

Protection of Informal Workers as Participants Through the Magelang Regional Social Security System

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ABSTRACT

The purpose of this study is to review the rights of workers to obtain protection, including informal workers, as mandated in Article 3 paragraph (2) of Law Number 32 of 1992 concerning Labor Social Security that every worker has the right to social security of workers. The hazard risk from the work environment owned by informal workers is the same as that of formal workers. So far, the occupational health services provided are still curative, while health care and improvement efforts to improve work and preventive capacity are always neglected. This study uses a juridical empirical research method with a descriptive approach; data collection is done through questionnaires. The research sample includes workers in the home or micro industries both in the Regency and in the City of Magelang. Samples are collected using a nonprobability sampling method, then analyzed using qualitative analysis with inductive methods. Based on the results of the study, the understanding of the SJSN by both employers and informal sector workers is insufficient, but the majority of respondents have a desire to join the SJSN program, with the priority of health insurance and work accident insurance programs. The ability and willingness to become a BPJS participant are influenced by the level of income, and level of education. Current informal sector workers have not been covered by guaranteed protection, both BPJS Kesehatan, and BPJS. The main factor is the non-participation of casual workers in the guarantee of protection due to financial inability to pay contributions. Besides that, it was also because of his ignorance, even though it was not significant. This is due to a lack of socialization from stakeholders regarding the importance of health and safety guarantees and protection for workers and their families in addition to regulations that also do not accommodate informal workers.

Keywords: *Informal workers, BPJS, Protection*

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1. INTRODUCTION

Every worker has the right to obtain protection, including informal workers. As mandated in Article 3 paragraph (2) of Law Number 32 of 1992 concerning Labor Social Security that every worker has the right to social security of workers. Informal workers have a risk of danger from the same working environment as formal workers. Therefore, informal workers also have the same rights to be protected through the Social Security program. They have the right to be protected from work risks, such as death, accident, illness and compensation in entering old age.

Informal workers are workers in the business sector of the informal economy or workers who carry out work outside the employment relationship (TK LHK) who carry out economic activities without the assistance of others (self-employed without labor/workers). This LHK Kindergarten on the

concept of social security organized by the Social Security Organizing Agency (BPJS) is referred to as Non-Recipient Wages (BPU). TK LHK generally conducts business in the informal economy with characteristics including micro scale with small capital, using simple/low technology, producing goods and/or services with relatively low quality, non-permanent business premises, very high labor mobility, business continuity is not guaranteed, irregular working hours, productivity levels and income are relatively low and not fixed.

Sricharoen (2013) states that informal workers are groups of workers who are intangible (present but not visible), so they are often mistreated. They have volatile income, lack of social security, and labor protection; often ignoring applicable laws, regulations and taxes, not protected by labor laws; most do not receive minimum wages; always be in uncertain conditions such as product marketing, production processes, and work plans; unable to access social security such as cases of death, disability, sickness, maternity, old age and unemployment; less able to develop skills, access revolving funds, and obtain appropriate health services; no organization, no agent, and no bargaining power. Also, they do not understand their rights as workers; and have health problems and unsafe working conditions due to lack of knowledge and understanding of occupational health and safety, including the risk of an unsafe work environment. Thus, most workers have a high risk of accidents at work. Generally, urban informal sector workers are migrants from other villages or regions. The motivation of workers is to get enough income to survive (survival). They live in slums, where public services such as electricity, clean water, transportation, health, and education are very minimal (BPPN, 2009).

So the concept of informal workers is focused on economic, social and cultural aspects. Economic aspects include the use of capital and low income, and the scale of business is relatively small. Social aspects include low levels of formal education, originating from weak economic circles, and generally from migrants. Cultural aspects include the tendency to operate outside the regulatory system, use simple technology, and not be bound by work time. Thus, the informal sector focuses more on a dynamic and complex process of earning income (BPPN, 2009).

Law No. 32 of 1992 has not been able to provide optimal social protection to informal workers. Social protection for informal workers in Indonesia began in 2006 with the enactment of Law Number 40 of 2004 concerning the Social Security System. Based on Law No. 40 of 2004, the government is obliged to provide overall social security and develop the implementation of the Social Security System for the entire community. The types of social security programs that are required include health insurance, work accident insurance, old age insurance, pension benefits, and life insurance. It is expected that the stipulation of Law No. 40 of 2004 can synchronize the implementation of various forms of social security carried out by several organizers in order to reach more full participation and provide more significant benefits for participants, besides that it also becomes a legal umbrella for the implementation of social security in Indonesia, considering that the process of forming and discussing the law has involved various elements of society.

