



Political Health Law in Indonesia in Baros District, Serang District

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Abstract

Everyone has a desire that he is always in a healthy condition and that public health must get legal guarantees and protection from the government. This is also damaging to the community in Baros Village, Baro District, Serang Regency. Health insurance and legal protection obtained by the community in the form of physical and spiritual welfare, shelter or a place to take refuge, a healthy environmental life and there is no discrimination in obtaining health care and obtaining legal protection for their health. As for the formulation of the problem in research on how to protect health laws in Baros Village. In this study, researchers used the literature study method and the type of data used was secondary data. Law politics has a very strategic role. A political-law approach is needed so that the law that is enforced must always be based on national interests, then a political-law approach is needed. Likewise, in matters of health, law politics is needed so that all people can obtain protection of the right to health which is a basic right of everyone.

Keywords: *Political Law; Rights; Health; Protection*

Introduction

Everyone has a desire that he is always in a healthy condition and that public health must get legal guarantees and protection from the government. Health insurance and legal protection obtained by the community in the form of physical and spiritual welfare, shelter or a place to take refuge, a healthy environmental life and there is no discrimination in obtaining health care and obtaining legal protection for their health. Anyone would expect their right to health to be fulfilled. However, the reality shows that health funds have become increasingly expensive, making it difficult for Indonesian citizens to obtain the right to health. The SJSN Law and the BPJS Law are the juridical basis for realizing the protection of the right to health of all citizens so that their basic life needs can be fulfilled properly and fairly (Yuwinda Ardila, 2018)

Health is a basic right of the community which fulfillment must be prioritized compared to other rights. Because health is a basic right, the government has an obligation to implement and uphold this right. This is a form of government responsibility to its citizens for health services without discrimination. However, the right to health is a fundamental right contained in the Indonesian constitution. The implementation of the right to health is a legal right that must receive protection. The government must

actually fulfill the right to health of its people. Denial of realizing the right to people's health is an act that violates the 1945 Constitution of the Republic of Indonesia. This is because the right to health is a basic right for all people as stipulated in the 1945 Constitution of the Republic of Indonesia. (Majda El Muhtaj, 2008). Strictly speaking, health is a fundamental right of every human being. Meanwhile, the government is obliged to realize the interests of the people so that their right to a healthy life can be fulfilled. (Sri Isriawaty Fheriyal, 2015)

The government has the responsibility to fulfill the basic right to health. The state as the bearer of the obligations must provide confirmation. First, the state must fulfill its obligations domestically and abroad, while individuals and groups of people are the parties who hold the rights. Second, the state does not have the authority, but the state is responsible for fulfilling the rights of its people, both personal and community, which is a guarantee of international human rights. Third, if a country does not carry out its responsibilities and obligations, the state has violated human rights or international law. If the actions that violate what is intended are not carried out by the government of a country, then the burden of bearing the actions will be taken over by the international community (Firdaus, 2016)

In order to meet the health needs of citizens or the community, the government must take action independently or by establishing cooperative relations with other countries. The basic right to fulfillment of health is part of pluralism in national law and cannot be separated from the rules of international law. Actions taken by the government to realize the provision of basic health rights by using the National Health Insurance program. Fulfillment of basic health rights for citizens without discrimination between citizens of one country and another.

Each individual has the basic right to health without discrimination and has the convenience of joining the health sector and obtaining health services that are unhindered, high quality and easy. Likewise, on the other hand, each individual must participate in a health program established by the government in the form of health insurance. The government is trying to protect the people by creating a model of national social security in the health sector to improve the quality of health of the Indonesian people who continue to lag behind ASEAN member countries. The factor causing the country's backwardness is due to low access to health care. This condition is experienced by the poor who do not have social security in the health sector. (E. Suharto, 2009)

The legal system in Indonesia has a very large influence in the development of health law politics. Every citizen has the right to live a healthy life. Politics and health law are closely related. In determining health policy, it cannot be separated from the existence of a political approach and coercion that must be obeyed by all Indonesian citizens. Policies without coercion of course will not be obeyed and carried out by the community. The policies taken by the government in the health sector are political because the quality of health is.

Literature Review

The Politics of Health Law in Indonesia in terms of Health Services

The presence of law is necessary for the people to organize the life of the state. Organizing various interests of a legal product is important so that interests do not collide. Organizing aims to limit and protect various interests. Enforcement of the law aims to protect the interests of everyone by providing the power to act to achieve their interests. Power must operate in a measured manner. Therefore, not every power is known as a right, but only a limited power, namely the power that is delegated by law to certain individuals. (Satjipto Raharjo, 2012)

Every country has an interest in preventing various forms of threats that arise from within the country and outside the country. Efforts to protect the interests of the state from various threats that arise from within the state and outside the state are the obligations of every state which is universal. It is

imperative for a country to enforce its sovereignty based on applicable regulations, for example how a country saves its territory, protects its people, and maintains its wealth. Every country must have a constitution that regulates the rights, obligations, duties, powers and responsibilities of the state, and the responsibility of the people to save their country (Romli Atmasasmita, 2000).

