

CONSTITUTIONAL RIGHTS AND LEGAL PROTECTION AGENCY PARTICIPANT OF THE ORGANIZERS OF THE SOCIAL SECURITY, HEALTH ASPECTS OF ADMINISTRATIVE LAW

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ABSTRACT

Health is a fundamental right of every citizen, and every citizens have the right to get health care, especially among the poor. The enactment of Act Number 24 of 2011 concerning Social Security Agency, a proof that the government has a major commitment to realize social welfare for all citizens. This study aims to assess and understand the constitutional rights related community of Agency Participant of the Organizers of the Social Security program, as well as reviewing and understanding the legal protection for program participants of the Organizers of the Social Security program review of aspects of the State Administration Law. Methodology of normative juridical deduction, the judicial approach. Expected conclusion is that the Organizers of the Social Security program can be safeguards to ensure that the rights of citizens to not be violated and interests are not harmed by the actions carried out by officials of the state administration.

Keywords: constitutional rights, legal protection, health.

INTRODUCTION

Background

For each country the fulfillment of the constitutional rights of the people is an obligation that must be done, the fulfillment of the constitutional rights to be run by the current constitution.

Health is a basic right of every individual, and all citizens are entitled to health care, including the poor, as stated in Article 28 H paragraph (3) of the 1945 Constitution that "everyone has the right to social security which allows the development of his or her self as a dignified human being".

Awareness of the importance of ensuring social protection continue to grow until 1945 at the Article 34 paragraph (2), states that the State develop a system of social security for the people who followed the government with the publication of Act Number 40 of 2004 on National Social Security System.

As the elaboration of the constitution, the government introduced legislation in the form of Act No. 24 of 2011 concerning Social Security Agency. It became a strong evidence that the government has a great commitment in realizing the social welfare for the whole society.

But the fact is people's constitutional rights have not been met, proved to be so many problems in the implementation of the program of Organizers of the Social Security. Until now, the government has not been able to produce valid data on the number of poor and can not afford, or in other words are still many people who have not

been touched by this BPJS services, in addition to still not good the Organizers of the Social Security services to the community that has been a participant of the Organizers of the Social Security.

The problems that surfaced during this related by the Organizers of the Social Security program participants started from the validity of the data community in Indonesia, the registration process for participants who seem difficult, and the absence of operational standards to services for program participants of the Organizers of the Social Security program.

As for the legal protection that should be given is the protection of social welfare for the whole society, protection meet the basic needs of a decent life, and safeguards to ensure that the rights of citizens are not violated and interests are not harmed by the actions carried out by administration officials, namely by way of mediation or administrative courts and general courts (civil and criminal) and the fulfillment of the rights under the constitution and the Constitution Act.

Related to that then in need of the role of government to issue Government Regulation on operational standards of service to participants, disseminating information related to the program BPJS well as keep their data updated to the people of Indonesia to assess comprehensively about membership of the Organizers of the Social Security program and the Government to supervise and evaluate the performance of the management of the Organizers of the Social Security program up district / city level.

Problem Formulation

- a. Is the Organizers of the Social Security program implementation as supporting welfare has met the constitutional rights to its participants?
- b. How can the State Administration Law provide legal protection for program participants of the Organizers of the Social Security?

Objectives

- a. To assess and understand the fulfillment of Constitutional Rights related communities of Organizers of the Social Security program.
- b. To assess and understand the legal protection for program participants BPJS review of aspects of the State Administration Law.

EXISTENCE OF STATE CONSTITUTIONAL RIGHTS MEETING IN EFFORTS TO CITIZENS.

State Definition and Objectives of the Republic of Indonesia

by a large dictionary Indonesian nation state is the alliance with certain areas demarcated as well as the legitimate governing. While G.Priggodigdo provide understanding the state is the organization of power or authority organizations which meet certain requirements that no sovereign government, a particular region and the people who live regularly so it is a *nation* (thenation).As according to Aristotle the state is defined as a community rather than families and villagers to earn a living as well as possible

from the notion of State as described above can be concluded State is the merging of a group of people who occupy an area and have a legitimate government with a goal similar in order to get happiness in life.