But in its development it turned out that the implementation of Law Number 40 Year 2004 was not implemented effectively, so that the implementation of existing Social Security continued to develop on its own, without feeling that there was someone who "overshadowed" (Suryandono, 2011). This is partly due to the concept of Social Insurance that is not well known to the public because of lack of socialization. Also supporting legal devices are still minimal. Informal workers are categorized as labor outside the employment relationship (TK-LHK), so they become voluntary participants with a maximum age limit of 55 years. The legal basis of the LHK TK program refers to Ministerial Regulation Number 24 / MEN \ / IV \ / 2006 concerning Guidelines for Implementing the Social Security Program for Workers Outside of Employment Relations. As a result, informal workers are less touched, so that social protection for them cannot be optimized.

To overcome these problems, Law Number 24 of 2011 concerning the National Social Security System was subsequently established. The formal legal source for the establishment of this Law is Law Number 40 of 2004 concerning the Social Security System, which explains that a Social Security Organizing Body must be established with a law which is the transformation of the four State-Owned Enterprises namely Social Security, Taspen, Asabri, and Askes (Article 5 paragraph (1) and Article 52). The purpose of establishing Law Number 24 of 2011 concerning the Social Security Organizing Agency is to accelerate the implementation of a national social security system for all Indonesian people.

However, Law Number 24 the Year 2011 also seems unable to optimize social protection for informal workers. Several studies have shown this, such as a study conducted by Permana et al., Which stated that participants in the Social Security Workforce only reached 11.04% of all active workers in the Gianyar Regency area. This is caused by several factors, both from legal factors, law enforcement factors, facilities and infrastructure factors, and community behavior factors.

Research by Jamaludin (2017) concluded that the Social Security Organizing Agency Act (BPJS) was not by the mandate of the 1945 Constitution of the Republic of Indonesia. Article 28H paragraph (3) of the 1945 Constitution states that everyone has the right to social security while the Act on Social Security Organizing Agency Article 1 paragraph (8) explains that workers are everyone who works by receiving salaries, wages, or other forms of compensation. This definition is contrary to the conditions of informal workers, because they are workers who are self-employed and are outside the employment relationship, so they do not receive wages or other forms of compensation. The Law on Social Security Administrators is also not by Law Number 3 of 1992 concerning Workers' Social Security related to social security for informal workers.

The survey of Ramadhana and Amir (2012) on MSME actors stated that both workers, employers and self-employed knowledge about the National Social Security System (SJSN) were still minimal. However, they have high enthusiasm for joining the SJSN program, with the priority of health insurance programs and work accident insurance. The ability and willingness to participate in the Social Security Organizing Body are significantly influenced by income level, education level, and level of knowledge of the Social Security Organizing Body Program (previous participation in social security programs).

Based on these previous studies, research will also be carried out on informal workers grouped into home industry or micro industry workers. In the Magelang region which includes cities and districts, the number of workers in the field is quite large. The number of workers in the home or micro industries in Magelang City in 2017 reached 13,804 people consisting of 6,250 micro business units, 404 small businesses, and 16 medium businesses. Then in Magelang Regency, the number of micro or small industrial workers was in 2015, namely 71,657 people; which is 2016 the number of small businesses was 39,548, and medium enterprises amounted to 123 units (BPS, 2018).

The results of the study are expected to provide an overview of the understanding of home and micro industrial workers and their participation in BPJS. **Furthermore**, it can be used as a consideration for the Government regarding the implementation of Law Number 24 the Year 2011 for informal workers.

2. RESEARCH METHOD

This study uses a juridical empirical research method with a descriptive approach to providing an overview of the understanding of informal workers, especially from the home industry or micro sector to the Social Security Organizing Agency. Data collection is done through questionnaires. Before filling out the questionnaire, limited discussions were held with stakeholders to get an initial picture of the program, the informal sector, and the involvement of the informal sector in the ongoing social security program, as well as the design of the upcoming Social Security Organizing Agency program.