Observing this matter, law politics plays a very strategic role. A legal political approach is needed so that the law that is enforced is always based on the national interest. National interests do not mean narrow, but national interests in the global world arena. The Indonesian government must take various strategic steps in the formation of national laws with economic benefits that are not felt by other nations, but are felt by the nation itself. For this reason, the government needs to carry out a legal political orientation by paying attention to the formation of laws that prioritize national interests (Zulfi Diane Zaini, 2012).

The political configuration and character of Indonesian legal products experienced ups and downs. During the New Order era, the government acting authoritatively had laid the foundation for development aimed at Indonesia's economic progress. However, due to the monetary crisis that rocked the world economy in 1997, it resulted in the fall of the authoritarian regime and the collapse of the New Order model. During the Reformation Order, the Government acted democratically and provided room for changes to the Indonesian constitution. The 1945 Constitution of the Republic of Indonesia was amended four times. The amendments to the constitution were followed by improvements in various regulations and other policies. The formation of laws relating to the economic and natural resource sectors tends to lead to privatization. This situation is due to the Washington Consensus which contains the stipulations that a safe economic working capacity needs to follow free trade, macro stability and price policies. This consensus triggers the implementation of the market mechanism (Winarno Yudho, et al, 2005)

In order to reach citizens who always live free from disease as a form of protection for their citizens, the government makes regulations on health services.

Health services are divided into 3, namely, Primary Health Care, Secondary Health Care, Third Level Health Services (Tertiary health care).

1. First Level Health Services (Primary health care)

Services that prioritize basic services and are carried out with the community and driven by:

- a. General Practitioner (Medical Personnel)
- b. Nurse Mantri (Paramedic Personnel)

Primary health care (Primary health care), or public health services, is the first health service that is needed by the community when they experience a health problem or accident. Primary health care is primarily shown to people who mostly live in rural areas, as well as people with low income in urban areas. Health services are in nature outpatient treatment (Ambulatory Services)

2. Secondary health care

Services that are more specialist in nature and sometimes even subspecialty services, but are still limited. Secondary and tertiary health care, is a hospital where people need further treatment (referral). In Indonesia, there are various levels of hospitals, from type D hospitals to class a hospital.

Health services are provided by:

- a. Medical specialist
- b. Limited subspecialty doctors

Health services are in nature outpatient services or inpatient services.

3. Third Level Health Services (Tertiary health care)

Health services that prioritize subspecialty services and broad subspecialty services.

Health services are provided by:

- a. Subspecialty Doctor
- b. Broad Subspecialty Doctor

Health services are either outpatient services or inpatient services (rehabilitation).

In principle, public health services prioritize promotive and preventive health services. Promotional services are efforts to improve public health in a better direction and prevent people from falling ill in order to avoid illness.

Therefore, public health services are not only focused on the treatment of individuals who are sick, but what is more important is prevention (preventive) and health promotion (promotive) efforts. Thus, the form of health services is not only the puskesmas or balikesma, but also other forms of activity, both those which directly address health improvement and disease prevention, as well as those which indirectly affect health improvement.

Utilization of Health Services

In principle, there are two categories of health services: (1) the public (community) oriented category and (2) the individual (private) oriented category. Health services included in the public category consist of sanitation, immunization, water hygiene and air quality protection. Public health services are directed towards the public rather than towards specific individuals. On the other hand, private health services are directed towards individuals.

Provisions regarding health services for BPJS Health participants are regulated in Articles 47 to 73 of the Regulation of the Health Social Security Administering Body Number 1 of 2014 concerning the Implementation of Health Insurance. In addition, BPJS Kesehatan in running the national health insurance program is expected to provide national health insurance (JKN) benefits to BPJS Kesehatan participants.

