



Legal Analysis of Changes to Social Security Regulations for Workers in the Job Creation Law

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Article History Received: 2025-08-14 Revised: 2025-08-24 Published: 2025-09-30 Keywords: <i>Social Security; Labor; Job Creation Law; Legal Analysis; Legal Protection.</i>	The provisions regarding social security for workers, previously regulated by Law No. 40 of 2004 concerning the National Social Security System and Law No. 24 of 2011 concerning the Social Security Administering Body, have been significantly amended by Law No. 11 of 2020 concerning Job Creation. The purpose of this study is to examine these normative changes from a legal perspective, focusing on their impact on the defense of workers' rights. Normative legal research employs legislative and intellectual approaches. Through a literature review of laws and regulations, court decisions, and legal documents, data is analyzed qualitatively. According to the study, the modifications outlined in the Job Creation Law, particularly those related to the unemployment insurance program, could result in a loss of legal certainty and a decline in workers' social security standards. Furthermore, the concepts of social justice and legal certainty are questioned by the introduction of more flexible social security in the context of investment interests. Therefore, to ensure that social protection for workers is maintained within the context of national economic development, it is necessary to strengthen its derivative legislation and implement a strict oversight system.

I. INTRODUCTION

The national employment system now faces significant legal dynamics as a result of the labor regulatory reforms introduced by Law Number 11 of 2020 concerning Job Creation (the Job Creation Law). The worker social security system, previously fully regulated by Law Number 40 of 2004 concerning the National Social Security System (SJSN) and Law Number 24 of 2011 concerning the Social Security Administering Body (BPJS), is one of the areas affected.

With the enactment of "Law Number 11 of 2020 concerning Job Creation" (hereinafter referred to as the Job Creation Law), Indonesian labor reform has entered a new phase. In addition to boosting national economic growth through deregulation and debureaucratization in several sectors, including the labor sector, this law represents a planned step by the government to address obstacles to investment and job creation.(Sadono and Rahmiaji 2021).

The implementation of the Job Creation Law has not been without controversy and public criticism, primarily due to the non-participatory nature of its drafting process and the content of restrictions deemed to diminish workers' normative rights. The Job Loss Guarantee (JKP) program is a new form of protection for workers laid off under the Job Creation Law. However, this shift raises a number of legal issues related to the adequacy, consistency, and fairness of the current social security system.(Putra nd).

The social security system for workers is one area significantly impacted by the enactment of the Job Creation Law. Law Number 40 of 2004 concerning the National Social Security System (SJSN Law) and Law Number 24 of 2011 concerning the Social Security Administering Body (BPJS Law) provided a strong legal basis for the national social security system. These laws guarantee full protection for all citizens, including both formal and informal workers.(Full Moon 2021).

The government launched a new protection program called Job Loss Protection (JKP) with the enactment of the Job Creation Law, specifically for laid-off workers. Although the Job Loss Guarantee (JKP) program is marketed as an extension of social security, its existence presents a number of philosophical and legal issues. JKP is considered progressive on the one hand because it offers insurance against potential financial loss due to termination of employment.(National Commission and).

On the other hand, this plan presents the possibility of overlapping norms, changes in state social security responsibilities, and ambiguous funding and implementation procedures that could affect the sustainability of the social security system as a whole. As stated in Article 28H paragraph (3) of the 1945 Constitution of the Republic of Indonesia, "everyone has the right to social security that allows for the development of oneself as a complete and dignified human being." The establishment of JKP must also be in accordance with the principles of the "National Social Security System Law (SJSN Law) and the Constitution."

Based on this, this study examines how the Job Creation Law's modifications to social security policies for employment impact the protection of workers' rights in Indonesia. This study aims to determine whether these reforms meet the ideals of social justice and constitutional protection for workers, and how the changes in legal norms affect the current labor legal framework. To determine whether the new regulations are consistent with the national social security legislative framework and whether their actual implementation supports the protection of workers' rights, this study uses a normative method.