Likewise also the Indonesian people who have ideals - ideals as enshrined in the constitution sublime 1945 Constitution states that "... *to form a government of Indonesia that protect the entire Indonesian nation and the entire homeland of Indonesia and to promote the general welfare, mencerdaskan life of the nation and participate in the establishment of world order based on freedom, eternal perdamaian and social justice.*

The position of the Constitutional In the State

In a modern state must have a Constitution (constitution / basic law) in the form of a written constitution (Constitution) or unwritten (state address)

of the Constitution occupies a position that is so crucial in the constitutional life of a country because the constitution as a benchmark for national and state life filled with historical facts of

struggle heroes. Although the constitution contained in the world is not equal to one another both in terms of form, content, and purpose but generally all of them have a position formally the same, namely as:

- the Constitution as the basic law because the Constitution contains provisions and rules on the subject are fundamental in life a state
 - Constitution as supreme law
- in his book *Fundamentals of Political Science*, Miriam Budiharjo explain the constitution / constitution contains provisions as follows:
1. Organization of American states, for example, the division of powers between the legislature, executive, and judicial.
 2. Human rights
 3. procedures to change the constitution
 4. prohibit There is time to change certain properties of the constitution.

Human Rights In Constitutional

doctrine of human rights are now universally accepted as the foundation of moral, political, and legal in building a more peaceful world free from fear and oppression and unfair treatment. Therefore, in the idea of state law as expressed in Article 1 (3) of the 1945 Constitution states that "Indonesia is a country of law". which guarantees the protection of human rights as a mark of the absolute must have in every country who can be called *rechtsstaat*. In fact, in development for the long term, guarantees that human rights should be listed explicitly in the constitution or the written constitution and a constitutional democracy country is considered a material that is considered important in the constitution.

Human Rights is clearly set out in the amended 1945. But, it does not mean prior to the 1945 Constitution does not contain human rights issues. Rights set at that time such as the rights of independence referred to in the opening paragraph of unity. Then, the right of association enshrined in article 28, the right to religion in article 29, the right to defend the country in section 30, and the right to education, contained in chapter 31.

In the amended 1945, in particular human rights set out in Chapter XA, from Article 28 A to Article 28 J.

- a. Article 28 A: Everyone has the right to live and to defend life and livelihood.
- b. Article 28 B (1) Everyone has the right to form a family and continue the descent through legal marriage. (2) Every child has the right to live, grow, and develop as well as the right to protection from violence and discrimination.
- c. Article 28 C: (1) Everyone has the right to develop themselves through the fulfillment of basic needs, is entitled to education and acquire

- the benefits and science and technology, art and culture, in order to improve the quality of life and for the welfare of mankind. (2) Everyone has the right to advance himself in the fight for their rights collectively to build a society, nation and country.
- d. Article 28 D (1) Everyone has the right to recognition, security, protection and legal certainty and equal treatment before the law. (2) Everyone has the right to work and to receive remuneration and fair and proper treatment in the employment relationship. (3) Every citizen has the right to obtain equal opportunities in government. (4) Everyone has the right of citizenship status.
- e. Article 28 E: (1) Everyone is free to embrace the religion and to worship according to their religion, choose one's education, employment, citizenship, choosing a place to stay in the territory of the country and left it, and was about to return. (2) Everyone has the right to freedom of belief believing express thoughts and attitudes, according to nuruninya heart. (3) Every person has the right to freedom of association, assembly, and expression.
- f. Article 28F: Everyone has the right to communicate and obtain information to develop personal and social environment, and the right to seek, obtain, possess, store, process and convey information by using all available channels.
- g. Article 28 G (1) Everyone has the right to protection of self, family, honor, dignity, and property under his control, and has the right to feel secure and protected from the threat of fear to do or not to do something is a human right. (2) Everyone has the right to freedom from torture and degrading treatment of human dignity and the right to obtain political asylum from another country.
- h. Article 28H (1) Everyone has the right to live physical and spiritual prosperity, reside, and obtain a good and healthy environment and the right to health care. (2) Each person gets the conveniences and special treatment for obtain the same opportunities and benefits in order to achieve equality and fairness. (3) Every person has the right to social security which allows developing himself fully as a dignified human being. (4) Everyone has the right to have private property rights and property rights should not be taken over arbitrarily by anyone.
- i. Article 28: (1) The right to life, freedom from torture, freedom of thought and conscience, freedom of religion, the right not to be enslaved, the right to recognition as a person before the law, and the right not to be prosecuted based on retroactive law is human rights can not be reduced under any circumstances.
- (2) Everyone has the right freely over discriminatory treatment on any grounds and the right to protection against such discriminatory treatment. (3) The cultural identity and traditional rights be respected in line with the times and civilization. (4) The protection, promotion, enforcement and fulfillment of human rights is the responsibility of the state, especially the government. (5) To uphold and protect human rights in accordance with the principle assi democratic constitutional state, the exercise of human rights are guaranteed, regulated and set forth in the regulations perundanganundangan.
- j. Article 28J (1) Every person shall respect the human rights of others in an orderly society, nation, and state. (2) In implementing the rights and freedoms, everyone shall be subject to the restrictions established by law with the sole purpose of securing due recognition and respect for the rights of freedom of others and to meet the fair demands in accordance with considerations of morality, values religion, security and public order in a democratic society.

