

# ***RATIO LEGIS* OF NORMS ON THE REGULATION OF NATIONAL HEALTH INSURANCE IN THE LAW OF REPUBLIC OF INDONESIA NUMBER 40/2004 CONCERNING NATIONAL SOCIAL SECURITY**

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## ***Abstract***

*The objective in the enactment of the Law of the Republic of Indonesia Number 40 of 2004 concerning National Social Security System is that everyone has the rights to get social security in order to be able to fulfill proper basic needs for their life and increase their dignity towards the realization of a prosperous, fair and wealthy Indonesian society that appropriate and fulfills the sense of justice in accordance with the mandate of the Constitution of the Republic of Indonesia. This paper analyzes the objectives in the enactment of the Law on National Social Security System of the Republic of Indonesia. The argument in this paper explains that the purpose in the implementation of Health Insurance, which is part of social security, is to achieve Universal Health Coverage for all Indonesian citizens so that all citizens can easily access health services. However, until now this has not been achieved, and some articles in the Law of the Republic of Indonesia Number 40 of 2004 concerning National Social Security System are contradicting to Article 28 H Paragraph (2) and Article 34 Paragraph (3) of the 1945 Constitution of the Republic of Indonesia.*

**Keywords:** *Social Security, Health insurance, Universal Health Coverage.*

**JEL Classification:** K32

## **1. Background**

The right of every human being to be healthy, for the first time was stipulated in the Constitution of the World Health Organization (World Health Organization) in 1946.<sup>5</sup> As the authority of the world health organization that is within the scope of the United Nations (UN), the organization has paid special attention in the implementation of health services and has made a series of basic rules. In the basic rules of the WHO there are human rights enshrined in the principles which state that the right to health is the right of every human being regardless of race, religion, political beliefs and socio-economic conditions. This principle defines health as a complete state of physical, mental and social well-being and not only due to the absence of disease or the occurrence of disability. This definition by WHO is indeed revolutionary and has become a reference for various countries.<sup>6</sup> This is in line with the definition contained in the Law of the Republic of Indonesia Number 36 of 2009 concerning Health in Article 1 Paragraph 1 which reads "Health is a state of health, whether physically, mentally, spiritually or socially, which allows everyone to live productively, both in social and economy".

In addition to the United Nations Declaration on human rights in 1948, in Article 25 paragraph (1),<sup>7</sup> this Declaration agrees that everyone has the right to a decent standard of life for the health and well-being of his life personally and with his family, including the right to get cloth, food, housing, education, health services and other social security. Based on the UN Declaration,

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<sup>5</sup> Constitution of The World Health Organization (WHO), New York (US) July 22, 1946

<sup>6</sup> Maite San Giorgi. *The Human Right to Equal Access to Health Care*. Disertation at School of human right at Erasmus (University Roterдам, 2012), p. 10.

<sup>7</sup> Article 25 (1). United Nations Universal Declaration of Human Right 1948. *Everyone has the right to a standard of living adequate for the health and well-being of 74 himmself and of his family,including food,clothing,housing and medical care and necessary social services, and theright to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.*

after World War II, several countries took the initiative to develop and manage Social Security, including a health insurance program for all residents. Based on the results of the 58th session of 2005 in Geneva, the *World Health Assembly* (WHA)<sup>8</sup> emphasized that there is a need to develop a health insurance financing system that will guarantee the availability of access for public to health insurance services and provide protection to all citizens against financial risks. The 58<sup>th</sup> WHA generated a resolution stating that health insurance financing program which sustainably implemented as *Universal Health Coverage*<sup>9</sup> is carried out through a social security financing mechanism. The WHA has recommended that WHO encourage member countries to evaluate the impact of changes to the financing system for health care while being run in the program to shift towards Universal Health Coverage *Universal Health Coverage*.<sup>10</sup>