The purpose of this study is to legally investigate how the Job Creation Law's changes to social security policies impact the protection of workers' rights. This research is important because, according to Article 28H paragraph (3) of the 1945 Constitution, social security is a constitutional right of citizens that must be upheld by the government. Therefore, it is crucial to have

a thorough understanding of how legal standards have changed and how this impacts practice.

II. RESEARCH METHODS

Written legal norms serve as the primary source of information for the normative legal research methodology in this study. Because normative legal research emphasizes the analysis of written legal materials, including statutes, court decisions, and other legal documents, it is often confused with library research. The methods used in this study consist of: Legislative Approach: This method involves reviewing all applicable laws and regulations related to the legal issue under consideration. Law should be viewed by researchers as a closed system with features such as a systematic, comprehensive, and inclusive organization.(Sonata 2014).

Conceptual Approach: This method begins with dominant legal theories and views. Researchers can discover ideas that lead to legal understanding, legal conceptions, and legal principles relevant to the current situation by examining these views and doctrines.

The secondary data used in this study comes from a literature review. The following are sources of legal material: Court decisions, government regulations, and applicable laws are examples of primary legal material. Secondary Legal Texts: Books, academic papers, and legal journals are examples of documents that provide explanations or information regarding primary legal texts. Legal dictionaries, encyclopedias, and other literature are examples of tertiary legal resources. These documents offer extensive knowledge or guidance on legal issues. The data collection method is library research, namely by searching for and evaluating legal writings relevant to the subject of study.

To gain a deeper understanding of the legal issues under investigation, researchers collected data from various sources. A qualitative analysis was conducted on the obtained data. Interpreting the substance of the law and linking it to relevant legal doctrines and principles is how the analytical process was completed. The purpose of this descriptive-analytical study is to explain and

evaluate the dynamics of legislative change regarding workers' social protection.

III. RESULTS AND DISCUSSION

A. Social Security from a Legal Perspective

As part of the state's obligation to ensure the welfare of all citizens, social security is one of the basic rights protected by the constitution. This right includes protection from various socioeconomic hazards, including work accidents, illness, disability, old age, retirement, death, and job loss, which can disrupt an individual's quality of life. "Law Number 40 of 2004 concerning the National Social Security System (UU SJSN)", which details the basics and scope of the social security program for all Indonesian citizens, is the comprehensive regulation of social security within the country's national legal system.(Kristina 2018).

Through "Law Number 24 of 2011 concerning the Social Security Agency for Health (BPJS), the state established two implementing agencies, the Social Security Administration Agency (BPJS) for Health and the Social Security Agency for Employment (BPJS Ketenagakerjaan), to carry out the technical implementation of the social security system. To maintain the operational and financial sustainability of the system, both agencies are required to manage the social security program in accordance with their respective areas of responsibility and in accordance with the principles of non-profit, transparency, and accountability.(Suwandi and Wardana 2022).

The enactment of "Law Number 11 of 2020 concerning Job Creation (Job Creation Law)," which establishes a new program known as the Job Loss Guarantee (JKP), has resulted in recent changes in social security policy. Through monetary compensation, access to labor market data, and job training, this program aims to provide workers or laborers who experience layoffs (PHK) with a form of income security.(Jahari and Artita 2023).

The JKP is considered a deliberate effort to provide a social safety net for formal workers who are vulnerable to the dynamics of the contemporary labor market, especially during

times of economic volatility. While the JKP is a welcome development for labor protection, the fact that the program does not require employers or employees to provide additional payments has sparked a number of legal arguments and academic discussions.(Anisah and Damayanti 2024).

The JKP program, on the other hand, is funded by a combination of funds from the State Budget (APBN), funds diverted from other social security programs, and additional funds optimized from BPJS Ketenagakerjaan. The harmony of the national social security funding system, which has so far been based on the idea of mutual collaboration through contributions as outlined in the Social Security System Law, is called into question by this clause.(Kristina 2018).

Furthermore, the use of JKP funds from approved sources for other programs without a self-contribution mechanism raises concerns as it could impact the program's fiscal viability and potentially create regulatory disputes with other social security programs. Therefore, although JKP provides greater protection in substance, its normative regulations need further clarification to ensure the coherence of a fair and comprehensive social security legal framework.(Kristina 2018).