Therefore, the formation of all the rules concerning human rights in the state constitution really gives an opportunity to realize a justice for all Indonesian people.

Efforts Countries in Meeting the Rights Konstitusional Citizens

In the 1945 Constitution one of Human Rights, which is a constitutional right contained in Article 28 H Paragraph (3) states that "everyone has the right to social security which allows the development of his or her self as a dignified human being". Awareness of the importance of ensuring social protection continue to grow until 1945 at the Article 34 paragraph (2), states that the State develop a system of social security for the population.

The Government of Indonesia's efforts with the constitution either by issuing Act Number 40 of 2004 on National Social Security System as a translation of 1945, it has been a strong evidence that the government has a great commitment in realizing the social welfare for the whole society.

The government's efforts to accelerate the implementation of the overall national security system for the people of Indonesia, namely by forming the Social Security Agency, hereinafter referred Organizers of the Social Security by Act Number 24 of 2011 of the Social Security Agency.

Social Security Agency, hereinafter abbreviated BPJS is a public legal entity formed to administer social security programs. Organizers of the Social Security is a state program aimed at providing certainty protection and social welfare

for all the people and based on the principle of mutual cooperation, non-profit, transparency, prudence, accountability, portability, participation is mandatory, a trust fund, and the results of the management of social security funds entirely for program development and for the greater interests of the participants.

THE ORGANIZERS OF THE SOCIAL SECURITY WARRANTIES OF SOCIAL WELFARE REGULATIONS UNDER APPLICABLE LEGISLATION

Social Security Agency

Ratification Act No. 24 of 2011 concerning Social Security Agency in November 2011 to be the provision to the social security system for the people of Indonesia. The law mandates the transformation of the four organizing entities, namely PT Askes (Persero) to the Organizers of the Social Security of Health in January 2014, PT Jamsostek (Persero) transformed into Organizers of the Social Security of Employment no later than 1 July 2015, while PT Asabri and PT TASPEN transformed later than 2029 through Regulation Government.

Two Organizers of the Social Security has a different mandate. Organizers of the Social Security of Health will provide health insurance. While Organizers of the Social Security Employment will provide pension insurance, old age insurance, accident insurance, and life insurance.

Organizers of the Social Security is a public legal entity and directly responsible to the President. Organizers of the Social Security domiciled and headquartered in the national capital by setting up a representative office in the provincial and district / city. Here's an explanation of both Organizers of the Social Security.

The Organizers of the Social Security of Employment

a. Programs Old Age Security.

- Participation is mandatory according phasing in of membership
- Membership is the recipient of wages in addition to state officials and non-wage earners

b. Program Accident Insurance.

Provides protection against the risks of accidents occurring in the labor relations, including accidents occurring on the way from home to work or vice versa and illness caused by the work environment.

c. Death Insurance Program.

Provide cash benefits given to the heirs when the participant dies not due to accidents.

d. pensions program

Security retirementis social security that aims to maintain the degree of a decent life for participants and / or their heirs to provide income after retirement participants, total permanent disability or death.

