

---

## Reconstruction of Death Insurance Regulations for Non-Wage Workers and the Sustainability of the Death Social Security Fund

Retna Pratiwi

*Ministry of Manpower - Republic of Indonesia*

Email Correspondence: retnopratiwi1964@yahoo.com

---

### Abstract

This journal explores the reconstruction of death insurance regulations for workers who are not wage recipients, aimed at maintaining the sustainability of Indonesia's death social security fund. The background of this study stems from the challenges faced by non-wage workers in accessing adequate social security benefits, particularly in the event of death, which is a critical aspect of social protection. The research aims to evaluate the current regulatory framework and propose reforms that ensure equitable access and sustainability of the death benefit program for all workers, regardless of their wage status. The study employs a qualitative research method, utilizing legal analysis and case studies to assess the effectiveness of existing regulations and identify gaps that hinder the optimal functioning of the death insurance system. The results indicate significant disparities in the protection provided to wage and non-wage workers, highlighting the need for a more inclusive approach. The proposed regulatory reconstruction emphasizes the importance of expanding coverage, enhancing contributions, and improving the management of social security funds to ensure long-term sustainability. The conclusions drawn from this research underscore the urgency of regulatory reforms that align with social justice and financial viability principles, ensuring that all workers, particularly non-wage recipients, are adequately protected under the Death Social Security Program. This study provides a roadmap for policymakers and stakeholders to address the existing challenges and strengthen the social security framework in Indonesia.

**Keywords:** death insurance regulations, non-wage workers, social security sustainability

---

DOI: 10.47198/jnaker.v19i2.392

Received: 1-8-2024

Revised: 19-8-2024

Accepted: 30-8-2024

---

### 1. Introduction

One of the purposes of establishing the Unitary State of the Republic of Indonesia, as explained in the Preamble to the 1945 Constitution of the Republic of Indonesia, is to improve

the welfare of the people of Indonesia. This shows the state's commitment to paying attention to and advancing the welfare of its people as part of the state's main goal. As a country that carries the concept of welfare, Indonesia is responsible for ensuring the fulfilment of welfare for all its citizens. One of the main characteristics of the welfare state is the obligation of the state to actively play a role in achieving welfare for every individual who is part of its society. This obligation gives citizens the right to obtain welfare fairly and equitably so that all levels of society can benefit.

The fulfilment of the concept of the welfare state has posed several challenges, including various problems that still need to be overcome (Ikhsan, 2021). One of the challenges faced is the increasing number of workers who need adequate access to a decent livelihood, jobs that match their skills, and acceptable social protection. Another challenge is the risks faced by workers, such as work accidents, occupational diseases, and deaths due to work accidents, which also have the potential to create more complex social and economic problems, such as poverty and unemployment (Bessie, 2020). Government involvement plays an important role in protecting and realizing protection for workers to achieve welfare. Therefore, Law Number 40 of 2004 concerning the National Employment Security System was drafted, which provides regulations and legal certainty related to the protection and guarantee of employment for all Indonesia citizens while carrying out the mandate of the 1945 Constitution Article 28H paragraph 3, which states that everyone has the right to social security that allows them to develop themselves fully as valuable human beings.

The SJSN Law states that there are 5 (five) types of social security: Health Social Security, Pension and Old Age Social Security, Social Security and Work Accidents, and Death Social Security. Social Security is organized by a body, namely the Social Security Administration Agency, referred to as BPJS, which is regulated in Law Number 24 of 2011 concerning the Social Security Administration Agency (BPJS Law). The Social Security Administration Agency (BPJS) has the authority to guarantee social security protection for the people of Indonesia; the guarantee consists of health social security and employment social security. Health social security is organized by BPJS Kesehatan, and BPJS Ketenagakerjaan is the body that implements the employment social security program in the form of work accident insurance (JKK), death insurance (JKM), old age insurance (JHT), pension insurance (JP), and job loss insurance (JKP) (Putri, 2014). The program is claimable by wage recipient (PU) workers and non-wage recipient workers (BPU). BPJS Ketenagakerjaan offers a Non-Wage Recipient Program (BPU) for workers with the aim that if at any time an accident occurs or causes death, workers who have been registered as BPJS Ketenagakerjaan BPU program participants and their families will get benefits or guarantees such as hospital fees and compensation that has been determined according to applicable regulations.

Non-Wage Recipient Workers (BPU) are required to participate in 2 (two) programs, namely Work Accident Insurance and Death Insurance as regulated in the Regulation of the Minister of Manpower Number 5 of 2021 concerning Procedures for the Implementation of Work Accident

Insurance Programs, Death Insurance, and Old Age Insurance. Thus, it can be seen that the Government has paid attention to the community's welfare. However, the reality on the ground shows that the lack of support from the community prevents the program from achieving its original goal. This is due to the public's overclaiming the benefits offered, so BPJS's financial health declines yearly.

According to Kompas (Mediana, 2024), the financial health of the Employment Social Security Agency is becoming a hot topic. This is because the economic resilience of one of the employment social security programs, namely death insurance or JKM, is suspected to continue to decline. Initially, Government Regulation Number 82 of 2019 provided additional protection through the addition of new benefits and improvements to existing benefits without increasing membership fees. This attracts people to overclaim because they get adequate facilities without having to pay high costs, and there are no rules that set a minimum time limit to claim these benefits. In addition, in 2020 the Government also issued a policy to relax contributions in dealing with COVID-19 and recompose JKM contributions by 0.1% for the JKP program. This change is regulated in Government Regulation (PP) Number 49 of 2020 concerning Adjustment of Employment Social Security Program Contributions During Non-Natural Disasters Spreading Coronavirus Disease 2019 (COVID-19).

