

Analysis of Obstacle Factors of the Legal Protection Program of Employment Social Security for Informal Workers (Case Study in Central Java Province)

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Abstract

The Central Statistics Agency (BPS) recorded that in Central Java in August 2018 as many as 6.74 million people (39.06 percent) work in formal activities, and as many as 10.51 million people (60.94 percent) work in informal activities. During the last year, the amount of informal workers rose from 60.29 percent in August 2017 to 60.94 percent in August 2018. Most of them are informal workers whose income is uncertain, so priority of their work is how to make money to meet everyday life. It is rarely of them who have thought to become employment social security participants. The research method used in this study is juridical normative. Data sources used were secondary data covering primary legal materials, secondary legal materials and tertiary legal materials. Analysis technique used qualitative analysis methods with interactive analysis model. The results show that the existing conditions in Central Java represent very few informal workers become participants of employment social security voluntarily without sanctions for non-participation of employment social security. Meanwhile the government has not allocated the budget to provide employment social security yet for weak and poor informal workers. This will certainly make it informal workers whose conditions are weak become weaker or increasingly less well-off economic and social, when informal workers experience economic risks and other social risks, hence the condition of informal workers will be increasingly worse off and not prosperous. However, the informal workers really are State's asset, since they still exists and is still able to build and sustain the Indonesian economy when Indonesia experiences an economic crisis. Obstacle factors of employment social security law protection programs for informal workers in Central Java Province are low levels of education of informal workers, low and uncertainty income, reluctance to pay contributions and high unemployment in Central Java.

Keywords: *Obstacle Factors, Employment Social Security, Informal Workers.*

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I. INTRODUCTION

The security act is the right of every citizen protected by the constitution, as mentioned in Article 41 paragraph (1) of Law No. 39 of 1999 concerning Rights Human Rights, that "Every citizen has the right to social security needed for life feasible and for personal development as a whole", but in reality not all residents the country gets access to the national social security.[1]

In Article 34 the 1945 constitution[2] of the fourth Amendment Constitution of 2002. Protection employment social security is very important for the community, especially for workers, because to ensure that they can meet their basic needs, financial disabilities and maintain the level of wellbeing.

One of the objectives of employment development in Article 4 letter c of Law No. 13 of 2003 concerning Manpower[3] is to provide protection to workers in realizing

prosperity, and have equal opportunities without discrimination for get a job. Protection of rights labour be grouped as follows:

- 1) Protection of work norms
- 2) Occupational health and safety protection
- 3) Social protection of workers, in the form of wage protection, employment social security, life insurance, health care insurance, and old age savings.[4]

According to Article 99 of the Manpower Act of each worker/labours and his family entitled to obtain social security workers.[5] In these provisions social security labour is a right that is not only owned by workers/labours but also his family. Provision of rights to workers is intended to guarantee service if there is a member of the worker's family experiencing illness or needing other medical assistance such as being pregnant and giving birth and those who get work accidents.[6]

Informal workers who experience work accidents, the condition will get worse or more not prosperous, because they can't work and automatically affect their income who stopped, the family will also feel the impact of the work accident. BPJS Employment noted that employment accident rates in Indonesia tend to continue increased, in 2017 there were 123,041 work accident cases or with a claim value of Rp 971 billion. And in 2018 the number of accidents employment reached 173,105 cases with claims of Rp 1.2 trillion. Work accidents not only cause death, material loss, morale and pollution environment, but also can affect productivity and people's welfare.[7]

To deal with work accidents, workers must get social employment protection, because by providing employment social security, workers will protected since workers leave from home, while working, until they return home. Through this program, the government has provided guarantees to all Indonesian workers if they occur unexpected risk when doing work.[8]

II. PROBLEM STATEMENT

1. What is the condition of existing informal workers for social security protection current employment in Central Java Province?
2. What are the inhibiting factors for social security legal protection programs employment for informal workers in Central Java Province?

III. METHODOLOGY

The research method used is normative juridical,[9] namely by referring to legal norms contained in legislation and norms of life which develops in the community regarding social security for informal workers. This research is of the nature analytical descriptors, which present or describe legislation, studies scientific studies related to the object of research with the realization of social security for workers informal. This approach mainly wants to see the implementation of the positive law that has been written with a statue approach and implementation in the community.

