is entitled to live prosperous physically and spiritually, to have a place to reside, and to acquire a good and healthy living environment as well as be entitled to obtain health care." In addition to that, Article 34 paragraph (2) of the Constitution also stated "The state shall develop a social security system for all the people and empower the poor and incapable society in accordance with human dignity." With both articles as the preamble, the Indonesian Parliament and government stipulated the Law No. 40 of 2004 on National Social Security System. Further, Law No. 24 of 2011 on Social Security Administrative Body regulated that the national social security system is implemented by Social Security Administrative Body for Health and Employment (BPJS Kesehatan dan Ketenagakerjaan). (The academic paper review must mention article 28H paragraph 3 to assert that social security is the right of all Indonesian people).

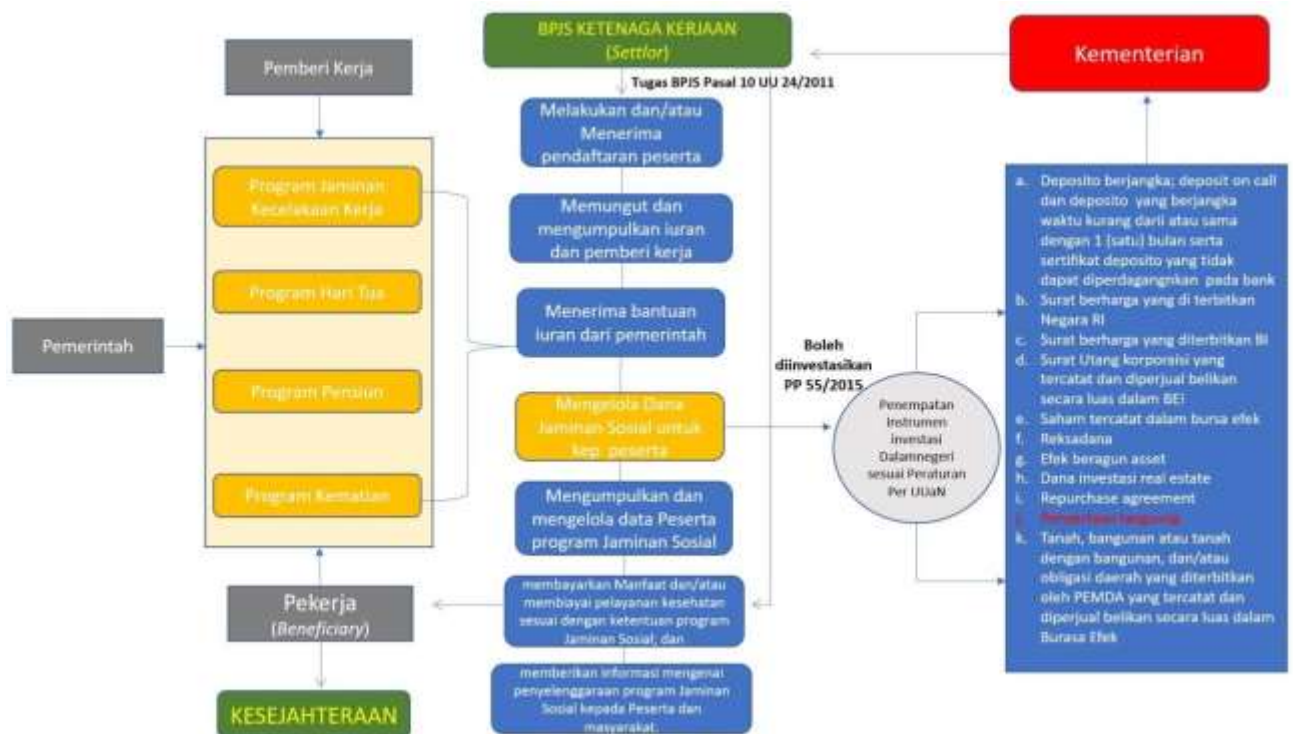
### **2. The Transformation of PT Jamsostek to Social Security Administrative Body for Employment; A Progress towards "SJSN"**