It does not stop there, after the Covid-19 pandemic hit in 2020, there was a very drastic surge in claims, especially among Non-Wage Earners (BPU), almost double the number of Wage Earners (PU) claimants. This event was like a significant storm that shook the stability that had been established before, which in turn impacted the resilience of the Death Social Security Fund (DJS). The main factor that causes this to happen is the imperfection of regulations on death insurance, which means that compliance with these claims is not by the set targets. The reconstruction of death insurance regulations needs to be carried out concerning the Legal Purpose Theory put forward by Gustav Radbruch, which is known as three fundamental legal values: justice from the philosophical aspect, legal certainty from the normative aspect, and legal usefulness from the sociological aspect. In this case, the sociological aspect, namely the usefulness of the law, becomes the center of attention in the reconstruction of death insurance regulations. The usefulness of law is a principle that accompanies the principles of justice and legal certainty, ensuring that this regulation provides real benefits to society. In its implementation, the main goal of the establishment of death insurance is to offer equal benefits to all Indonesia people, including both wage earners and those who do not receive wages. Therefore, when reconstructing these regulations, the main attention must be paid to whether the improvements made can increase the benefits provided or vice versa. This reconstruction process must be carried out very carefully.

The utilitarianism aspect is supported by the utilitarianism theory initiated by Jeremy Bentham, which explains that the purpose of law is to guarantee happiness to individuals and then to the public. The concept puts utility as the main goal of the law. The measure is the greatest happiness for as many people as possible. The judgment of good and bad, fair or not, depends on

whether the law can provide happiness to humans. Usefulness is interpreted as happiness (Besar, 2016).

Various studies that have been conducted by several researchers related to BPJS Employment seem to focus more often on compliance as a participant. No one has ever analyzed the comparison of claims between Wage Earners (PU) and Non-Wage Earners (BPU). This kind of research is urgently needed to educate the public about the importance of quickly reconsidering the submission of claims. If the contributions provided are still small but the claim is submitted quickly, the resilience of BPJS Employment funds will be thinner in covering the claim in the long term. Therefore, this study aims to improve death insurance regulations according to the targets that have been set. Thus, it is hoped that the new regulation can provide more significant benefits and ensure the sustainability of BPJS Employment funds for the long term.

## 2. Research methods

This study applies a qualitative approach that focuses on collecting and analyzing descriptive data. This approach was chosen because it allows researchers to understand the phenomenon being studied through case studies. In this case, the study uses two types of data: secondary and primary. Secondary data is data obtained from pre-existing sources. These sources include various literature such as books, scientific journals, and documents relevant to Social Security, especially BPJS Ketenagakerjaan. Researchers use literature studies as the primary method to collect secondary data, which helps build the theoretical framework and context of the research. On the other hand, primary data are collected directly by researchers from informants relevant to the research topic. This technique involves direct interaction with the research subject to obtain specific and in-depth data. However, this study prioritizes using secondary data as the main source of information.

The data collection technique in this study was carried out through a literature survey, which included a review and analysis of the literature that had been published. This method allows researchers to access and evaluate information verified and recognized in the field of study. Qualitative data analysis in this study involves processing data in the form of words, not numbers, and cannot be classified numerically. This analysis process does not use mathematical calculations or statistics, but focuses more on the interpretation of the text. The stages in qualitative data analysis include data collection, data reduction, data presentation, and conclusions drawn. Data collection involves gathering relevant information from various sources. Data reduction simplifies and sorts data to focus on the most critical information. Data presentation involves the preparation of data in a format that is easy to understand and analyze. Finally, conclusion drawing is the stage where the researcher interprets the data that has been collected and analyzed to answer the research question and achieve the research objectives.

### 3. Results and Discussion

#### 3.1. Results of Assessment and Actuarial Projections of Social Security Funds for the Death Insurance Program

Indonesia is a country based on law. This means that the formation of laws and regulations is a crucial element and a consequence of the status of the state of law. In accordance with Article 1 paragraph (3) of the 1945 Constitution (1945 Constitution) which states that Indonesia is a country of law. Hans Kelsen, with Stufenbau's Theory, asserted that law must be independent of the influence of other fields such as sociology, economics, and others. In practice in Indonesia, if it is associated with the formation of laws and regulations, then the making of laws will only make sense if it is desired by a higher law, namely the Constitution.

The establishment of the National Social Security System Law (SJSN) as a mandate determined by Article 28H paragraph (3) of the 1945 Constitution provides legal protection for workers through social security. Social security is a form of social protection that aims to ensure that all people and workers can meet the basic needs of a decent life. In this social security system, there are two institutions, namely BPJS Employment and BPJS Kesehatan, and both certainly have different functions. BPJS Employment is only intended for workers by offering 5 (five) programs, namely Old Age Insurance (JHT), Work Accident Insurance (JKK), Pension Insurance (JP), Death Insurance (JKM), and Job Loss Insurance (JKP). Meanwhile, BPJS Kesehatan is intended for all levels of society by offering one program, namely the National Health Insurance (JKN). The implementation of the social security program should be an important milestone in ensuring legal protection for workers and society at large. However, from the various programs provided by the two institutions, one topic is being hotly discussed and requires serious handling. The program in question is death insurance.