Secondary data collection techniques in this study were obtained through literature review. Data Secondary uses include: primary legal materials, secondary legal materials and legal materials tertiary.[10]

Data analysis techniques in this study, using qualitative data

analysis methods with using the interactive model of analysis model [11] which is an analysis starting from data collection, by making three main components of analysis including: data reduction, data presentation, and conclusion.

IV. DISCUSSION

1. Existing Conditions of Informal Workers against Social Security Protection Employment in Central Java Province at the moment.

The Central Statistics Agency (BPS), noted as of February 2018, there were 133.94 million workforce people. Total Formal workers 53.09 million people (41.78%). Workers in the informal sector number 73.98 million (58.22%).[12]

In Central Java in August 2018 number of formal workers 6.74 million people (39.06%) workers in the informal sector 10.51 million people (60.94%) in August 2017 to 60.94% in August 2018. Most of the informal workers earn indeterminate and low, so their priority to make ends meet everyday life and rarely of those who think to participate as social security participants employment. Informal workers are workers who are most vulnerable to risk workplace accidents, due to irregular working time, insecure work environment safety and security, because of the unavailability of safety devices and safety equipment adequate work, they don't have guarantors like formal workers, so the risk is certainly greater than those who work in companies.[13]

The government as the state administrator must protect workers, especially workers the weak, namely the weak continuity of work, weak socio-economic and physical weakness. The government can make and regulate through regulations or policies that are of a nature protect informal workers by providing employment social security.

In Article 6 paragraph (2) of law no. 24 of 2011 concerning the Social Security Organizing Agency (BPJS) stated that, the Manpower Social Security Organizing Agency held 4 (four) programs[14], namely:

- 1) Work Accident Guarantee Program

The Work Accident Guarantee aims to overcome a partial loss or all income caused by risks such as death or disability work, both physically and mentally while working. Work Accident Guarantee provides compensation and rehabilitation for workers who experience work accidents begins when they leave for work until arriving back at home.

- 2) The Old Age Guarantee Program

Provides protection against risk disconnection of labour income due to death, disability, or when someone has retired. This program provides certainty of acceptance income to workers when they reach the age of 55 years or because resigning from the workplace.

- 3) Pension Guarantee Program

The Pension Guarantee Program aims to maintain the life worthiness of participants for lost or reduced income due to retirement age or due experience permanent total disability.

- 4) Death Assurance Program

Death Assurance aims to ease the burden on families left behind, namely by providing compensation for death paid to the heirs of the participants who died not because

of a work accident. This program provides benefits in the form of: death compensation, funeral compensation, and regular compensation for 24 months.[15]

Guarantee social is one type of social policy to overcome poverty and inequality in society. Each country has different definitions, systems and approaches overcome poverty and inequality, and therefore, have a guarantee system and strategy different social.[16]

Social security is generally implemented in various forms of benefits income directly related to taxation policies and income maintenance (taxation and maintenance policies). Nevertheless, guarantee social activities often include various schemes to increase access to basic social services, such as: health care, education and housing.[17]

The main reason that underlies social security needs to be given to workers is because it is the mandate of the constitution, namely to organize a social security system nationally, social security can protect workers from unexpected risks, guarantees socially economically and socially, it does not harm both the organizers and service recipient. Social security is not a waste of public expenditure, but rather a form of profitable long-term social investment based on two pillars the main thing is income redistribution and social solidarity.[18]

Informal workers are those who have economic jobs or businesses Mandiri to earn income from the activity or business, which is inside work they are vulnerable to workplace accidents. This should be informal workers obtain labour social security law protection from the government, or from contribution of companies in Central Java through social responsibility or Corporate Social Responsibility (CSR) or through cross-subsidy of contributions to workers formal and/ or capable informal workers.

Existing conditions in Central Java, there are very few informal workers employment social security participants and are still voluntary, there is no sanction if informal workers do not participate in employment social security participants, whereas the government also has not allocated a budget to provide social security protection employment for informal workers who are weak and unable. This certainly will making informal workers whose conditions are weak will be weaker or increasingly not prosper both economically and socially, when informal workers experience economic risks and other social risks, the condition of informal workers will get worse and worse prosperous. Even though informal workers are actually State assets, where the State is Indonesia experienced an economic crisis, it is precisely these informal workers who still exist and still able to build and sustain the Indonesian economy.