B. Changes to the Job Creation Law and Their Legal Consequences

In addition to adding new aspects to labor protection, the changes to social security regulations introduced by "Law Number 11 of 2020 concerning Job Creation" also have a direct impact on the previously established legislative framework within the national social security system. The primary objective of the Job Loss Guarantee (JKP) program, implemented as part of labor reforms, is to provide temporary financial stability for workers facing layoffs.(Setyawan 2020).

However, from a legal perspective, the rules raise a number of normative and structural problems, particularly those related to the basic principles of social security, including the principles of justice, legal certainty, and the sustainability of the system.

The ambiguity of the JKP funding scheme is one of the most glaring legal issues. The JKP program does not require additional contributions from members, unlike other social insurance plans that rely on shared contributions from employers, employees, and the government. Instead, its funding sources include state budget subsidies, optimization of existing BPJS Ketenagakerjaan funds, and the reallocation of some funds from other social insurance programs such as Work Accident Insurance (JKK) and Death Insurance (JKM). (Workers' Rights 2020).

This funding approach has sparked discussions about potential violations of the concept of long-term budget sustainability and presents legal issues regarding its compatibility with the notion of proportional accountability between the state and participants. From an implementation perspective, significant obstacles to the implementation of the JKP program exist, affecting both its effectiveness and legality. Coordination between organizations such as the Ministry of Manpower, BPJS Ketenagakerjaan (the Employment Social Security Agency), and local governments continues to be weak. (Yadi 2022).

It is not uncommon for JKP participants to experience delays in benefit payments, inaccurate targeting, and inconsistent validation of termination status, which are the main reasons. This indicates that despite the existence of regulations for the program, administrative hurdles still hamper its implementation, compromising the effectiveness of the social support promised by the state. (Kristina 2018).

Furthermore, the lack of comprehensive technical guidelines for the implementation of the JKP, such as an integrated monitoring system, claims submission procedures, and accountability guarantees in fund management, creates legal risks in the form of potential misuse, moral hazard, and administrative conflicts between implementing institutions and employees. As a form of social oversight and legal certainty for all parties involved, a transparent and publicly accessible legal accountability mechanism must be established in addition to strengthening implementation regulations and institutional coordination.

Therefore, while the inclusion of the JKP scheme in the "Job Creation Law" is a positive step towards expanding the scope of workers' social protection, its provisions still leave significant legal questions unanswered. To ensure that the social protection offered is not merely symbolic but also functional and sustainable, in accordance with the constitutional mandate, there needs to be harmonization of the main standards in the Job Creation Law with the legal principles in the Social Security Law and the BPJS Law. (Sukendro, Budiman, and Bhakti 2024).

C. Constitutionality and Constitutional Court Review

A major constitutional dispute has emerged in the national legal system as a result of the omnibus law reform of labor law as outlined in "Law Number 11 of 2020 concerning Job Creation" (hereinafter referred to as the Job Creation Law). The Constitutional Court's (MK) legal review in case Number 91/PUU-XVIII/2020 is one way to address this controversy. The Job Creation Law is conditionally unconstitutional, the Court stated in its ruling, due to procedural flaws in its drafting process that failed to comply with the rules of proper legislative formation.

The court emphasized that politicians must amend the Job Creation Law within two years of the ruling, or it will be declared permanently unconstitutional. This ruling has significant implications for social security as a component of people's constitutional rights. (Kristina 2018).

According to Article 28H, paragraph (3) of the 1945 Constitution, everyone has the right to social security that encourages their growth as a complete and dignified human being. Therefore, regulations relating to social security rights, such as the Job Loss Guarantee (JKP) program in the Job Creation Law, must respect the rule of law, legal clarity, meaningful public involvement, and the protection of human rights. (Iswaningsih, Budiarta, and Ujianti 2021).

The legal validity of the content regulated by the Job Creation Law, including new social security measures, is directly affected when the formal requirements for their creation are not met. In fact, the JKP regulation in the Job Creation

Law is the government's effort to expand social protection coverage for employees who lose their jobs. However, the method used to create this plan has been criticized by a number of sources, including academics, labor unions, and public policy analysts, for allegedly lacking public engagement and ignoring distributive justice and fiscal prudence.(Full Moon 2021).