The study sample numbered 59 people for Magelang District and 50 for Magelang City as questionnaire sampling, covering workers in home or micro industries both in Magelang District and in Magelang City such as children's toys, batik, handicrafts, and food preparations spread in 3 sub-districts namely the Districts of South Magelang, Central Magelang, and North Magelang. The location for distributing questionnaires was chosen based on the number of sub-districts in Magelang so that the sampling was evenly distributed. Samples are collected using a nonprobability sampling method.

3. RESULT AND DISCUSSION

3.1. Respondent's Profile

a. Respondents in Regency of Magelang.

The survey was conducted on groups of workers in the craft, wood, bamboo and stone industries. The reason is that these workers are in a work environment that is at high risk of the incidence of workplace accidents. The number of respondents who filled out the questionnaire was 59 people, all of them were men, 76 percent were aged between 30-52 years, the status of marriage was 85 percent, and the highest level of education was an elementary school (36.8 percent).

b. Respondents in the City of Magelang.

The total number of respondents surveyed in the city of Magelang was 50 people. The survey conducted on child toy workers made of wood who have a high risk of the incidence of workplace accidents, amounting to 15 people, all workforce men who are aged between 30-65 years. The working period is 6-25 years, working hours per day 8 hours (53.3 percent), all are married, and 50 percent have smoking habits. The remaining amount is respondents who work on handicrafts, batik and processed foods. All respondents have never experienced high-risk illness. Commonly suffered influenza diseases or according to them are colds, but there are also those who have experienced gastric acid pain, and suffer from thypus. Only 3 people out of 15 people who worked on toys for children who had experienced work accidents were scratched saws, pegs, and pegs. When experiencing illness or work accidents, respondents generally go to the doctor (46.7 percent), go to the puskesmas and massage / kerik 20 percent each, and take over 13.3 percent of the over-the-counter drugs. If you go to a doctor or health center, then those who claim to use their own costs are 33.3 percent and those who do not pay because they have insurance as much as 66.7 percent.

3.2. Respondent's Opinion on Insurance

Table 1. Percentage of Respondent Data

| No | Region | Percentage | Information | Insurance Type |
|----|---------------------|------------|---------------------------|------------------|
| 1 | Regency of Magelang | 52,38% | Do not have yet Insurance | Health Insurance |
| | | 19% | Have Insurance | |
| | | 66,7% | Need Insurance | |
| | | 60 % | Have KIS | |
| 2 | City of Magelang | 26,7% | Have BPJS | |
| | | 3 % | Do not have yet Insurance | |

3.2.1. Respondents in Magelang Regency

1. Of the total number of respondents in Magelang Regency who participated in insurance not on their own initiative of 23.8 percent, but from the persuasion of friends. However, 66.7 percent of respondents stated that health insurance was needed.

2. Percentage of Respondents who earn between IDR 1,500,000 – IDR 2,000,000 per month, 42.8 percent. However, the number of respondents who stated that the expenditure per month was between IDR 2,000,000 and IDR 3,000,000. as much as 14.3 percent. The amount of income will affect respondents in participating in insurance (28.7 percent), so that they have problems in following health insurance.
3. A total of 38 percent of respondents who said they did not know about health facilities that could be obtained. Those who have participated in insurance stated that they did not have difficulties in claiming process (14.3 percent), so they were satisfied with health insurance services. So respondents feel confident about the health insurance they have chosen at this time.

3.2.2. Respondents in the City of Magelang

1. They have insurance so that their health costs are guaranteed and only 1 person states this because they are civil servants. Respondents who did not attend insurance argued that they did not know the procedure for submission, expensive fees, and considered insurance identical to usury.
2. Many as 73.3 percent of respondents stated that they knew the benefits of being a health insurance participant, so that their lives would be calm because there had been a guarantee of health costs when experiencing illness. Respondents who know the benefits of social security as much as 53 percent, the reason is for old age insurance, assume that labor is a company asset, and provide convenience for treatment.
3. For those who have participated in health insurance, they also want to be a participant in employment insurance, which is 26.7 percent, those who have not participated in insurance want to take health insurance as much as 20 percent, while those who want sharia insurance are 6.7 percent, and those who wish Unpaid or free as much as 13.3 percent

Insurance's participation in Magelang City and Regency is different. In the city of Magelang, most of the respondents had attended insurance, especially the Indonesia Healthy Card (KIS). While in Magelang Regency, most of the respondents did not take insurance. The Magelang City Government has indeed programmed that every citizen must take part in insurance, especially health insurance. Starting January 1, 2018, as many as 18,000 residents have been registered with JKN-KIS which is an integration of Jamkesda, including household or micro business actors. Until 2018, the number of JKN-KIS participants in Magelang City has reached 84.57 percent.