The State must fulfill the principles in fulfilling the rights to health services which containing four elements, namely: (1) availability of health services, (2) accessibility to health facilities, (3) quality of health services, (4) and equality of rights. The availability of health services must include the availability of a number of health service facilities (clinics, health centers, hospitals, pharmacies and laboratories) as well as other supporting infrastructure which includes medicines and other medical devices, and more importantly the distribution of health workers who can reach the overall distribution of the population. Accessibility requires that the provision of health services must be affordable both from an economic, geographic and gender perspective for every population in a region or country, without neglecting local wisdom and traditions that have been running in these community groups. It needs to be emphasized that in providing health services, the minimum standards in health services should not be ignored. At last, the element of equality requires that health insurance services can be equally and prevalently for everyone, especially for vulnerable groups in society, in this case are groups of the poor and people who are on the poverty line, groups of people with disabilities, and veteran combatants, as well as the elderly and retirees.

Access to health facilities is a right for every citizen and the availability of various health facilities that can be reached by everyone is a form of State presence in health services for all citizens. However, access to health facilities is still a huge obstacle for some people in Indonesia, especially for those with irregular incomes and still below the poverty line. The State is responsible for providing health facilities to remote villages, although it is recognized that currently there are at least 9,825 *puskesmas* (Community Health Centers/Primary Care)<sup>11</sup> and 2,773 hospitals,<sup>12</sup> that spread all over the country, but this number is still not sufficient if compared to the current geographic location and topography of Indonesia. Health facilities can not only be defined as the

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<sup>8</sup> WHA (World Health Assembly) is an annual meeting of all WHO States member, held in Geneva, Switzerland, usually in May.

<sup>9</sup> Universal Health Coverage (UHC) is the concept of access to good quality health services without people experiencing financial difficulties because they have to pay for treatment. This is a health insurance system that ensures everyone receives the health services they need without having to experience financial hardship. What is meant by Financial Hardship is the economic downturn due to a health shock when someone falls ill. In addition to financial risk protection, there are three dimensions that become important concepts in the complementary of Universal Health Coverage, namely the extent to which the coverage of the population is covered (*breadth*), the extent of health service coverage (*depth*), and the level of financial coverage of the direct cost assistance package (*height*). Health services are not limited to curative or hospital-based services but also all health efforts ranging from the promotional, preventive, curative, rehabilitative and palliative health.

<sup>10</sup> Ministry of Health of the Republic of Indonesia. *Buku Pengangan Sosialisasi Jaminan Kesehatan Nasional (JKN) dalam Sisitim Jaminan Sosial Nasional*. (the Center of Health Promotion, Ministry of Health of the Republic of Indonesia), p. 3.

<sup>11</sup> [www.pusdatin.kemkes.go.id](http://pusdatin.kemkes.go.id): Based on 2018 data, the current number of health centers across Indonesia has reached 9,825 units. This number may increase in line with government efforts to improve public health care. One *Puskesmas* (primary health care) should ideally serve 25,000 to 30,000 populations. If we see at the population size, the existing *Puskesmas* is sufficient. Unfortunately, the geographical conditions cause not all populations can access these health facilities. Each *Puskesmas* will have a doctor. If the capacity of this primary health care is unable to handle one case, the patient will be referred to advanced health facility services, namely hospitals, which ranging from type D to type A, whether owned by the government, State-Owned Enterprises, Indonesian Armed Force, Police Institution, and the private sectors.

<sup>12</sup> <http://sirs.yankes.kemkes.go.id/rsonline/report/> Hospitals in Indonesia consist of public hospitals and private hospitals. The growth of public hospitals over the last 6 years is not as fast as the growth of private hospitals. The average growth of public hospitals was 0.4%, due to decrease in the number of private non-profit hospitals, while private hospitals were as many as 15.3%. The number of private hospitals is more than the government hospitals, with an average growth of 7%. Meanwhile, the growth of government hospitals is only 3%.

presence of a physical building for health facilities but must also be supported by medical personnel; doctors, dentists, midwives and other paramedics, besides that it also needs to be supported by adequate distribution of medicines and medical devices. However, all of those are just a requirement for primary care as the very basic service in health care.