This raises deeper constitutional concerns, as it is believed that creating social programs in an exclusive manner will erode rather than enhance the preservation of citizens' fundamental rights. As the guardian of the constitution in this regard, the Constitutional Court plays a crucial role in ensuring that public policy development adheres to the core concept of legality.

The Court effectively issued a stern warning that legislative products must be assessed not only on their content but also on the basis of the democratic and participatory processes underlying them by temporarily declaring the Job Creation Law invalid. Consequently, the JKP regulation, a crucial component of the Job Creation Law, needs to be evaluated with a more responsible, inclusive approach, and one that is grounded in the real needs of Indonesian workers, which are highly diverse and include those in the informal sector.(Syafriadi 2023).

Furthermore, there is currently uncertainty regarding the actual implementation of the JKP program due to the legal vacuum left by the Constitutional Court's ruling. Normatively, the program is scheduled to last two years during the correctional period, but because it operates within a legal framework of questionable validity, its implementation is less than ideal. The credibility of the implementing organizations, including the Ministry of Manpower and BPJS Ketenagakerjaan, in implementing the program efficiently and responsibly is affected by this uncertainty.

According to numerous reports from the field, the JKP claims process faces technical challenges, a lack of implementing regulations, and overlapping jurisdictions between organizations. All of these problems are caused by the program's insufficiently strong legal basis.(Full Moon 2021).

In subsequent research, the Job Creation Law's conflict with the principles of public participation has also been thoroughly examined in constitutional law literature. According to some academics, the omnibus law approach typically prioritizes legislative efficiency over standards of legal democracy, which over time can erode public trust in the law.

Therefore, in light of the Constitutional Court's ruling, the Job Creation Law must be thoroughly revised, not only by strengthening its formal provisions but also by ensuring that its provisions are consistent with the values of social justice, legal certainty, and the long-term sustainability of the country's social security system.

Therefore, it can be argued that the Job Creation Law's control of social security cannot be separated from the broader constitutional framework. If the regulatory process and content are not aligned with core constitutional principles, an omnibus approach to social security reform will lack significant legal authority.

Through its decision, the Constitutional Court has provided a space for lawmakers to think and make corrections, ensuring that future social security programs are both legally sound and socially appropriate.

IV. CONCLUSION AND SUGGESTIONS

A. Conclusion

Rights to guaranteeThe social security guaranteed by Article 28H paragraph (3) of the 1945 Constitution has been regulated through Law Number 40 of 2004 concerning the National Social Security System (SJSN) and Law Number 24 of 2011 concerning the Social Security Agency (BPJS). However, these two regulations contain contradictions that create inconsistencies with current legal standards. The presence of Law Number 11 of 2020 concerning Job Creation, which gave birth to the Job Loss Guarantee (JKP) program, strengthens efforts to protect workers affected by layoffs, but its implementation is still hampered by funding issues, inter-agency coordination, and delays in benefit payments. The Constitutional Court Decision Number 91/PUU-XVIII/2020, which declared the Job Creation Law conditionally unconstitutional, further

emphasizes that the implementation of social security rights must uphold the supremacy of law, legal certainty, and public participation. Thus, the Indonesian social security system requires a comprehensive overhaul to align with constitutional principles and be able to provide optimal protection for citizens.

B. Suggestion

The government needs to immediately undertake a comprehensive revision of the National Social Security Law (SJSN) and the BPJS Law to eliminate contradictions and align them with the latest legal developments. A comprehensive evaluation of the implementation of the JKP program must be conducted to identify and address administrative obstacles, including funding issues and delays in benefit distribution. Revision of the Job Creation Law must also be prioritized to ensure that all provisions related to social security comply with constitutional requirements, uphold the rule of law, and involve substantive public participation. These steps are crucial to ensuring that Indonesia's social security system is effective, transparent, and capable of providing protection in line with citizens' fundamental rights.

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