2. Obstacle Factors of the Law Protection Program of Employment Social Security for Informal workers in Central Java Province.

This survey was held from December 2018 to January 2019 in 4 (four) regions in Central Java, namely Semarang City, Semarang Regency includes Ungaran District and Banyubiru District and Kudus Regency, with 199 respondents as informal workers. The work occupied by the questionnaire fillers was traders, traders five, farmers, labours, domestic helpers, online motorbikes, workshops, parkers, laundry, drivers, pedicab

drivers, catering, scavengers, garbage collectors, printers, PAUD teachers, and tailors. Some of the findings, which became the program's inhibiting factors employment social security protection for informal workers in Central Java Province as follows:

a) Low Level of Education for Informal Workers

Level of education of informal workers who have never attended school is 3 people (1.5%), respondents who did not pass elementary school numbered 12 people (6%), respondents who graduated from elementary school numbered 30 people (15.1%), respondents who graduated from junior high school/junior high school numbered 42 people (21.1%), respondents those who graduated from high school/high school/vocational school amounted to 92 people (46.2%) and respondents who passed the Diploma or Bachelor numbering 20 people (10.1%). More can be seen in Table 3.1.

As a comparison, data on the level of education from BPS is presented the condition of workers in Central Java. The population working in February 2018 is dominated by those with education junior high school and lower 12.08 million people (69.18%), a high school education equivalent to 3.98 million people, and Diploma education of 0.34 million people and undergraduate education above as many as 1.06 million people.[19]

b) Low and Uncertain Income

Income respondents less than Rp 1,000,000 as many as 52 people (26.1%), income between Rp 1,000,000 - < Rp 2,000,000 as much as 88 people (44.2%), income between Rp 2,000,000 - < IDR 5,000,000 as many as 56 people (28.1%), and income equals or more than IDR 5,000,000 in 3 people (1.5%). For more information, see it in table 3.2.

This financial factor is an obstacle for informal workers to register as BPJS Employment participants. Financial capability constraints are the main reason the community does not register as a participant in the Social Security Administrator Employment.

3. Reluctance to Pay Contributions

From the results of a survey of 199 respondents and 33 respondents already participants BPJS Employment, 166 respondents, are informal workers who have not yet become BPJS Employment participants. Informal workers who answer are willing to pay contributions employment social security as many as 71 respondents (42.8%). Respondents answered objection to paying contributions to Labour Social Security as many as 95 respondents (57.2%).

Furthermore, the reasons for the respondent's objection to paying collateral contributions will be conveyed social employment. Respondents who answered because of mediocre income, there were 78 (47.0%), there were 18 respondents who answered for business capital (10.8%), Respondents who answered did not object, amounted to 61 respondents (36.7%), Respondents who answered objections due to minimal income and lack of business capital, there were 5 respondents (3.0%) and respondents who had other answers namely because they did not want to sick hopefully good health, still have debt to

bank, not yet because of husbands do not agree with BPJS and there are 4 more important needs respondents (2.4%).

Table 3.1. Respondents Education Level

| Number | Respondents Education | Amount | Percentage (%) |
|--------------|----------------------------------------------------------|------------|----------------|
| 1 | Never go to school | 3 | 1.5 |
| 2 | Not graduating from elementary school | 12 | 6 |
| 3 | Graduated from elementary school | 30 | 15.1 |
| 4 | Graduated from junior high school/junior high school | 42 | 21.1 |
| 5 | Graduated from high school/high school/vocational school | 92 | 46.2 |
| 6 | Diploma or Bachelor | 20 | 10.1 |
| Total | | 199 | 100 |

Source: Primary data processed 2019

Table 3.2. Respondent Income

| Number | Income | Amount | Percentage (%) |
|--------------|------------------------------|------------|----------------|
| 1 | Less than Rp 1.000.000 | 52 | 26.1 |
| 2 | Rp 1.000.000 - <Rp 2.000.000 | 88 | 44.2 |
| 3 | Rp 2.000.000 - <Rp 5.000.000 | 56 | 28.1 |
| 4 | Rp 5.000.000 atau Lebih | 3 | 1.5 |
| Total | | 199 | 100 |

Source: Primary data processed 2019

The reason informal workers do not have employment social security. Respondents who answered were not important,

as many as 8 people (4.8%), respondents were answered not having money totaling 40 people (24.1%), Respondents who answered no understanding of employment social security insurance as many as 87 people (52.4%), and Respondents who answered busy / bothered were 23 people 13.9%), and Respondents were answer with other answers, namely because they have attended the BPJS health, because the service is not satisfactory, and because it already has as many as 8 people savings (4.8%).