Health is a part of human rights that regulated in the 1945 Constitution of the Republic of Indonesia which states that everyone has the right to live in a good physical and mental health status, have a place to live, have a good and healthy living environment and are entitled to health services. Health as a human right contains an obligation to make the sick healthy and try to maintain the healthy to stay healthy. In line with the mandate of Article 28 H paragraph (1) of the 1945 Constitution of the Republic of Indonesia, it has been confirmed that everyone has the right to access health services. Furthermore, in Paragraph (2), it states that everyone has the right to social security, and in Article 34 Paragraph (2), it is stated that the State develops a social security system for all people by empowering people who are weak and in poverty to support their dignity. Then Paragraph (3) emphasizes that the State is responsible for the provision of adequate health service facilities and public service facilities.

As a form of efforts to realize the ideals of a welfare State as mandated in the Constitution of the Republic of Indonesia, that the Republic of Indonesia is a country that adheres to a welfare State.<sup>13</sup> The formula of Welfare State is contained in the Preamble to the 1945 Constitution of the Republic of Indonesia, means that the meaning of Welfare State is embodied in the 1945 Constitution of the Republic of Indonesia. Article 34 paragraph (4) mandates that the implementation of Article 34 Paragraph (1), (2) and (3) of this article will be in the form of a Law.

On October 19, 2004, the Law of Republic of Indonesia Number 40 of 2004 concerning National Social Security System (NSSS) was passed after a joint discussion between the Government as the initiator of the NSSS Law together with the House of Representatives for approximately 6 months. Social security as stated in Article 18 of the Law of Republic of Indonesia Number 40 of 2004 concerning NSSS which includes; Health insurance, old age insurance, pension benefits, life insurance and work accident benefits. In this law, health insurance is covered by Article 19 to Article 28 of Law Number 40 of 2004 concerning NSSS. Based on the above reasons, the author will conduct a more in-depth analysis on "What is the purpose in the formation of the Law of Republic of Indonesia Number 40 of 2004 concerning National Social Security System" by employing Legislative theory approach.

## 2. Discussion

### 2.1. The meaning of social security

Initially, social security was implemented in line with the principles of Welfare State that had developed in Western European countries, the United States, Australia and New Zealand. This system is applied as an alternative solution in an effort to overcome poverty and social inequality that happen multidimensional due to the economic crisis caused by the market capitalism system. Although formally Indonesia is not a welfare State, constitutionally the community's welfare is guaranteed. The principles of social justice as outlined in the Amendment of the 1945 Constitution Article 28 H paragraphs (1) and (2) and Article 34 paragraph (3) that mandate social security to be provided by the State. Basically, social security is the right of the people that must be fulfilled by the State.

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<sup>13</sup> Nuriyanto. *Penyelenggaraan Pelayanan Publik Di Indonesia, sudahkan berlandaskan Konsep Welfare State*. Ombudsman of the Republic of Indonesia. (*Jurnal Konstitusi*, Volume 11, Number 3, September) 2014. page 430. "Welfare State" is a long-established idea, pioneered by Prussia and Saxony under the rule of Otto von Bismarck (the first Chancellor of Germany) since the 1840s. In the Encyclopedia Americana it is stated that Welfare State is "a form of government in which the State assumes responsiveness for minimum standards of living for every person". It is a form of government in which the State is held responsible for ensuring a minimum standard of living for every citizen. Indonesia is a Welfare State. The formulation of the concept of Welfare State is contained in the fourth paragraph of the Preamble of the 1945 Constitution. The same formulation is also reflected in articles 27, 31, 33 and 34 of the 1945 Constitution of the Republic of Indonesia.