The national health insurance benefits (JKN) of BPJS Kesehatan include:

- a. First level health services, namely non-specialized health services including:
 - 1) Service administration;
 - 2) Promotional and preventive services; Medical examination, treatment and consultation;
 - 3) Non-specialized medical action, both operational and non-operative;
 - 4) Medicinal services and consumable medical materials;
 - 5) Transfusion according to medical needs;
 - 6) examination to support the first level laboratory diagnosis;
 - 7) First degree hospitalization as indicated.
- b. Advanced level referral health services, namely health services including:
 - 1) Outpatient, including:
 - a) Service administration;

- b) Examination, treatment and specialist consultation by specialist doctors and sub specialists;
 - c) Specialized medical measures in accordance with medical indications;
 - d) Medicinal services and consumable medical materials;
 - e) Implant medical device services;
 - f) Further diagnostic support services in accordance with medical indications;
 - g) Medical rehabilitation;
 - h) Blood services;
 - i) Forensic medical services;
 - j) Services for the corpse in health facilitation.
- 2) Hospitalization which includes:
- a) Non intensive inpatient care;
 - b) Intensive room treatment;
 - c) Other health services as determined by the Minister

As with most medications, health care is aimed directly at the individual user (individual customer). Anderson and Newman (1973) equate 3 dimensions of primary importance in the measurement and determination of health services, namely type, purpose or purpose, and unit of analysis.

a. Type

Type is used to separate various health services from one another. Anderson and Newman show that there are different long-term and short-term trends for different types of services (such as hospital, dentist, home care, etc.). They also point out research findings that individual determinants vary somewhat greatly for the use of different types of health care. Since these two factors (tend to be and their determinants are different) it makes sense that one major component in the health care setting should be the type of health service used.

b. Purpose

Here they submitted 4 differences of care: I primary, II secondary, III tertiary, and IV custodial. Treatment I is associated with preventive care. Treatment II is associated with remedial care (return of the individual to its original level of functionality). Treatment III is associated with stability of the conditions concerned with long-term disease. IV care is associated solely with the personal needs of the patient and is not associated with treatment of the disease.

c. Unit of Analysis

The unit of analysis is the 3rd dimension in the framework of Anderson and Newman which supports 3 differences between the units of analysis, namely: contact, volume, episode.

The main reason for this difference is that individual characteristics may be responsible for a number of episodes, whereas characteristics of the liberation system (particularly in physicians) may be primarily responsible for the number of consequences of contact visits as a result of each episode of disease. . Thus, since the number of contacts, episodes, and the volume of service used are determined by different factors, the measurement of health service use will make a difference between different health service units.

Health development aims to increase awareness, willingness and ability to live a healthy life for everyone so that the highest public health status can be realized. In Indonesia this is in line with the direction of the Long-Term Health Development Plan / RPKJMN (2005-2024) which emphasizes the direction of health development towards a more promotive and preventive balance with curative and rehabilitative efforts, with a vision for an independent community to live healthy.

According to Hendrik L. Blum, the improvement of the quality of public health is influenced by the environment, behavior, health services and heredity. Environment and behavior play the biggest role in improving the quality of public health status. The influence of the environment is not only the physical environment but also non-physical ones such as social, cultural, economic, and political.

Research Methods

The type of research used in this research is juridical normative, namely an approach that uses a legal positivist conception. This concept views the law as synonymous with written norms made and promulgated by authorized officials. This concept also views law as a normative system that is autonomous and independent from the daily life of society (Soekanto, 1985: 9).

Research Results and Discussion

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In order to provide optimal health care for the country, the quality of health care must be improved. This, too, is the desire of residents in Baros Village, Baros District, Serang Regency. Where they hope that when they seek treatment they will get the best possible service without any differences.

However, the right to health is a fundamental right contained in the Indonesian constitution. The implementation of the right to health is a legal right that must receive protection. The government must actually fulfill the right to health of its people. Denial of realizing the right to people's health is an act that violates the 1945 Constitution of the Republic of Indonesia because the right to health is a basic right for all people as stipulated in the 1945 Constitution of the Republic of Indonesia. (Majda El Muhtaj, 2008). Strictly speaking, health is a fundamental right of every human being. Meanwhile, the government is obliged to realize the interests of the people so that their right to a healthy life can be fulfilled. (Sri Isriawaty Fheriyal, 2015)

The right to health is a human right and therefore the State is obliged to guarantee its fulfillment. The Indonesian government, in an effort to fulfill the right to health, has built a national health insurance system. Therefore, the right to health should be respected and implemented by the state as one of the fundamental rights (fundamental). The state's obligation to provide protection for the rights to health of all citizens is in line with what is stated by WHO, namely the state in this case the government has responsibility for the health of its citizens. According to WHO, "government has a responsibility for the

health of their people which can be fulfilled only by the provision of adequate health and social measures".