From the results of interviews with Sri Riski Agustya, SKM and Aditya Septiadi, SE., Department of Institution of Social Security employment Branch Office Services, informal workers still have awareness those who are low to independently register as participants in employment social security, they have only realized the importance of social security if they experience it work accidents regarding.

As per the news in Media Indonesia, namely that the Social Security Organizing Agency (BPJS) Employment records only 27 million workers out of 86 million workers from the formal sector or informal who obediently pay contributions, outside the group of civil servants, TNI / Polri.[20]

4. High Unemployment Rate in Central Java

According to BPS data, the Central Java Open Unemployment Rate in August 2018 is equal to 4.51 percent. Judging from the level of education, open unemployment rate for Vocational High Schools the highest among other education levels, which is 10.85 percent.[21] Unemployment rate shows residents who do not have a meaningful income automatically they will not become social security participants because they do not have jobs and income.

The unfavorable employment conditions certainly become a big challenge in developing a social security legal protection system, because:

- The low level of education of workers is a big challenge, in giving understanding of the importance of employment social security, low education also affects the work done which is certainly related to worker income.
- The number of informal workers with low income causes them to experience difficulty paying premiums and the high unemployment rate generally indicates that there are still many people economic age (and especially not economic age) that has no income. The large number of people without income has implications for the large number of residents who cannot pay premiums / fees which means more residents have access to the social security system. [22]

The state is a representation of the community responsible for helping groups weak or vulnerable (vulnerable groups), which due to physical barriers (disabled people), cultural (isolated tribe), or the structural (unemployed), unable to respond as quickly as change around it, they are marginalized in the unfair development process.[23]

From the point of view of law, a nation enters the stage of a welfare state marked with the development of laws that protect weak parties. In this period, the country began to pay attention to, among other things, labour protection and consumer protection.[24]

The government has several important roles. First, the government plays a role in make regulations relating to the management guidelines for Social Security funds National. Second, the government is expected to continue to play a role in implementing the Social Security pillar National which is part of the social safety net system. Indonesia need the existence of a national social security system that can be implemented efficiently, and fairly.

V. CONCLUSION

Existing conditions in Central Java, very few informal workers are participants of employment social security and it is still voluntary, there is no sanction if the worker informal does not participate in employment social security participants, while the government also has not allocated a budget to provide employment social security protection for informal and weak workers. Though they really are state assets, where when the Indonesian State experiences an economic crisis, it is precisely the workers informal condition still exists and is still able to build and sustain the economy Indonesia. Inhibiting factors for employment social security law protection programs informal workers in Central Java Province are low levels of education of informal workers, income low and uncertain, reluctance to pay contributions and high unemployment in Central Java.

Tabel 3.3. Reasons for Informal Workers Not Having Employment Social Security

| Number | Reasons for Informal Workers Not Having Employment Social Security | Amount | Percentage (%) |
|--------|--------------------------------------------------------------------|--------|----------------|
| 1 | Not important | 8 | 4.8 |
| 2 | No money | 40 | 24.1 |
| 3 | Don't understand about employment social security insurance | 87 | 52.4 |
| 4 | Busy / Hassle | 23 | 13.9 |
| 5 | Other Answers | 8 | 4.8 |
| Total | | 166 | 100 |

Source: Primary data processed 2019

The implication of the results of this research is that it requires political will stronger than the government to provide employment insurance for social security informal workers. Given their greater number of formal workers, they are development assets and a pillar of the country's economy. So the government must give greater attention to informal workers by providing guarantees social employment.

The government through BPJS Employment, needs to improve information, education and socialization of Law No. 40 of 2004 concerning the National Social Security System[25] and Law No. 24 of 2011 concerning BPJS to the public, especially

informal workers so that there will be growing awareness of workers to become participants in the BPJS Employment.

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