The term social security was first used in the United States in what was stated in The Social Security Act of 1935 which aimed to overcome the problems of unemployment, poverty, epidemics and the consequences of economic downturn. Although the administration of social security in developing countries has recently undergone changes, basically the implementation of social security in various developing countries is basically understood as a concrete form of State protection for its people.<sup>14</sup>

In general, what is meant by social security is a collection of benefits received or not received from the State, market, civil society and households, or through a combination of these stakeholders, to reduce the suffering of a person or household.<sup>15</sup> Social security is usually in the form of social welfare services related to social protection, or other protections against well-understood conditions such as poverty, old age, disability, loss of work, and others. This insurance is to protect individuals from unexpected disasters by spreading the risk to all other residents hence there is no individual or household has to face the disaster alone because this can affect anyone, both to people who are socially active or inactive (elderly, disabled, children, etc).

Social security which applied in various countries has different characteristics from one country to another and depends on the political economy system adopted by the country. Currently there are 3 known forms of social security systems that have been widely recognized by the public in various countries, namely:

**1. Welfare State,**<sup>16</sup> defined that services related to the welfare of citizens are fully provided by the government, particularly education, health services, old age insurance, and work accidents.

**2. Welfare Pluralism,**<sup>17</sup> is the concept of a social security system that being submitted to the market or private sector, or even community groups, that provide insurance to the environment. This model is widely adopted by America with its liberal economic system.

**3. Welfare in Society,**<sup>18</sup> that is a social security system that emerged from community initiatives. The State has a small role because all social security is the responsibility of the individual and the communal. This concept is widely applied in third world countries including several countries in Asia.

If we look at the three (3) forms of social security above, Indonesia seems to be adopting a combination of Welfare State and Welfare in Society, although its implementation is still limited to certain regions and community groups. At least if we look at the aspect of education, currently the government has mandated the completion of nine years basic education or at least up to junior high school. While the other types of social security are still partially implemented, especially Health Insurance, which only subsidizes the poor and people in poverty, and involves other communities using the concept of social insurance. As we already know, the concept of social insurance is generally implemented by the State by requiring all citizens to participate as participants in the program.

Social security system is applied as an alternative to overcome poverty and social inequality that happen multidimensional due to the economic crisis caused by the market capitalism system. In this context, the social security function can be divided into two spectrums as explained by Cheyene, O'Brien and Belgrave:<sup>19</sup> (i) State financial benefits provided to citizens due to market failure to provide sources of income, (ii) State assistance provided to citizens who for some reason, for example, are disabled, pregnant, sick and unable to earn income as provided by the market. If parsed sharply, the two definitions above are strongly influenced by the two neo-liberal and social

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<sup>14</sup> Mudiyo, „Jaminan Sosial di Indonesia: Relevansi Pendekatan Informal”. *Jurnal Ilmu Sosial dan politik*, Volume 6 Number 1, July 2002, p. 68.

<sup>15</sup> Ari Nurman, Ana Westy Martiani. „Penyediaan Layanan Kesehatan yang Sesuai Untuk Daerah”. *Perkumpulan Inisiatif Laksbang Pressindo* Jogjakarta, 2018, p. 43.

<sup>16</sup> Paul Spicker. *The Welfare State: A General Theory*. (Sage Publication, 2000), p.127.

<sup>17</sup> Fiona William, Roger Burrouw, Brain: Loader (Ed). *Social Relations, Welfare and The Post-Fordism Debate*. (by Routledge, London 1994), p. 68.

<sup>18</sup> *Ibid*, p. 94.

<sup>19</sup> Cheyene, Christine, Mike O'Brien and Michael Belgrave, *Social Policy in Aotearoa New Zealand: a Critical Introduction*, (Duckland, Oxford University Press, 1998), p. 176.

democratic paradigms, the two types of programs above have been implemented by the Government of Indonesia under certain conditions, for example to natural disaster, the occurrence of the Covid 19 pandemic, and so on.