The Death Insurance Program is a protection provided to workers if they die not due to work accidents or occupational diseases. Cash benefits are given to heirs in the form of death compensation, periodic compensation, and funeral expenses, with a total compensation benefit of IDR 42 million and a maximum of IDR 174 million for two children. Based on Government Regulation No. 44 of 2015, the Death Insurance Program contributions are 0.3% of a month's wage for Wage Recipient Workers and IDR 6,800 for Non-Wage Recipient Workers. Based on Government Regulation No. 37 of 2021, the Death Insurance Program contributions for Wage Recipient Workers are recomposed or taken at 0.1% of a month's wage to be used as a Job Loss Insurance Program contribution so that the remaining Death Insurance Program contribution becomes 0.2% of a month's salary. However, there is an imbalance between the collected contributions and the benefit claims paid under the death insurance program. This results in the projection of death insurance assets showing a negative trend, which if left unchecked, is expected to reach a tipping point in 2027. Based on the BPJS Employment report on the condition of the employment social security program since 2022, the Death Social Security fund has not shown financial improvement, is facing the risk of discontinuity, and may not be able to meet

long-term obligations to participants. From March 2020 to March 2024, JKM's financial health declined for 85 months.

| Program JKM                | Maret 2023 | Maret 2024 |
|----------------------------|------------|------------|
| Peserta                    | 36.423.015 | 41.903.719 |
| Jumlah Kasus               | 53.826     | 51.250     |
| Aset Neto (triliun rupiah) | 9,89       | 9,08       |
| Rasio Klaim                | 96%        | 100%       |
| PU                         | 85%        | 80%        |
| BPU                        | 273%       | 344%       |
| Kesehatan Keuangan (bulan) | 42         | 38         |

**Figure 1.** Death Insurance Program Claims and Financial Health Ratio  
March 2023 - March 2024  
Source: BPJS Ketenagakerjaan, 2024

The results of the data analysis above show that in March 2024, the death insurance claim ratio (JKM) increased significantly to 100% from the previous 96% in March 2023. This increase was due to the rise in benefit payments to participants. For the Non-Wage Recipient (BPU) segment, the JKM claim ratio reached 344%, while for the Wage Recipient segment it was only Figure 1. DJS Financial Health Projections Deaths.



**Figure 2.** DJS Financial Health Projections Deaths  
Source: BPJS Ketenagakerjaan, 2024

80%. The high claim ratio in the BPU segment compared to the Wage Recipient segment indicates an imbalance in the social security system. Since 2020, the claim ratio of the BPU segment has consistently been above 100%, indicating that the benefits paid always exceed the contributions received. This condition burdens the finances of the JKM program and threatens its sustainability and financial stability. Based on the results of the actuarial assessment with several assumptions such as participant growth and contributions in accordance with the BPJS Employment plan, the Covid-19 pandemic ending in 2023, the liabilities, the estimated financial condition of the JKM program DJS is as follows:

- a) From March 2023 to March 2024, DJS's financial health decreased by 4 months. Suppose measures to improve financial health take time to take. In that case, it is projected that financial health will be under 12 months starting in 2025, and in 2032, the assets of DJS

Kematian will be exhausted or unable to fulfill the obligation to pay benefits to participants with an estimated deficit value of 124 trillion.

- b) The projected pay as you go rate for the PU segment at the end of 2023 has exceeded 0.2% and is expected to continue to rise in the coming years. For the BPU segment, the pay as you go rate starting from 2024 is more than IDR 10,000, already exceeding the current JKM BPU contribution rate of IDR 6,800.

After evaluating the results of the assessment and actuarial projection of the DJS Death Insurance Program (JKM), it can be seen that various complex factors influence the financial condition of this program. Therefore, it is important to understand the factors that affect the decline in the economic health of DJS JKM.

### 3.2. Factors that allow for a decline in the financial health of the Social Security Fund Death Insurance Program

Understanding the decline in the financial health of the DJS Death Insurance Program (JKM) requires an in-depth analysis of the various aspects that affect it. In this context, several main factors play a significant role and must be considered. These factors are interrelated and have a complex impact on the stability and sustainability of the JKM program. Here are some of the factors that affect the decline in the financial health of DJS JKM:

- a) Policy on Increasing and Adding Benefits based on PP 82 of 2019

The Death Insurance benefit regulated by Government Regulation (PP) No. 82 of 2019 has a higher value than the proposed increase in benefits submitted by Actuaria in 2017.

| Jenis manfaat                      | PP 44/2015                   | PP 82/2019     | Usulan 2017   |
|------------------------------------|------------------------------|----------------|---------------|
| Santunan sekaligus                 | 16.200.000                   | 20.000.000     | 20.000.000    |
| Biaya Pemakaman                    | 3.000.000                    | 10.000.000     | 4.000.000     |
| Santunan berkala dibayar sekaligus | 4.800.000                    | 12.000.000     | 6.000.000     |
| Beasiswa                           | 12.000.000<br>(1 orang anak) | 2 orang anak   |               |
| TK-SD (8 tahun)                    | -                            | 1.500.000/thn  | 1.200.000/thn |
| SMP (3 tahun)                      | -                            | 2.000.000/thn  | 1.800.000/thn |
| SMA (3 tahun)                      | -                            | 3.000.000/thn  | 2.400.000/thn |
| Perguruan Tinggi (5 tahun)         | -                            | 12.000.000/thn | 3.000.000/thn |