Provisions regarding the right to health subsequently developed into second generation human rights, namely marked by the stipulation of International Covenant on Economic, Social, and Cultural Rights and International Covenant on Civil and Political Rights. In the Universal Declaration of Human Rights (1948), representatives of various countries agreed to support the rights contained in it "as a common standard of achievement for all peoples and all nations". Then in 1976, the International Covenant on Economic, Social, and Cultural Rights and International Covenant on Civil and Political Rights was approved by the UN General Assembly and declared in effect. (Satya Arinanto, 2005)

Thus the state has an obligation to take steps, individually or through international assistance and cooperation, in order to realize the fulfillment of the right to health. In that sense, it can be said that the conception of the right to health is part of the diversity of the national legal system that refers to or follows international legal principles concerning human rights (Sunaryati Hartono, 2015). It must be realized that human life and freedom will become meaningless if their health is not taken care of. Therefore, health is a human rights issue, in this case the right to an optimal health degree, with the consequence that every human being has the right to an optimal health status and the state is obliged to fulfill this right (Tinton Slamet Kurnia, 2007).

Health is a crucial issue that every country must face because it correlates directly with the development of the personal integrity of each individual so that they can live with dignity (health, together with the level of education and purchasing power of the community, is a component of assessing the achievements of the Human Development Index of countries in the world).

Philosophically, health as the right of every human being, and the state's obligation to fulfill that right, especially in situations where not everyone has the same opportunity to enjoy their rights, is an issue of justice. Due to the close relationship between the issues of health, justice and human rights, the function of the law automatically becomes very pivotal. The task of the state according to today's modern understanding (in a Social Service State) is to carry out the public interest to provide as much prosperity and welfare as possible. -the amount is based on justice in a rule of law.²⁷ In this case the goal of the state (staatswill) shows what the ideal wants to achieve by the state, while the function of the state is the implementation of that ideal goal in concrete reality (Hendra Nutjahjo, 2005).

The basic philosophy of guaranteeing health rights as human rights is the *raison d'être* of human dignity (Majda El Muhtaj, 2009), where public health is the building block of a nation. The degree and dignity of a nation will be measured by the extent to which the social role is played. The low quality of health will have a negative impact on the running of the government. This awareness is a form of commitment of all nation states. Based on this, the state should carry out its functions in realizing the right to health, including the obligation of conduct and obligation of result which are part of the implementation of economic, social and cultural rights.

The government is trying to protect the people by creating a model of national social security in the health sector to improve the quality of health of the Indonesian people who continue to lag behind ASEAN member countries. The factor causing the country's backwardness is due to low access to health care. This condition is experienced by the poor who do not have social security in the health sector. The government is trying to protect the people by creating a national social security model in the health sector to improve the quality of health for the Indonesian people who continue to lag behind ASEAN member countries. health. This condition is experienced by the poor who do not have social security in the health sector. (E. Suharto, 2009)

Government policies to develop a social protection system should be based on laws and regulations that are directed at the social protection system. The National Social Security System Law has formulated a coordinated and integrated social security model scheme. The National Social Security

System Law has a prominent characteristic that every Indonesian citizen is obliged to become a participant and provide contribution assistance to everyone who is poor or less fortunate. Even though the poor who are unable to pay their dues will still get social security because the government provides subsidies for the poor.

This scheme could cause problems when poor people who are unable to pay their dues, it turns out that the government does not have data on the poor who must be given subsidies. In the National Social Security System Law, there is a concept of withdrawing mandatory contributions every month to all citizens, both wealthy and well-off people. the lack thereof. Article 17 paragraph (1) of the Law on the National Social Security System states, "Each participant is obliged to pay a contribution based on a percentage of wages for a certain nominal amount." This withdrawal is a form of transferring state responsibility to the people regarding national health insurance. The withdrawal of mandatory contributions is a wrong concept. First, the withdrawal of mandatory contributions has relinquished the role and responsibility of the state in the health sector. Second, the withdrawal of mandatory contributions has forced people to become health insurance participants.

Observing this matter, law politics plays a very strategic role. A legal political approach is needed so that the law that is enforced is always based on the national interest. National interests do not mean narrow, but national interests in the global world arena. The Indonesian government must take various strategic steps in the formation of national laws with economic benefits that are not felt by other nations, but are felt by the nation itself. For this reason, the government needs to carry out a legal political orientation by paying attention to the formation of laws that prioritize national interests (Zulfi Diane Zaini, 2012).

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Conclusion

Politics and health law are closely related. In determining health policy, it cannot be separated from the existence of a political approach and coercion which must be obeyed by all Indonesian citizens. Policies without coercion of course will not be obeyed and carried out by the community. The policies taken by the government in the health sector are political because the quality of health is a policy that must be implemented in accordance with political interests and still pay attention to human rights, especially in terms of public health (public health). health law) which prioritizes providing health services to citizens.

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