The Organizers of the Social Security of Health Participation

Participants of the Organizers of the Social Security is everyone, including foreigners who work at least 6 (six) months in Indonesia, who have paid contributions, include:

1. Recipient Contribution Health Insurance : the poor and the people can not afford, with determination participants according to the provisions of the legislation.
2. Not Beneficiaries Health Insurance Contribution, comprising:

- i. Recipient Wage Workers and family members of:
 - Civil Servants;
 - Indonesian Military members;
 - Members of the Police;
 - State officials;
 - Non Servants of Government Employees;
 - Private employees; and
 - workers who did not include the letters a to f that receive wages.

Including foreigners working in Indonesia at least 6 (six) months.

- ii. Workers Not Receiver Wages and family members
 - of workers outside the employment relationship or independent workers; and
 - workers who did not include a non-letter Wages receiver.

Including foreigners working in Indonesia at least 6 (six) months.

- iii. Not the workers and their family members
 - Investors;
 - Employer;
 - Retirement receiver, comprising:
 - Civil Servant who quitted with pension rights;
 - Indonesian Military and Police officers stopped with pension rights;
 - State officials who quitted with pension rights;
 - Widows, widowers or orphans of pensioners who receive pension rights;
 - Other pension recipients; and
 - Widows, widowers or orphans from other pension recipients who receive pension rights.

- iv. Veteran;

- v. Pioneer Independence;

- vi. Widow, widower or orphan of a Veteran or a Pioneer Independence; and

- vii. not workers who are not included (i sd vi) capable of paying dues.

The benefits of the National Health Insurance of the Organizers of the Social Security

include:

1. health services first level, namely health care non-specialist include:
 - Administrative services
 - Services promotive and preventive
 - examination, treatment and medical consultation
 - medical action non-specialist, both operative and non-operative
 - Care of drugs and medical materials disposable
 - blood transfusion appropriate medical needs
 - Investigations laboratory diagnosis of the first level
 - Hospitalizations first rate as indicated
2. health care referrals advanced level, namely health services include:
 - Outpatient, include:
 - Administrative services
 - examination, treatment and consultation specialist by a specialist and sub-specialist
 - Actions specialist medicalin accordance with the medical indications
 - servicesof drugs and medical materials disposable
 - medical device implant Services
 - support services in accordance with the advanced diagnostic medical indication
 - medical Rehabilitation
 - Servicesblood
 - of forensic medicine Peayanan
 - P elayanan bodies inhealth facilities
 - inpatientwhich include:
 - non intensive inpatient treatment
 - in the intensive care inpatient
 - health services stipulated by the Minister

Fees

1. For participants all assistance Recipient Contribution health insurance contributions paid by the Government.
2. Contribution to the participants of Workers Recipients wages working in Government Institutions comprising civil servants, members of the military, members of the police, state officials, and government employees non civil servants by 5% (five percent) of the salary or wages per month with the provision: 3% (three percent) is paid by the employer and 2% (two percent) is paid by the participants.
3. Contribution to the participants of Workers Recipients wage work in the state, enterprises

and private by 5% (five percent) of the salary or wages per month with the following conditions: 4% (four percent) paid by the employer and 1% (one percent) paid by the Participant ,

4. Fees for additional family consisting Workers Wage Recipients of children to 4 and so on, father, mother and father in law, the amount of dues amounting to 1% (one percent) of the salary or wage per person per month, paid by workers wage earners.
5. Fees for other relatives of the workers wage earners (such as siblings / in-law, household assistants, etc.); Participants not wage workers and participants' contributions are not workers is:
 - As much as Rp. 25.500, - (twenty five thousand five hundred rupiah) per person per month to the service benefits in the treatment room Class III.
 - Rp. 51.000, - (fifty one thousand rupiah) per person per month with the benefits of services in Class II treatment rooms.
 - Rp. 80.000, - (eighty thousand rupiah) per person per month to the service benefits in the treatment room Class I.
6. Contribution Health Insurance for Veterans, Independence Pioneers, and the widow, widower or orphan of a Veteran or a Pioneer Independence, the fee was set at 5 % (five percent) of 45% (forty five percent) of basic salary of Civil Servants space group III / a with a working period of 14 (fourteen) years per month, paid for by the Government.
7. Dues payments later than 10 (ten) each month

No penalty for late payment of dues commencing July 1, 2016 fines imposed if within 45 (forty five) days after the membership status reactivated, the participants concerned to obtain medical care hospitalization, it imposed a fine of 2.5% of the service charge health for each month in arrears, with the following provisions:

- the number of months in arrears at most twelve (12) months.
- Large fine of Rp.30.000.000, - (thirty million rupiah).