**Figure 3.** DJS Financial Health Decline Chart Deaths

Source: BPJS Ketenagakerjaan, 2024

Based on the table above, with the establishment of an increase and addition of new benefits without an increase in membership fees, there will be an imbalance between the benefits provided and the contributions paid. If the Death Insurance (JKM) benefit is implemented based on the 2017 proposal, then it is projected that JKM's Financial Health will remain in a positive condition, which means that the program will not experience a financial deficit in the future.

b) Increase in JKM cases along with the Covid-19 Pandemic

The graph "JKM Incident Rate" shows the death insurance (JKM) incident rate for two groups, namely Wage Recipients (PU) and Non-Wage Recipients (BPU). The graph shows that before the COVID-19 pandemic, the JKM incidence rate for PU ranged from 0.012% to 0.014%, while for BPU it ranged from 0.006% to 0.008%. When the COVID-19 pandemic began to hit Indonesia around March 2020, there was a significant increase in the incidence rate of JKM, especially in the PU group. The peak of the JKM incident occurred in January 2021 with a value of 0.086%. During the pandemic, the incidence rate for PU ranged from 0.021% to 0.086%, while BPU ranged from 0.015% to 0.037%.

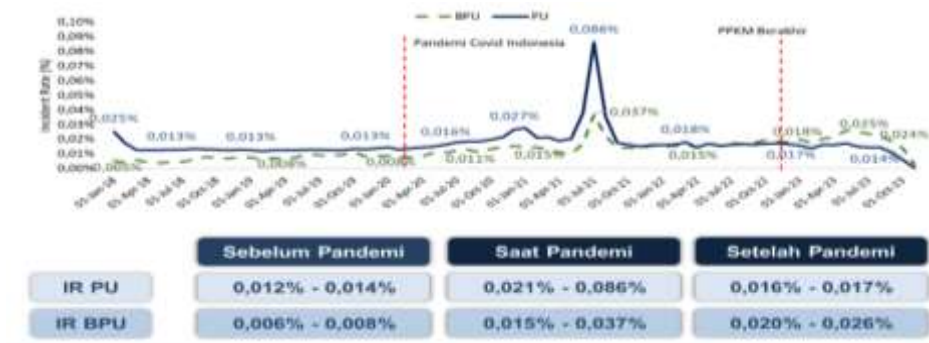


Figure 4. JKM Incident Rate Chart

Source: BPJS Ketenagakerjaan, 2024

After PPKM ended in April 2022, the JKM incident rate declined and stabilized. In the post-pandemic period, the incidence rate for PU was in the range of 0.016% to 0.017%, while for BPU it was in the range of 0.020% to 0.026%. This graph clearly shows the significant impact of the COVID-19 pandemic on JKM incidence rates, with a very sharp increase during the pandemic and a decline after the end of PPKM. The incidence rate for PU and BPU has a different pattern, where PU decreased after the pandemic while BPU experienced a significant increase.

c) Relaxation and Recomposition Policy of JKM Contributions

There is a policy of relaxation of contributions in dealing with Covid-19 and the recomposition of JKM contributions of 0.1% for the JKP program. This policy reduces the contributions received by the JKM program, thereby reducing the funds available for claim payments. In addition, the implementation of Government Regulation (PP) No. 37 of 2021 concerning the Implementation of the Job Loss Insurance Program, stipulated on February 2, 2021, also contributed to the decline in the fund's financial health. This policy requires the allocation of additional funds for the JKP program, which is taken from a portion of JKM funds, thereby reducing the financial stability and sustainability of the JKM program. Thus, the combination of relaxation of contributions and recomposition of contributions to support the JKP program



is the main factor that affects the decline in the financial health of the Social Security Fund of the JKM Program.

d) The Effect of Age of Membership on Fund Resilience

There is a policy that restricts the entry age of participants. In this simulation, a significant influence of the policy on the resilience of the Death DJS can be seen, assuming a maximum age limit of 45 years for Wage Recipient (PU) participants and a maximum of 38 years for Non-Wage Recipient (BPU) participants.



Figure 5. Financial Health Projection Chart

Source: BPJS Ketenagakerjaan, 2024

The 'Productive' JKM age for the PU segment is the age of participants who support the program's sustainability, which is 45 years and below. Meanwhile, the 'Productive' JKM age for the BPU segment is 38 years old and below. In the PU segment, participants with productive age are more dominant compared to non-productive ages. However, this condition is inversely proportional to the BPU segment, where participants with productive age are fewer than participants with non-productive age. This imbalance can affect the program's financial stability, as more BPU participants are of non-productive age, which can increase the burden of claims against Death DJS.

e) Adverse Selection of JKM Membership

It is suspected that there has been an increase in adverse selection since the Covid-19 pandemic. Adverse selection is the tendency for only high-risk individuals to participate in insurance. This can be interpreted that after the COVID-19 pandemic, participants who register for this program tend to have a higher risk of death than before.



Figure 6. Graph of Death Cases for <math>< 3</math> Months Membership Period

Source: BPJS Ketenagakerjaan, 2024

Data shows that as many as 40% of deaths of Non-Wage Recipient (BPU) participants occur within the membership period of up to 6 months. This pattern has been consistent every year since 2020, indicating a stable trend in terms of participation and claims in this program.