Indonesia Healthy Card (KIS) is the development of a BPJS Health membership card that is accompanied by several changes such as additional service coverage and expansion of usage areas, as well as several other changes. This KIS is given to new BPJS participants. The aim of the establishment of KIS was initially to accommodate marginalized people or referred to as Disadvantages of Social Welfare Problems (PMKS) such as homeless people. Identity limitations such as KTP and family card will not be a problem in KIS registration, because they will be registered automatically through data from the social service.

Based on Law Number 32 of 1992 on Workers' Social Security, every workforce has the right to social security of workers. Social security is intended, including Health Insurance, Work Accident Guarantee, Death Guarantee, Pension Guarantee, and Old Age Guarantee. The coverage of the social security participation of the workforce is every workforce, both those who do work inside and outside the working relationship. Workers outside the working relationship (TK-LHK) here generally make efforts in the informal economy, with characteristics including micro scale, using simple technology, producing low-quality products, non-permanent place of business, very high mobility, business

continuity is not guaranteed, irregular working hours and relatively low or irregular levels of productivity and income (Minister of Manpower Regulation Number PER-24 / MEN / VI / 2006). Until now, a new program of protection for workers is effective for workers who work in work relationships. While workers outside the working relationship, who still dominate the Indonesian workforce, still do not have adequate and sustainable health protection guarantees.

The Minister of Manpower Regulation Number PER-24 / MEN / VI / 2006 which is referred to as informal workers are those who are characterized as mentioned in the Minister of Manpower and Transmigration, the workers who work in home industries and micro businesses in this study are included as information workers. This was proven when researchers interviewed respondents (employers) in the batik craft industry, namely Kelik / batik "Soemirah", Siti Rohani / batik "Si Hani", Poppy/batik "Sekar Batik" (interview dated January 30, 2018), that working hours start at 8:00 a.m. to 4:00 p.m., but it is not uncommon for workers/batik makers to bring home batik work (done in their homes), so that the working hours can be said to be uncertain. This also affects the wages/salaries received, which are adjusted to the results of work completed, and payment of fees is not received every month but performing / every job is done, although there is also another batik (only specific) that are done on site work according to predetermined working hours.

Based on the results of the study it can be understood that micro entrepreneurs or home industries both employers and workers that knowledge of the SJSN is still not accommodating. However, the majority of respondents have high enthusiasm for joining the SJSN program, with the priority of health insurance and work accident insurance programs, while the other three programs, namely the old-age insurance program, pension plans, and guaranteed death are not the top priority. The ability to pay contributions (premiums) in the participation of the SJSN program of the respondents was varied. The group of independent workers (home industry) can pay contributions relatively lower when compared to the group of employers, which is relatively diverse for the five types of guarantee programs. There are groups of workers who pay premiums (premiums), only able to provide contributions for two types of programs, namely the health insurance program, and work accident insurance programs, so the ability to participate in contributing / contributions is still low. This is because there are still many who feel unable to pay premiums (premiums), most of the respondents are willing to contribute to the lowest level. This is because their income is only enough to meet their daily needs, namely that the monthly income of respondents is around IDR 1,500,000 up to IDR 2,000,000 (one million five hundred thousand rupiahs up to two million rupiahs), although there are also those who earn above two million to five million rupiahs.

Some respondents stated that they had attended and had health insurance. But what they mean is the Indonesia Healthy Card (KIS) / Jamkesda. So, for now, they only rely on the Healthy Indonesia Card (KIS) / Jamkesda. This can be seen from the enthusiasm of respondents who have health insurance / KIS, which is as much as 48%, while those who do not have health insurance / KIS as much as 52%.

The ability and willingness to be a participant in the Social Security Organizing Agency (BPJS) are not only significantly affected by income levels, but also because of the level of education, and the level of knowledge of the BPJS program (previous participation in social security programs). The education level of respondents in this study consisted of employers and workers, in the micro business sector they had an average of high school (39%), and those with tertiary education (13%), the rest consisted of elementary schools : (42.8%), and SMP (5.2%). For those whose level of education at the Higher Education level is not all respondents do not understand, but there is a lack of awareness of the importance of health insurance coverage (BPJS).

