

CHAPTER I PRELIMINARY

A. BACKGROUND

As one of an Indonesian citizens, we have the rights to acquire one of the plentiful rights available, one of those rights are rights to acquire social security. Social security here means one of the government effort to ensure prosperity of the masses and their basic needs. Therefore, to fulfill these basic needs, Indonesian government had compiled a program named Social Security.¹

Social Security (hereinafter will be abbreviated in Indonesian abbreviation BPJS) is an establishment complied in order to raise social assurance for the masses of Indonesia and to comply towards citizen's rights for social assurance from government.²

BPJS itself is regulated by Indonesian Law Number 40 of 2004 pertaining to National Social Assurance System and Indonesian Law Number 24 of 2011 pertaining to Social Security.

As mentioned in article 4 letter b Indonesian Law Number 40 of 2004, BPJS pose as a nonprofit establishment. Nonprofit establishment holds the meaning an establishment main objective is to deliver prosperity for the masses and not pursuing profit, and as BPJS, therefore prosperity obtained by executing their objective which is the granting of social assurance to the people.

Corresponding to article 5 Indonesian Law Number 24 of 2011 (hereinafter will be mentioned as Indonesian BPJS Law) lies 2 type of BPJS applied to society. These are BPJS of Employment or Employee Assistance Program and BPJS of Health or Wellness Program. Within BPJS of Employment, are divided into Accident Insurance, Old Day Insurance, Retirement Pension, and Death Insurance.

Within article 57 Indonesian BPJS Law mentioned that there is a transition for institution of social assurance which had been established

¹ Indonesian Law Number 24 of 2011 Pertaining to Social Security.

² Ibid.

before BPJS. BPJS of Health itself is a transition from PT. Askes Indonesia while BPJS of Employment is from PT. Jamsostek.

Next, in article 1 point 4 Indonesian BPJS Law clarifies that participation of BPJS is mandatory to all citizen of Indonesia and foreign citizens that had been domicilized into Indonesia for 6 month or more.

With the method of monthly contribution, this contribution next will became the fund of social assurance. Contribution contributed by participants then managed by BPJS in interest of participants favour and operational management of social assurance.

Contribution to social assurance by participants are claimable or the other way around depends on the type of BPJS. In instance for BPJS of Health, if the participant was healthy and didn't make use of their BPJS, the contribution will become unclaimable and transferred to other participants in need. While in BPJS of Employment type Old Day Insurance, participants can claim their contribution later on after fulfilling the requirements appointed by BPJS.³

Registration for those unemployed with their families included can be done at nearby BPJS office for BPJS of Health, while for the employed, their employer are under an obligation of enlisting their employee to BPJS program.⁴

Employee rights to obtain social assurance had been regulated in Article 99 Indonesian Employment Law Number 13 of 2003 and build upon valid constitution.

There are sanctions for those company that doesn't enlist their employee for BPJS program, sanctions are in the form of administrative sanction as regulated in Article 17 paragraph 1 Indonesian BPJS Law and Article 5 paragraph 1 Government Regulation Number 86 of 2013

³ "Apakah Iuran BPJS Kesehatan Bisa Dicairkan,?" accessed May 28th 2019, <https://www.pasienbpjs.com/2016/09/apakah-iuran-bpjs-kesehatan-bisa-dicairkan.html>.

⁴ "Mengenal Jenis Kepesertaan BPJS Kesehatan – (PBI, Non-PBI, PBU, PPU, BP)," accessed May 28th 2019, <https://pasienbpjs.com/2016/07/mengenal-jenis-kepesertaan-bpjs.html>.

pertaining to Procedures of Imposition of Administrative Sanctions Toward Employer aside from State Organizer and Each Person, aside from Employer, Employee, and Beneficiary within Social Assurance Provider.

Administrative sanctions can be in the form of written warning and/or fine by BPJS or no access to certain public service done by Government or upon request of BPJS.