**Figure 7.** Average % of Death Cases Chart 2020-2023  
Source: BPJS Ketenagakerjaan, 2024

However, the increase in death claims within a short membership period could indicate that participants who enrolled may already be in poor health or at high risk by the time they joined the program. This can happen because there is no selection process during registration or a waiting period after participants are registered.

f) JKM Net Cash Flow Analysis (PU Subsidy to BPU)

The ability of PU to subsidize BPU continues to decrease. PU's net cash flow is not expected to exceed BPU's net cash flow in the future, especially with the periodic scholarship benefits that have increased claim payments. PU's inability to subsidize BPU creates an imbalance in the flow of program funds, which can ultimately disrupt the financial stability and sustainability of the Death DJS. If this trend continues, the program may need help in meeting its claims obligations.



**Figure 8.** Net Cashflow Death Assurance  
(Source: BPJS Ketenagakerjaan, 2024)

Highlighting the Results of the Assessment and Actuarial Projections of the Social Security Fund of the Death Insurance Program and the factors affecting the financial health of the

program, a strong legal approach is needed to maintain the sustainability and integrity of this program.

### 3.3. Analysis of the Rules of the Death Insurance Program from the Theoretical Perspective of Gustav Radbruch

Gustav Radbruch stated that the law must include three main values, namely justice (philosophical), legal certainty (juridical), and benefit to society (sociological), to maintain social order. Even though society wants order, the law must be able to provide justice, benefits, and certainty in order to achieve these goals. Radbruch taught a priority order: legal justice first, legal utility second, and legal certainty last. This is to resolve any conflicts that may arise between the three values. Justice is fair and impartial treatment, benefits ensure benefits for all parties, while legal certainty demands clear rules and is free from subjectivity. According to Radbruch, the law must combine these three values: justice as the top priority and utility and legal certainty as the last priority.

In the context of the regulation of death insurance programs, the principles of justice, utility, and legal certainty are very relevant to consider. BPJS Ketenagakerjaan applies the principle of fairness by providing the same treatment to PU and BPU without differences in requirements in participating in programs or protection periods when there are arrears in contributions. For example, Permenaker Number 5 of 2021 stipulates that there is no difference in benefits between PU and BPU workers, it's just that there is an age limit for BPU participants, which is a maximum of 65 years. This statement was supported by a direct study of beneficiary participants who stated that there was no difference in the nominal benefits obtained for PU and BPU participants; the informant said that in terms of benefits obtained, there was no difference for the two segments (Risal, 2022). However, this is different from the Theory of Justice explained by Gustav, which emphasizes fair treatment, impartiality, siding with the right, and giving equal treatment according to each party's rights. In the context of the death insurance program, Gustav's theory shows that Death Insurance claims between PU and BPU should not be treated the same because of differences in contributions. In addition, providing protection to participants who make arrears is also unfair to participants who pay contributions regularly and on time. Therefore, a review of the applicable principles or rules is needed.

Legal certainty is a strong foundation in designing regulations for the social security system. The 4th Constitution of the Republic of Indonesia of 1945 concerning the amendment of Article 34 paragraph (2) states, "The State develops a social security system for all people and empowers the weak and incapable people in accordance with human dignity." The implementation of the social security program is one of the responsibilities and obligations of the State to provide socio-economic protection to the community. In accordance with the condition of the State's financial capacity. Initially, Indonesia, like other developing countries, developed a social security program based on funded social security, which is social security funded by participants and is still limited to the working community in the formal sector so that there is no legal certainty for workers in the informal sector.

The history of the formation of PT Jamsostek (Persero) has experienced a long process, starting from Law No.33/1947 jo Law No.2/1951 concerning work accidents, Regulation of the Minister of Labor (PMP) No.48/1952 jo PMP No.8/1956 concerning the regulation of assistance for businesses the implementation of workers' health, PMP No.15/1957 concerning the establishment of the Labor Social Foundation, PMP No.5/1964 concerning the establishment of the Social Security Fund Foundation (YDJS), the enactment of Law No.14/1969 concerning Labor Principles. Chronologically, the process of the birth of labor social insurance is increasingly transparent. After experiencing progress and development, both regarding the legal basis, a form of protection, and the way of implementation, in 1977 an important milestone was obtained with the issuance of Government Regulation (PP) No.33 of 1977 concerning the implementation of the labor social insurance program (ASTEK), which requires every employer/private entrepreneur and state-owned enterprises to participate in the ASTEK program. Government Regulation No.34/1977 was also issued concerning the establishment of an ASTEK organizing forum, namely Perum Astek.

The next important milestone was the birth of Law No. 3 of 1992 concerning Labor Social Security (JAMSOSTEK). Through Government Regulation No.36/1995, PT Jamsostek was established as the organizing body of Labor Social Security. The Social Security program provides essential protection to meet the minimum needs for workers and their families by providing certainty of continuing the flow of family income as a replacement for part or all of the lost income due to social risks. Furthermore, at the end of 2004, the Government also issued Law Number 40 of 2004 concerning the National Social Security System. The law is related to the 1945 Amendment to the Constitution regarding the amendment of article 34 paragraph 2, which now reads: "The state develops a social security system for all people and empowers the weak and incapable people in accordance with human dignity". The benefits of this protection are a sense of security to workers so they can concentrate more on increasing motivation and work productivity.