Social security is the most important part in an effort to provide protection to underprivileged people which is also a social policy taken by the government in an effort to reduce poverty, vulnerability and inequality in the economic strength of individuals and families. Social security is provided in the form of social assistance given to underprivileged groups in society even though they do not pay premiums but receive income allowances, in which case the premiums are insured by the State.

In general, the condition of social welfare in Indonesia is currently still dominated by "conventional" problems such as the large number of poor people, neglection, disabilities, isolation, underdevelopment, and social disabilities. Apart from those problems, there are also several additional problems related to welfare, such as conflict, social inequality, and limitations in access to health services that need serious and ongoing attention.<sup>20</sup>

## 2.2. National Health Insurance is part of National Social Security

The execution to the mandate of Article 34 Paragraph (4) of the 1945 Constitution of the Republic of Indonesia is that the implementation of social security system will be regulated by law. In early 2004 the Government submitted a Draft for National Social Security as mandated in Article 5 paragraph (1) of the 1945 Constitution of the Republic of Indonesia which states that the President has the right to propose a draft of law which then will be discussed together with the House of Representatives. At the time the government/President submitted the Draft of Law on National Social Security System but had not supported with a comprehensive academic script, because at that time the Law of the Republic of Indonesia Number 10 of 2004 concerning Regulations on the Formation of Laws had not require the preparation of academic texts. In submitting the Draft, the implication is that there is no in-depth philosophical, juridical and sociological study so that many essential matters are neglected in the drafting process of the law.

As has been mentioned before, the juridical basis in the drafting of the Draft on National Social Security System is Article 28H paragraph (3) of the 1945 Constitution of the Republic of Indonesia, which states that every citizen has the right to social security, and Article 34 Paragraph (2) which states that the State must develops a social security system for every citizens. These two articles guarantee all citizens that the State will provide social security, one of which is health insurance. After going through a series of debates and compromises between the House of Representatives and the Government, on 19 October 2004 the Draft of Law on National Social Security was passed into Law of the Republic of Indonesia Number 40 of 2004 concerning National Social Security System (NSSS).

In the preamble, there is consideration to letter (a) of Law of the Republic of Indonesia Number 40 of 2004 concerning National Social Security System. It is explained that everyone has the right to social security so they will be able to fulfill the basic needs for a decent life and increase their dignity towards the realization of a prosperous, just, and wealthy Indonesian society. If we parse the meaning in this consideration, it is in accordance with the meaning contained in Article 28H Paragraph (3) and Article 34 Paragraph (2) of the 1945 Constitution of the Republic of Indonesia concerning NSSS. However, if we look at Article 14 Paragraph (2), it is stated that only the poor and people under poverty that get assistance for their contribution. Although this is very noble, the State should not only provide contribution assistance to certain groups, but the State should provide insurance to all of its citizens.

This social security system aims to provide services for the basic needs of a decent life for all citizens participating the social security. The social security program as regulated in Article 18 of the Law of the Republic of Indonesia Number 40 of 2004 concerning NSSS includes old-age

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<sup>20</sup> Budi Setiyono, *Model dan Desain Negara Kesejahteraan*. (Penerbit Nuansa Cendikia, Bandung 2019), page 14.

security, pension security, work accident insurance, and life insurance administered by Social Security Agency for Labor, while Health Insurance is administered by Social Security Agency for Healthcare. In the road map to the 2014-2019 national health insurance, it is stated that by mid-2014, around 63% of Indonesia's population will have health insurance in various forms and coverage, and by the end of 2019 it is expected that all Indonesian citizens will have become participants of the national health insurance with various types participation, or in other words the universal health coverage has been achieved. Based on data from the Social Security Agency for Healthcare, until the end of 2019 the membership coverage only reached 80%, meaning that the target in the Road Map has not been achieved. This is because informal workers become participants independently by paying their own contributions in accordance with regulations made by the government, while it is assumed that many of those workers in the informal sector do not have the ability to pay contributions, and there is a possibility that they should belong to the group of the poor and under poverty, but missed from the detection of the government, because the standards used by the government in determining the incapable groups did not use clear parameters.