Lack of understanding and knowledge of the National Social Security System, especially the Labor Social Security Organizing Agency according to Erika Anggreny, Marketing Section of the

Magelang Social Security Agency, (interview dated 26 April 2018), because they do not understand labor protection, due to a lack of socialization about the SJSN both employers and informal sector workers. In addition, according to Erika, the participation of informal workers in BPJS Employment is still low because there is no legal basis for informal workers, also because their income is uncertain.

If it is understood in Act No. 40 of 2004 concerning the SJSN which is a mandate of the 1945 Constitution, that social security, one of which is health protection for informal workers, is an obligation for employers, so that it can be understood that legal health protection is the right of every workforce, including informal workers. The absence of this is caused by in addition to the uncertainty of the employer's indifference, in addition to the inability to pay contributions (premiums). It implies that contributions (premiums) are paid by workers and employers. So that with the enactment of Law No. 40 of 2004 it has been clearly stated that every Indonesian citizen has the right to social security which is a basic necessity of life. Therefore, it cannot deny the absence of a legal umbrella for informal workers.

In some micro-enterprises, employers have already included their employees in a special protection program, namely BPJS Kesehatan ("Soemirah" and "Sekar Batik" batik craftsmen), but with time the business conditions are less stable, it has not been resumed. At present, until this research is carried out the employer has never provided a guarantee of protection in the program both the Health Social Security Organizing Agency and the Workers' Social Security Organizing Agency. Meanwhile, there is a desire and even a necessity from the respondents (informal workers) there will be a guarantee of protection (insurance), especially health insurance. This was stated by 63% of respondents.

Based on this, the design of the SJSN program should be arranged so that it can accommodate some conditions that specifically characterize micro-enterprises and home industries so that their participation that is required by law can be implemented optimally. Therefore, the contribution collection preferences (premiums) can be as easy and varied as possible, for example about the number of premiums (premiums) adjusted to the capabilities of both the employer and informal sector workers, as well as easy and affordable alternative payment methods. Because the guarantee of protection in the form of Health BPJS and BPJS Employment for informal workers is a necessity, no longer an option. Therefore there is a need for harmonization and coordination among stakeholders, including with employers (for informal workers). Meanwhile, Law No. 24 of 2011 concerning the Social Security Organizing Agency (BPJS), is an Act to comply with legislation concerning the National Social Security System, which was formed to organize social security programs in Indonesia, which is a necessity that must be owned by every workforce, including informal workers. This was also stated by the respondents, namely 63%.

4. CONCLUSION

Based on the analysis and discussion described above, it can be concluded that one of the efforts to create a democratic regional head election requires the right formulation of legislation. If a regional head re-nominates the next period as the incumbent, the head of the region must take leave. The leave taken is for 6 (six) months. Minister of Home Affairs Regulation No. 74 of 2016 concerning Leave in the State and National Election Commission Regulation No. 15 of 2017 stipulates that regional head candidates must state the ability to write a statement including being able to take leave outside the state's expense is an example of further concrete regulations governing incumbent leave which is derived from Law Number 10 of 2016. If viewed from a legal perspective, the establishment of regulations regarding incumbent leave and leave of absence from the state can be concluded by concluding that the regulation regarding incumbent leave is a responsive legal product, where the legal product reflects a sense of justice, fulfilling people's expectations and being aspirational. Therefore, the clause regarding the obligation to leave a regional head who re-nominated in the next period is the right thing, as a reflection

of the holding of elections that are democratic, balanced and impartial. It is necessary to disseminate information on the SJSN program, considering that there is still very little knowledge of MSME practitioners on the SJSN program, both regarding benefits for welfare protection and the procedures for its management. In line with their increasing understanding of the SJSN program, it is hoped that it can facilitate the success of the SJSN program for the protection of occupational health and safety for informal workers and their families.

The need for the design of the SJSN program, which is the SJSN program, should be designed to accommodate some conditions that specifically characterize micro-businesses or household businesses so that the participation of those who are required according to the law can be implemented optimally. Therefore the collection of premiums/premiums should be as easy and varied as possible, for example, related to the number of contributions/premiums adjusted to the ability of both employers and informal sector workers, as well as easy and affordable alternative payment methods.

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REGULATION

Law Number 40 of 2004 on the National Social Security System

Law Number 24 of 2011 on the Social Security Organizing Agency