Participant Registration for Procedure National Health Security of Organizers of the Social Security

1. Registration To Recipient Contribution
2. Documenting Poverty and People Can not afford the participants of registration To Recipient Contribution of Procedure National Health Security carried out by institutions that hold government affairs in the field of statistics (Central Bureau of Statistics) are verified and validated by the Ministry of Social Affairs.

In addition to PBI participants set by the central government, there are also people who are

registered by the local government by decree of the Governor / Regent / Mayor for local government programs that integrate Jamkesda to National Health Security program.

2. Registration of Participant Workers Receiver Wages Company / business entities to register all employees and their family members to the Office of Health Organizers of the Social Security.
3. Registration of Participant Workers Not Receiver Wages and not Worker
4. Registration Workers Not Receiver Wages and Not Employed
 - applicants to register in person at the Office of Health BPJS
 - Enroll all family members who are in the family Card
5. Registration not Employed through entities Legal entity the registration process retired retirement fund managed by entities are legal entities can be registered collectively through entities are legal entities is to fill the registration forms and form data migration participants.

ANALYSIS OF COMPLIANCE AND PROTECTION OF LEGAL RIGHTS KONSTITUSIONAL VIEWED FROM PARTICIPANTS BPJS STATE ADMINISTRATIVE LAW

Administrative Law Understanding

Administrative Law is the overall regulations governing the government apparatus in various activities or tasks of the state, in order to achieve the goals that have been determined;

According to **JM Baron de Gerando** argued that the object of administrative law is the rules governing the mutual relations between the government and the people

from both sense it can be concluded that the State Administration Law is the Regulations governing the functions of government so that the country moves and can achieve the goals or ideals of the nation itself.

Scope

According to the **CJN Verstedden**, the scope of the administrative law as follows:

1. Regulations regarding the enforcement of law and order, health, and decency to use a code of conduct for citizens are upheld and further defined by the government.
2. *Regulations are intended to provide social security for the people.*
3. Regulations regarding the layout set by the government.

4. Regulations relating to the maintenance tasks of the government, including private aid in the framework of public service.
5. Regulations relating to taxation.
6. Regulations relating to the protection of the rights and interests of citizens against the government.
7. Regulations relating to the administrative law enforcement.
8. Rules on supervision of the higher state organs to the lower organs.
9. The regulations regarding the legal position of government employees.

It is clear that the substance of state administrative law can generally be described as all arrangements regarding the life of the state that govern the relationship between the state and its people. This relationship between the state and the society is not just a walk in the same direction, but also runs crisscross between them.

Fulfillment of Program Analysis of of the Organizers of the Social Security Against the Constitutional Rights of Participants

The term "State" in Article 34 paragraph (2) of the 1945 Constitution, in relation to understanding the welfare state, is actually more referring to the implementation of the State social service functions for the people or citizens of that State.

According to the 1945 Constitution, the power to govern the state implemented by the Central Government and Local Government, so that the Regional Government also attached, the function of social services. By carrying out these functions as a consequence of the doctrine espoused autonomy as stipulated in Article 18 paragraph (2) and (5) the 1945 Constitution of carefully read and understand all the provisions in Article 5 of Act Number 40 of 2004 on National Social Security System, it appears that on the one hand the formulation of Article 5 of the Local Government closed the opportunity to participate in developing a sub-system of social security within the framework of a national social security system in accordance with the authority derived from the provisions of Article 18 paragraph (2) and (5) 1945.

Based on the types of social security programs, social security programs can be short-term, namely social security programs that can be enjoyed by the participants, for example, social security programs of health and accidents, as well as long-term programs such as programs pension / retirement, which will be enjoy after a period of time to participate. Therefore, social security is a key pillar in realizing the welfare of a nation.

The concept of social security in the broad sense includes any business in the field of social

welfare to improve the lives of people in overcoming underdevelopment, dependency, neglect and poverty. This concept can not be applied optimally in Indonesia, because of the limitations of government in financing and ego sectoral nature of several parties interested in social security.