As comparison, social security that organized in some countries is not as expected, that it will be well received by all citizens. In fact, social security is strongly opposed by some people on the grounds that social security is too expensive which can hinder economic growth, but many parties also give support to the implementation of Social Security with the hope that the implementation of Social Security can be further developed and reach more people, especially for countries with low income and worsened with a high rate of unemployment. In socio-economic development, the development of Social Security can be realized through several mechanisms with involvement of the State who is dominant in the making of regulations, infrastructure procurement and the allocation of funds from the government to support the implementation of Social Security.

The Republic of Indonesia as a country that adheres to the concept of Welfare State has started to develop a Social Security system on January 1, 2014 based on the Law of the Republic of Indonesia Number 40 of 2004 concerning National Social Security System, which is a form of social protection to guarantee all the people in order to be able to meet the basic needs for a decent life. This definition is the conception of the legislators which is the mandate of the 1945 Constitution of the Republic of Indonesia in Article 34 paragraph (2).<sup>21</sup> Various definitions of Social Security are made based on the political, economic and socio-cultural conditions of the country. One definition according to the World Bank is as follow:<sup>22</sup> *“The set of public measures that a society provides for its members to protect them against economic and social distress that would be caused by the absence or a substantial reduction of income from work as a result of various contingencies (sickness, maternity, employment injury, unemployment, invalidity, old age, and death of the breadwinner); the provision of health care; and, the provision of benefits for families with children.”*

Then, at the same part, it also says: *“A set of public actions which address not only income poverty and economic shocks, but also social vulnerability, thus taking into account the interrelationship between exclusion and poverty.”*

Based on those two definitions above, either according to the Law of the Republic of Indonesia Number 40 of 2004 concerning National Social Security System or based on the Definition of the World Bank, terminologically it gives the same meaning, namely social protection, including health protection for the community along with their family in fulfilling the basic necessities of life which caused by a variety of causes, including illness, childbirth, work accidents, loss of income, disability and even death. In providing this protection, the presence of the State is needed as a form of State responsibility in providing welfare to its citizens. Social protection that meant to provide basic services to citizens, especially to underprivileged or poor citizens and people who cannot afford National Social Security can be divided into types of social security that include: (1) health insurance; (2) work accident insurance; (3) old age insurance; (4) tenure security; and (5)

<sup>21</sup> See Article 34 Paragraph (2) of the 1945 Constitution of the Republic of Indonesia, which states that “The State establishes a Social Security System for every citizen and empower underprivileged and underpoverty people according to the humane dignity.

<sup>22</sup> Laura Rawlings, *Overview of Social Protection, Persions, social SafetyNets Core Course*, World Bank, 2016, p. 2.

death insurance. On the other side, the ADB (Asia Development Bank) divides social protection insurance into 5 (five) groups, namely: (1) labor market; (2) social insurance; (3) social assistance; (4) micro and area-based schemes; and (5) child protection.<sup>23</sup> When we compare these two types of social protection groups, it is very clear that the types of social protection made by ADB covers a wider range because in addition to including social insurance and social assistance, it also focuses on the labor market and child protection. This is because ADB is an agency that only provides recommendations to countries that will develop social security systems, especially countries in the continent of Asia. However, we return to the Law of the Republic of Indonesia Number 40 of 2004 concerning National Social Security System, it also regulates 4 (four) other programs, namely: work accident insurance, old age security, pension security, and life insurance, that only focusing on the workforce or citizens who have been working as employee, both in government and in the private sector, but this program only applies to workers and not for families except for the health insurance program which also provides coverage to families in accordance with Government Regulation Number 82 of 2018 concerning National Health Insurance.