The work of PT Jamsostek (Persero) Company which prioritizes the interests and normative rights of Workers in Indonesia by protecting 4 (four) programs, which includes the Work Accident Insurance Program (JKK), Death Insurance (JKM), Old Age Insurance (JHT) and Health Maintenance Insurance (JPK) for all workers and their families continues until the enactment of Law No. 24 of 2011. In 2011, Law No. 24 of 2011 concerning the Social Security Administration Agency was enacted. In accordance with the mandate of the law, on January 1, 2014 PT Jamsostek will change to a Public Legal Entity. PT Jamsostek (Persero), which transformed into BPJS (Social Security Organizing Agency) Employment, is still trusted to organize the labor social security program, which includes JKK, JKM, and JHT with the addition of Pension Insurance starting July 1, 2015.

After the transformation into BPJS Ketenagakerjaan, one of the programs that became the highlight was Death Insurance (JKM). The program has undergone significant changes in the scope and benefits offered to participants. From Gustav's theory of legal certainty, the importance

of clear, consistent, and orderly rules in legal arrangements is highly emphasized. This ensures that legal decisions are not influenced by subjectivity and provides certainty to all parties involved. In this context, the establishment of Government Regulation (PP) No. 44 of 2015 which was later amended through PP No. 82 of 2019, refers to the principle of legal certainty. The PP regulates the benefits of social security programs, including Work Accident Insurance, Death Insurance, and Old Age Insurance.

In response to the need for stronger legal certainty, the Government formed a new regulation with the issuance of Regulation of the Minister of Manpower (Permenaker) Number 5 of 2021. This regulation regulates in detail the procedures for the implementation of these guarantee programs, with the aim of providing clarity and consistency in the implementation of participant rights. Thus, these measures are in accordance with the principle of legal certainty advocated by Gustav, where orderly and detailed rules provide a strong foundation for certainty and justice in the legal system.

The purpose of the law is not only for legal certainty and justice but also to benefit society (Besar, 2016). Usefulness is the most important thing for legal purposes. BPJS Employment provides maximum benefits and happiness to as many community members as possible, with the added advantage that contributions do not increase. This provides equal happiness for all Indonesia citizens without exception. BPJS Employment offers a wide range of benefits in accordance with Gustav Radbruch's Theory, which emphasizes the importance of law in providing benefits to society. In addition, this approach is supported by Jeremy Bentham's theory which states "the greatest happiness of the greatest number", reflecting the commitment to achieve maximum welfare for all Indonesia citizens. It is indeed beneficial in the short term, but in the long term, this policy is not ideal if it is continued because there will be a decline in the financial health of the Death Insurance Social Security Fund which will if corrective measures are not taken immediately, it is projected that the assets of the Death Insurance DJS will run out in 2032. This poses a risk of unsustainability and inability to meet obligations to participants in the long term, as well as not being able to provide the expected benefits to participants.

The decline in the financial health of the Death Insurance (JKM) DJS began from the change in benefits regulated in PP 44 of 2015 to PP 82 of 2019. This change is not based on the actuarial proposal of 2017, primarily related to the benefits of the scholarship. While benefits increase, contributions do not increase, creating financial imbalances. If JKM benefits are adjusted to the actuarial proposal in 2017, JKM's financial health projection will remain positive. Over time, the increase in JKM cases coincided with the COVID-19 pandemic, which resulted in a significant spike in benefit claims. This condition is exacerbated by the regulation on the recomposition of JKM contributions of 0.1% for JKP, which means that JKM contributions are cut, but the benefits remain full. BPJS data shows that there was a decrease in wage earners (PU) after the pandemic, while non-wage earners (BPU) increased beyond the pre-pandemic number.

The pattern of increasing claims for deaths during the short membership period since 2020 has been consistent every year, indicating that participants who sign up may already be in poor

health or at high risk when joining the program. This factor occurs because there is no selection process when registering or a waiting period after registering as a participant. In addition, the finances of the JKM DJS that are merged between PU and BPU are based on the principle of cooperation, where PU is expected to back up BPU. However, because many companies only pay partially, and the claims of BPU benefits are too high, the ability of PU to subsidize BPU continues to decrease. PU's net cash flow is not expected to exceed BPU's net cash flow in the future, especially with the periodic scholarship benefits that lead to increased claim payments.

This will also affect the investment in the Social Security Fund Assets of the Death Insurance Program. The decline in the financial health of DJS Death Insurance can have something to do with the investment assets of DJS Death Insurance. In this context, if there is a decline in financial health, for example due to the lack of necessary corrective measures, the fund may experience pressure in terms of liquidity and availability of funds to meet the obligation to pay benefits to participants. This can be related to PP 55/2013 which states that the Death Insurance Social Security Fund (DJSK) can only be invested for the short term, which means that the investment must be liquid (easily disbursed) in order to be able to pay benefits in accordance with the service agreement (SLA).

Thus, in the event of a decline in the financial health of the DJSK, investment assets that must remain liquid are crucial to ensure funds are available to pay benefits to participants in accordance with SLAs. In this context, the decline in the financial health of the DJSK may lead to unsustainable risks in the fund's investments, especially if no steps are taken to improve the financial condition. This risk can lead to an inability to meet benefit payment obligations in the long term, which can result in an inability to provide the expected benefits to the participant. So this can be associated with the theory of legal utility from Gustav Radbruch and the utilitarianism theory from Jeremy Bentham.