Contribution fees upon participating BPJS program, will be assured by employee and company or by employer by dividing based on percentage regulated in Article 9 Government Regulation Number 84 of 2013.

Despite the privilege offered by BPJS, there are thousand of the masses that don't registered themselves yet to BPJS program. Based on data released by BPJS of Health by 24th May 2019, the number of participants reached 221,580 million out of 261,1 million citizen of Indonesia.⁵ And 30,6 million out of 51 million of employee registered to BPJS of Employment.⁶

Even so, BPJS benefit is very influential by the reason it can grant social assurance to its participant in need of urgency. BPJS will definitely help out or bear the cost or the like within BPJS assurance program. Participation of BPJS is mandatory and ought to be done as it should be.

For either employee or employer, participating in BPJS program is rights of employee and obligation for employer to comply with the requirements applied.

At INDORAYA store, the employer hadn't been enlisting their employee to BPJS program which is their obligation to do so. Whereas a store are included as a company that is obligated to enlist their employee

⁵ "BPJS Kesehatan: Mei 2019, Peserta Meningkat Jadi 221,580,743 Jiwa," accessed May 28th, 2019, <https://health.detik.com/berita-detikhealth/d-4564006/bpjs-kesehatan-mei-2019-peserta-meningkat-jadi-221580743-jiwa>.

⁶ "Peserta Aktif BPJS Ketenagakerjaan Tembus 30,6 Juta," accessed May 28th, 2019, <https://www.cnbcindonesia.com/investment/20190527181946-21-75355/peserta-aktif-bpjs-ketenagakerjaan-tembus-306-juta>.

to BPJS program corresponding to Government Regulation Number 84 of 2013 and since working at INDORAYA the employer hadn't directed their support for employee's BPJS. This are the result of a brief interview with Ihwan as one of the employee at 10th February 2019.

In response to the brief interview above, this matter needs to be solved immediately on account of both employee and employer best interest. In this matter the employees hadn't obtained their rights and the company will get their administrative sanctions for this negligence in near future. Therefore, the writer would like to apply his knowledge of practical work based on the matter explained before in a report of practical work done with the title: **"Application of Social Security as Private Employee Rights at INDORAYA Based on Indonesian Law Number 13 of 2003 Pertaining to Employment"**

B. POINT OF VIEW

Within this practical work report there will be 2 lines of view, these view are; the general view and the specified view. The general view during practical work will involve the rights own by employee based on employment law referring to Indonesian Law Number 13 of 2003. As for the specified view, it will involve Indonesian Law Number 40 of 2004 pertaining to Natural Social Assurance System, Indonesian Law Number 24 of 2011 pertaining to BPJS, and Government Regulation Number 84 of 2013 pertaining to Implementation of Employee Assistance Program.

C. PROJECT OBJECTIVE

1. To serve the purpose of analyzing the rights of an employee to be enlisted in BPJS program by INDORAYA
2. To serve the purpose of analyzing INDORAYA obligation to comply towards employee rights to be enlisted in BPJS program based on applicable constitution.
3. To serve the purpose of analyzing in depth, the cause, why employee hadn't enlisted their employee to BPJS program and efforts that can be made to prevent recurrence of this matter.

D. PROJECT OUTPUT

Afterwards of practical works done, the output desired is to achieve the rights of INDORAYA's employee which the employer had enlisted their employees to BPJS program. Writer will compile a new employment agreement that will grant INDORAYA's employee the rights from BPJS program and also to familiarize BPJS to the employer that can be serve as guidelines to benefit both employee and employer.

E. PROJECT MERTIS

1. To serve the purpose of comprehending the rights of an employee to be enlisted into BPJS program by their employer.
2. To serve the purpose of comprehending the obligation of employer to comply towards employee's rights for social assurance by enlisting their employees to BPJS program based on applicable constitution.
3. To serve the purpose of comprehending in depth, the cause, why employee hadn't enlisted their employees to BPJS program and efforts to prevent the recurrence of this matter.