According to Adam Hauf and John,<sup>24</sup> the main party responsible for implementing social protection is the State, especially regarding the social security scheme which aims to provide protection to citizens to be able to meet minimum standards of necessities for a more decent life. As with other modern countries, Indonesia has taken a role in efforts to provide protection to its citizens, especially those who are still underprivileged or underpoverty where the State takes a role by making laws to provide protection to the community, especially in health services, although ideally the State should also provide protection to other components for the society but it depends on the government's fiscal capacity in financing. Although there are also those who consider that social protection carried out by the State is very expensive, wasteful and contradicting the objectives of economic development carried out by the State, Adam Hauf and John argue the opposite that it is often forgotten in this context that social security can also contribute positively for economic development in developing countries and therefore social security must always be a major component of a sovereign country's economic development policy.<sup>25</sup>

In the context of payment methods for the provision of health care insurance, according to Anne Drouin,<sup>26</sup> there are at least three broad categories of financing methods. The *first* is that the financing is borne entirely by State-managed taxes. The advantages of this method include a pooling of risks for the entire population. This means that the distribution of risk can also reach the entire population. And the last, this method has the potential to increase administrative efficiency and control over costs. The *second* method of financing is through insurance that financed by the concerned users. This method can be the opposite of the first method. The advantage of this method is that the amount of payment is directly related to the service received. Then for those who can afford to pay, this method also provides more space for them to determine their choice of service provider. And these methods can also provide incentives for improving the quality and efficiency of health care providers.

Referring to the above opinion, the government should have chosen the first method, namely that all citizens are covered in financing, but based on the minutes of the meeting in the discussion on the Draft of Health Insurance Law, the agreement was to use a social insurance scheme by requiring all citizens to become participants and provide contribution assistance for vulnerable community groups (the poor and underprivileged). Obviously, this is contrary to the objectives in the enactment of National Social Security Law. The result is that universal health access is still

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<sup>23</sup> Asian Development Bank. *Published by Asian Development Bank*. July 2003. This is a typeset version of the official policy paper approved by the Asian Development Bank. Board of Directors on August 200, p. 1.

<sup>24</sup> Adam E. Hauff and John. *Social protection in Southeast Asia, Singapore: Frederick Eber Stiftung*, 2008, Page 17 (*the critical task of establishing and designing a system of social security the responsibility of state, the system has to protect the population against social risk and to ensure an adequate standard of living*).

<sup>25</sup> *Ibid*, p. 17.

<sup>26</sup> Anne Drouin. *Methods of Financing Health Care*, The International Social Security Association (ISSA), Technical Report No. 5, Technical Commission on Statistical, Actuarial, and Financial Studies, World Social Security Forum, Moscow, 10-15 September 2007.

unachieved so that some underprivileged citizens missed the registration and not administered as poor and underpoverty, so that when they need health services they cannot access health facilities because they do not have economic capacity and are not registered as participants in the National Health Insurance.

To provide health insurance for all citizens in the form of Universal Health Coverage in accordance with the mandate of the 1945 Constitution of the Republic of Indonesia and Law of the Republic of Indonesia number 40 of 2004 concerning National Social Security System (NSSF), the government must establish the Health Insurance program to be available for all citizens. This means that every individual must be registered by the State so that their rights are fulfilled and protected in the national health insurance program which aims to increase public access to comprehensive, qualified, and equitable health service facilities for all residents.

### 3. Conclusion

From the description above, the following conclusions are drawn:

1. Health insurance is a right for all Indonesian citizens as regulated in Article 28H Paragraph (2) and Article 34 Paragraph (3) of the 1945 Constitution of the Republic of Indonesia.
2. The Law of the Republic of Indonesia Number 40 of 2004 concerning National Social Security System has not provided protection for health insurance to all citizens as mandated in the objectives and the formation of this law. This is because several articles in this law are contrary to the constitution of the Republic of Indonesia.

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