Gustav Radbruch's theory of legal utility and Jeremy Bentham's theory of utilitarianism provide an important view of the financial health problems of the Death Insurance. According to this theory, the purpose of law is not only to create legal certainty and justice, but also to provide maximum benefits to society at large. BPJS Employment is recognized as providing great benefits and happiness to community members by keeping contributions stable. This is in accordance with Radbruch's concept of legal usefulness, which emphasizes the importance of law in providing benefits to society. In addition, this approach is supported by Bentham's theory of utilitarianism which emphasizes the greatest possible happiness for as many people as possible, reflecting a commitment to achieving maximum well-being for all citizens.

However, favorable policies in the short term, such as keeping contributions stable while benefits increase, can lead to long-term problems such as a decline in the financial health of the Death Benefit Social Security Fund. This is contrary to the principle of legal usefulness, which emphasizes the importance of providing real and sustainable benefits to society. The decline in the financial health of DJS Death Insurance is related to changes in benefits and increase in claims, as well as the sustainability of the program. Radbruch's theory of legal utility and

Bentham's theory of utilitarianism remind that policies must be directed to provide sustainable benefits to society, taking into account the maximum welfare for all participants of the Social Security Fund. In this context, measures to improve and manage investment assets wisely are crucial to maintain the financial health of the Social Security Fund and provide the expected benefits to participants, in accordance with the principles of legal utility and utilitarianism.

#### 3.4. Strategic Recommendations (Regulations) to Address the Financial Health Challenges of the Social Security Fund, Death Insurance

To improve the efficiency and accessibility of the Death Insurance Program, it is necessary to consider revisions in its implementation regulations so that the Death Insurance Fund remains stable without experiencing an annual deficit. Based on an in-depth analysis, several recommendations can be proposed to ensure the program remains relevant and sustainable. First, it is necessary to redesign the JKM program as the basis for changing the amount of contributions for Non-Wage Recipients (BPU). This is because the current amount of contributions is no longer in accordance with actual conditions, so a review is needed to accommodate more relevant needs. In addition, adjustments to JKM benefits also need to be made based on the latest actuarial proposals.

The second is to implement provisions regarding the contribution or membership period for a minimum of 6 to 12 months. This aims to ensure that enrolled participants have been engaged in the program for a long enough time, thus ensuring the sustainability of the program and minimizing the risk of significantly increased claims from new participants who may have poor health conditions or are at high risk. With a minimum membership period, the JKM program can more effectively manage financial risks and provide more sustainable benefits for participants.

The third is implementing regulations regarding the deadline or validity period for submitting scholarship benefit claims. This aims to control the number of claims submitted and ensure that the claims submitted are still relevant to the condition of the participants at that time. For example, it may be stipulated that a scholarship benefit claim must be submitted within a certain time after an eligible event has occurred, such as the death of a family member or a serious accident resulting in financial losses for the participant. With this arrangement, the program can avoid inappropriate claims and maintain the financial sustainability of the Death Insurance Program.

The fourth is to review and readjust the contribution recomposition of 0.1% for the Job Loss Insurance (JKP) program. In this review, it is necessary to evaluate whether the amount of contribution recomposition of 0.1% is still relevant to the financial condition of the program and the needs of participants. If required, the amount of contribution recomposition can be readjusted to optimize the balance between the availability of program funds and the benefits provided to participants. By periodically reviewing and adjusting the amount of recomposition of

contributions, the JKM program for Job Loss Insurance can remain sustainable and provide maximum benefits for participants without sacrificing the financial health of the program.

A very important recommendation is that the socialization of the employment social security program is still lacking so it needs to be improved in order to increase the scope of participation. This effort can be carried out through wider public campaigns, educational approaches through seminars and workshops, and active cooperation with related parties such as companies and government agencies. With more intensive and effective socialization, it is hoped that public awareness of the benefits of this program can increase, so that more people can take advantage of it.

From the analysis and discussion that has been carried out, it can be concluded that the challenges faced by the Death Insurance Program (JKM) require serious attention, especially in terms of financial sustainability, balance between benefits and contributions, and increasing the scope of participation. Thus, the joint efforts of the government, related institutions, and the community are the key to maintaining the continuity of the Death Insurance Program which provides optimal benefits and protection for all participants.

#### **4. Conclusion and Recommendations**

Indonesia has a strong commitment to social protection for workers, including Non-Wage Earners (BPU), as part of efforts to improve welfare through the Unitary State of the Republic of Indonesia. However, the implementation of the Death Insurance Program (JKM) by BPJS Ketenagakerjaan faces significant challenges such as overclaims and low fund resilience. The main factors affecting this program's finances are the expansion and addition of benefits without an increase in contributions and the impact of the COVID-19 pandemic. Projections show that the sustainability of JKM's Social Security Fund (DJS) could be threatened before 2032 if there are no significant improvements in regulations and claims management.

Other factors that affect JKM's financial health include the policy of recomposition of contributions for the Job Loss Insurance (JKP) program which reduces the contribution of program funds and changes in the age of membership that interfere with financial stability. The existence of adverse selection, where high-risk participants enrolled more after the pandemic, also increased pressure on program finances. All of this emphasizes the need for a holistic approach to maintain the integrity and sustainability of the Death Assurance Program. In the context of JKM program regulation, the principles of justice, utility, and legal certainty according to Gustav Radbruch play an important role. The importance of equity in social protection is reflected in efforts to provide equal benefits to PU and BPU, although challenges in program finance remain. To ensure the right balance between these principles, there is a need for ongoing regulatory review and more intensive outreach efforts to the public to increase understanding and participation in employment social security programs.