Basically, there are several important aspects related to the fulfillment of the constitutional rights and legal protection in the framework of the implementation of the program of the Organizers of the Social Security:

First, the constitutional mandate that the Preamble of the Constitution of the Republic of Indonesia of 1945 mentions that the noble ideals of the nation is to ensure the welfare of its people. Pancasila mandated welfare for communities in the five precepts social justice for all Indonesian people. The torso of the Act of 1945 also had some article that became the foundation needed Organizers of the Social Security program. Article 28 H paragraph (1) directly say that social security be the right of every human being. In Article 34 paragraph (1) again mentioned the need for the constitutional foundation of social security systems. The next constitutional basis is Act No. 40 of 2004 on National Social Security System. With a background to build a comprehensive system and provide "security"(security)wider.

Second, aspects of people's needs, social security is a necessity for people. Social security needs thoroughly and not fragmented. Accessibility of different peoples because of differences in the ability of the economy, geography, and differences in the availability of facilities, prompting the need to guarantee the same for every individual. This guarantee is required because each individual has the possibility fall into the category of vulnerable people in the face of social risks in life.

The constitutional mandate has not in fact be able to run consistently as regulating social security mandated by the Constitution of the Republic of Indonesia of 1945, primarily as referred to in Article 28 H paragraph (3) which states: "Everyone is entitled to social security in order developing himself fully as a dignified human being "and Article 34 paragraph (2) which states:" the State shall develop the Social Security System for all citizens and empower the weak and not able to match the matabat humanity ". This is reflected in the lack of legal protection against the Organizers of the Social Security participants.

The problems that surfaced during this related BPJS program participants are:

1. Lack of data validity in Indonesian society who entered Recipient Contribution,

2. the registration process for participants who seem difficult.
3. Mutations of participants and participant of health insurance (Health Insurance Social Security) to of the Organizers of the Social Security of Health, during the many issues related to the transition of data. Health Service Guarantee – Social Security for Labor must re-register for the Organizers of the Social Security of the Organizers of the Social Security, when it should be automatic. Transformation of Health Service Guarantee – Social Security for Labor to the Organizers of the Social Security left Health Service Guarantee – Independent Workers who do not automatically become participants of the Organizers of the Social Security. Based on Act Number 24 of 2011 on the Organizers of the Social Security very clearly stated Health Service Guarantee – Social Security for Labor of the Organizers of the Social Security automatically become participants.
4. Dual membership for participants of wage earners in a family of different jobs or agencies
5. participants have distributed cards entirely.
6. Membership status bums, beggars, the homeless and the occupants penitentiary unclear accountability.

Reviews These problems have an impact on the membership of data inaccuracies recipient of social security itself, and has the potential to violate the rights of every citizen to social security. Based on the above, the problem that arises today is related to constitutional rights issues for participants of the Organizers of the Social Security. Social security condition in Indonesia is still considered to not meet the constitutional mandate perfectly.

Analysis of Legal Protection of Participants of the Organizers of the Social Security.

Indonesian state administration system is a state based on law (*rechtstaat*) and not the power state (*machtsstaat*). The concept of rule of law or a state based on law(*rechtsstaat* or *the rule oflaw*),which contains the principles of *legality*,the principle of separation (division) of power, and the principle of independent judicial power, all of it is to control the State or government of the possibility of acting arbitrary abuse of power. State sovereignty of the people and by the law (democratic legal state), contained the understanding that power is limited by law and at the same time also stated that the law is *supreme* over all the power tools ada.Berdasarkan the understanding that the country as the law is the basis of the authority and the holding power in all its forms is done under the rule of law, not with arbitrary powers. The Organizers of the Social

Security program is one of the responsibilities of the State on Social Security, as regulated in the 1945 Constitution and Act Number 24 of 2011 of the Social Security Agency as a legal basis BPJS program implementation.

The division of powers in the concept of the State of Law means that the State in this case both the central government and regional governments are obliged to go down as well as in providing konstitusinal rights to the citizens of the State in the implementation of the program of the Organizers of the Social Security, state interference in the administration of the program of the Organizers of the Social Security obliged to protect each participant.