Since its transformation into Social Security Administrative Body (hereafter BPJS), PT Jamsostek had experienced a significant progress in terms of its provision and management of social security in Indonesia. The progress can be seen from the amount of fund that it manages currently, as much as IDR 639 T and the number of participants, as many as 55.4 million people. These numbers really show how the company has gained progress compared to when it consisted as two different companies, PT ASTEK and PT Jamsostek, under a Ministry. PT Jamsostek's transformation into BPJS was also followed by the transformation of structure. BPJS is not under a certain ministry, but it is under direct coordination of the president. However, the currently drafted Health Bill will put BPJS to be back under a certain ministry. This is a setback of national social security system in Indonesia. The management and implementation of fund that is trusted by the people will be under a ministry which potentially make BPJS non-independent.

Between 1977 to 2014, in the span of 37 years, PT Astek and PT Jamsostek managed IDR 151 T of fund and 216,593 companies participants, with total 16.791.397 individual

participants As a comparison, PT BPJS Ketenagakerjaan, from 2014 to 2022, managed IDR 630 T, with total 734.891 companies subscribers, and active individual subscribers as many as 35.8 million people. (Page 17 must be sharpened with comparison of fund between PT Jamsostek as a State-Owned Company and BPJS Ketenagakerjaan)

### 3. Management of Trust fund of Social Security belonging to all participants



Social Security Fund is a trust fund belonging to all participants consisting of contributions including their investment income, which is managed by BPJS for the payment of benefits to the participants and for the operational costs of administering the Social Security program. Social Security Administrative Body (BPJS) is a legal entity established to administer the social security program and to provide protection for all Indonesian people. Therefore, the Administrative Body's structure and the trust fund is strictly regulated by laws and regulations. The social security fund belongs to the participants so that BPJS could expands its membership and increases participants' contribution independently.

(On page 18, you can add the management of trust fund belongs to the participants for workers' welfare)

### 4. The Role and Function of the Government, Employer, and Workers

Social security management and administration body have their own functions that distinct from other stakeholders in implementing the social security program. In Indonesia, the social security administration uses the *pragmatisch* principle along with many elements involved in it. The government does not have any interventions in the administration and implementation of national social security. The operational cost is charged to the participants i.e. companies and workers. Therefore, companies and workers have big impact on the progress of the national social security system as Indonesia is currently unable to provide social security for its people using its state budget. However, in the implementation, government, employers, and workers have an integrated function. The Health Draft Bill that will return BPJS under a ministry will disturb the distinct function of the stakeholders.

## **5. The Position of BPJS Ketenagakerjaan in the State Administration and Separated State Assets**

Article 41 paragraph (1) point (a) of Law No. 24 of 2011 on BPJS states that BPJS' initial capital is stipulated to be IDR 2 Trillion for each BPJS (Health and Employment). The initial capital is a separated state asset and originated from the State Budget (APBN). The initial capital is also the state's capital equity to the company. BPJS shall separate BPJS assets and Social Security Funds assets. BPJS for Employment is a public legal entity pursuant to the Law, owned by the public, whose management is independent and shall be responsible to the President. **The Separated State Assets.** Indonesia has many *sui generis*/independent institutions, to name a few, Bank Indonesia and Financial Services Authority (Otoritas Jasa Keuangan), Deposit Insurance Corporation, or Indonesian Eximbank. BPJS is one of the *sui generis*/independent institutions in Indonesia.

## **6. Programs, Benefit, and Program Sustainability**

The Health Draft Bill that will return BPJS to be under a ministry potentially affects the program and fund management. Currently, the social security fund and BPJS' assets are separated, however, the new Health draft bill will affect program implementation and social security fund management. In turn, it will disturb State's financial situation and social security system. The alternative for the situation is for the State to cover social security using the state budget. However, this alternative will only cause more burden on the State budget. Social security program will not function best if it is under a ministry. There are too many bureaucratic

process under a ministry, as well as different political parties' interests around a ministry that will affect the implementation and administration of social security.