Overall, by implementing strategic recommendations such as revision of contributions,



adjustment of benefits, and increased socialization, it is hoped that the Death Insurance Program can remain sustainable and provide optimal benefits for all participants. These measures will not only improve the efficiency of the program but also ensure adequate protection for Indonesia's workforce in the face of the risk of death and job loss. Thus, social protection for workers through the Death Insurance Program is critical in ensuring the welfare and financial security of workers and their families in Indonesia. Despite facing various challenges that threaten its sustainability, strategic measures in regulating and managing finances can provide a more stable and sustainable foundation for this program. With solid cooperation between the government, related institutions, and the community, it is hoped that the Death Insurance Program can continue to be an important pillar in the national social security system, fulfilling the principles of justice, utility, and legal certainty in accordance with Indonesia's vision for a better future.

### **Acknowledgement**

I extend my deepest gratitude to the Directorate General of Social Security of Workers, the Ministry of Manpower, and BPJS Ketenagakerjaan for their invaluable support and contributions to this journal. I also sincerely thank Mr. Ronald Yusuf for his ongoing encouragement and insightful feedback throughout the research process. I am particularly grateful to Prof. Payaman J. Simanjuntak for his profound insights and expertise, which have greatly influenced the direction of this work. Additionally, I express my heartfelt appreciation to Assoc. Prof. Dr. V. Henry Soeslistyo Budi, S.H., LL.M., whose guidance and mentorship have been instrumental in the successful completion of this journal. This journal, titled "Reconstruction of Death Insurance Regulations for Workers Not a Wage Recipient as a Form of Maintaining the Sustainability of the Death Social Security Fund," would not have been possible without the collective efforts and contributions of all those mentioned above. Thank you.

### **References**

- Besar. (2016). Utilitarianisme Dan Tujuan Perkembangan Hukum Multimedia Di Indonesia. Business Law Binus. <https://Business-Law.Binus.Ac.Id/2016/06/30/Utilitarianisme-Dan-Tujuan-Perkembangan-Hukum-Multimedia-Di-Indonesia/>
- Christopher, J., Here, D., Hukum, F., & Udayana, U. (2020). Perlindungan Pekerja Yang Mengalami Kecelakaan Kerja Terkait Program Jaminan Sosial Yang Dilakukan Oleh Bpjs. *Jurnal Kertha Desa*, 8(9), 33.
- Indonesia. (1945). Undang-Undang Dasar Negara Republik Indonesia Tahun 1945
- Indonesia. (2004). Undang-Undang Nomor 40 Tahun 2004 Tentang Sistem Jaminan Sosial Nasional.
- Indonesia. (2011). Undang-Undang Nomor 24 Tahun 2011 Tentang Badan Penyelenggara Jaminan Sosial.

- Indonesia. (2019). Peraturan Pemerintah Nomor 44 Tahun 2015 Tentang Penyelenggaraan Program Jaminan Kecelakaan Kerja Dan Jaminan Kematian
- Indonesia. (2019). Peraturan Pemerintah Nomor 82 Tahun 2019 Tentang Perubahan Atas Peraturan Pemerintah Nomor 44 Tahun 2015 Tentang Penyelenggaraan Program Jaminan Kecelakaan Kerja Dan Jaminan Kematian.
- Indonesia. (2020). Peraturan Pemerintah Nomor 49 Tahun 2020 Tentang Penyesuaian Iuran Program Jaminan Sosial Ketenagakerjaan Selama Bencana Nonalam Penyebaran Corona Virus Disease 2019 (Covid-19).
- Indonesia. (2021). Peraturan Menteri Ketenagakerjaan Nomor 5 Tahun 2021 Tentang Tata Cara Penyelenggaraan Program Jaminan Kecelakaan Kerja, Jaminan Kematian, Dan Jaminan Hari Tua.
- Indonesia. (2021). Peraturan Pemerintah Nomor 37 Tahun 2021 Tentang Penyelenggaraan Program Jaminan Kehilangan Pekerjaan
- Mediana. (2024). Aset Jaminan Kematian BPJS Ketenagakerjaan Akan Menjadi Negatif per 2027". Kompas.
- Muhammad Ikhsan,dkk. (2021). Penyelenggara Sistem Jaminan Sosial Nasional Oleh Badan Penyelenggara Jaminan Sosial". Sol Justica. Vol. 4 (2). hal. 141-142
- Muhammad Risal,dkk. (2022). Jaminan Sosial Ketenagakerjaan Berbasis Konsep Al-Adl Dalam Mewujudkan Kesejahteraan Pekerja di Kota Makassar. Jurnal Sosial dan Sains. Vol. 2(11). Hal 1207
- Putri, A. E. (2014). Paham Sjsn Sistem Jaminan Sosial Nasional. In Pemerintah Ri (Issue 40). Friedrich-Ebert-Stiftung Kantor Perwakilan Indonesia. Hal. 13
- Risal,Dkk. (2022). Jaminan Sosial Ketenagakerjaan Berbasis Konsep Al-Adl Dalam Mewujudkan Kesejahteraan Pekerja. Jurnal Sosial Dan Sains. Vol. 2(11). Hal 1207