Programs related of the Organizers of the Social Security of health is a human right and one of the elements of well-being that should be realized in accordance with the ideals of the nation of Indonesia as stipulated in the Pancasila and the Constitution of the Republic of Indonesia of 1945. Any activity in an effort to maintain and improve the health of communities as high as implemented based on the principle of non-discriminatory, participatory and sustainable in the context of the formation of human resources in Indonesia, as well as increased resilience and competitiveness of the nation for national development.

Health development aims to increase awareness, willingness and ability of healthy life for everyone in order to materialize the health of society as high, as an investment for the development of human resources socially and economically, therefore it needs to be further research in order to organize better, it relates that Indonesia is a Constitutional State or *Rechtsstaat* under Article 1 paragraph (3) of the Constitution of 1945. as a country that dedicates itself as the State Law basically in carrying out all actions must be based on a clear legal framework and the law should able to give answers to the problems and to realize what the goals of the State of Law itself. This is in accordance with the opinion of **Gustav Radbuch** that Law should contain three values of identity are:

1. Principle of Rule of Law, this principle is reviewed from the point of juridical Program BPJS which is the right of every citizen to social security, as set in Article 28 H paragraph (3) Awareness of the importance of the 1945 Constitution guarantees of social protection continue to grow until 1945 at the Article 34 paragraph (2), states that the State develop a system of social security for the people and by the issuance of Act Number 24 of 2011 on the social Security Agency to be strong evidence that the government has a strong commitment in realizing the social welfare for the whole society

2. principles of law justice, this principle is reviewed from the point of philosophical that every citizen should basically achieve social justice as the basis of the State of Indonesia said in principle all 5 Pancasila, therefore the state is obliged to participated in penyelengaraan BPJS program is not only done by the central government but also implemented by local governments.
3. Legal Expediency principle, this principle of sociological meaning reviewing to the Organizers of the Social Security program should be helpful for participants to achieve well-being in accordance with the ideals of the Republic of Indonesia.

With the description as mentioned then it should the government undertake administration of population associated with participation of the Organizers of the Social Security that all walks of life can become a participant of the Organizers of the Social Security without discrimination, and of course also carried out a thorough assessment of Management of the Organizers of the Social Security including related parties in its implementation so that the existence of the Organizers of the Social Security true -Right provide benefits not become a burden to society.

In connection with the problems that arise with BPJS both concerning the procedures for the registration of membership, dues and services necessary legal framework to protect the public from acts of officials of state administration by establishing procedures for the settlement of the problems that may occur through a system of mediation, judiciary civil or criminal and administrative courts.

CONCLUSION

The problem that surfaced during this related of the Organizers of the Social Security Organizers of the Social Security program participants started from the validity of the data community in Indonesia, the registration process for participants who seem difficult, and the absence of operational standards to services for program participants of the Organizers of the Social Security. This is not in accordance with the normative ketentaun. As for the legal protection that should be given is the protection of social welfare for the whole society, protection meet the basic needs of a decent life, and safeguards to ensure that the rights of citizens are not violated and interests are not harmed by the actions carried out by administration officials, namely by way of mediation or administrative courts and general courts (civil and criminal) and the fulfillment of the

rights under the constitution and the Constitution Act.

Related to that then in need of the role of government to issue Government Regulation on operational standards of service to participants, disseminating information related to the program of Organizers of the Social Security well as keep their data updated to the people of Indonesia to assess comprehensively about membership of the Organizers of the Social Security, and government monitoring and evaluation of the performance of the management of the Organizers of the Social Security for healthcare to the district / city.

SUGGESTIONS

Membership of the Organizers of the Social Security which is mandatory for all Indonesian people should be followed also the government's seriousness in managing and developing an integrated system in terms of public health services by:

1. Involving direct government officials at the local level the most in terms of data collection societies capable and incapable the following entry in the membership of the Organizers of the Social Security
2. Make clear parameters and detailed criteria concerning society capable and incapable in the membership of the Organizers of the Social Security
3. for participants to curb the participation of wage earners so it will no longer occur double membership but the service one because if this is allowed is certainly detrimental to the detriment of society.
4. Assign ID card or other valid residence documents as a card to get service of the Organizers of the Social Security.
5. Make government regulations in the field of health care so that the hospital no longer distinguishes between the patient and patient's general health of Organizers of the Social Security because of the mandatory nature of participation Organizers of the Social Security for all Indonesian citizens.

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