Transcendental Law Paradigm: National Health Care Solutions

Siti Soekiswati[1]
Postgraduate of Universitas Muhammadiyah Surakarta
Program of Law Science
soekiswati@gmail.com

Absori[2]
Postgraduate of Universitas Muhammadiyah Surakarta
Program of Law Science
absorisaroni@gmail.com

Abstract **- One of the sustainable development targets of the country was the people's welfare achievement that was evenly distributed throughout the country. One of the indicators was the level of public health. The government launched a National Health Insurance (JKN) to achieve optimal public health,. However, in its implementation, JKN was full of problems and had a budget deficit every year. The decision to raise premiums could not solve the problem. From the author's observation, the core of the problem lied in the unprofessional service at the Puskesmas (PHC) level, which was based on the inconsistency of health law in the form of an abundant task. The best solution was to return to the transcendental philosophy rooted in Pancasila which was the nation's philosophy, where human life was a very valuable thing. Health care was a service to human life, so it had to be done professionally.**

Keywords: JKN, transcendental, professional

I. INTRODUCTION

As one of the developing countries, the Indonesian government continued to pursue sustainable national development for the community welfare achievement. Efforts to improve the community welfare included the health development that aimed to improve the optimal public health status (Sundoyo, 2009). In order to achieve the optimal health status, the government had launched the National Health Insurance (JKN) program since January 2014. Since declared, JKN had lost up to trillions of rupiah, even in 2017 the number of losses reached more than 9 trillion rupiah. The budget deficit was due to mismatch between the premium amount and the health services costs issued by JKN. As an illustration, for example according to the calculation, the premium amount of class III of JKN participants was 36.000 rupiahs but the patient only paid the premium of 23.000 rupiahs. The analysis was stated by Askes who had been experienced as a health insurance for 40 years. Beno Herman, a deputy director assistant of Referral Health Management Facility of BPJS Kesehatan, stated that there was moral hazard of Non-Wage Worker participants (PBPU) that they no longer paid premiums after receiving health services. Whereas JKN was a mutual assistance program which was not only followed by PBI (beneficiary) but also by PBPU (Non-Wage Workers) and PPU (Wage Workers). So that all financing must be self-supporting with the principle of mutual assistance through premium paid (Herman, 2007). On April 28, 2018, IDI Executive Board held a Public Debate related to JKN, aimed to make the government conducted a thorough evaluation of the JKN implementation. As known, the implementation of JKN for last four years was full of problems that never go away. According to the Chairman of PB IDI, Prof. Ilham Oetama Marsis, SpOG, one of the evaluation was in the form of premium mismatch with economic value, which then affected the decrease of health services quality provided to participants. This was due to the limited use of facilities and infrastructure adjusted to the cost of INA-CBG's package based on JKN (Suwarta, 2018). The budget deficit problem of the JKN program had attracted the author's attention to find the root cause of the problem.

II. PROBLEMS

Based on the description above, at first glance it appeared that the cause of the budget deficit of JKN program was due to amount of participants premium that did not meet the standards. So it was needed to be raised. According to the author, there was a fundamental thing that make the deficit continued to happen every year, although the year 2016 premium size had been raised. In this case the author focused on the discussion on two main issues are:

1. Why was there a budget deficit of the JKN program over the past four years even though the amount of premiums had already been raised?

2. How was the alternative solution to solve the problem?

III. DISCUSSIONS

Healthy rights were the human rights of every human being ass Vicol M.C stated, that the right to health was a part of basic

human rights (Vicol, 2010). The Indonesian Constitution consensus stated that the health right was a fundamental right for human being. The basic philosophy of the human rights was raison d'entre of human dignity. Health problems were closely related to many factors, political, economic, legal, social and cultural factor (Elmuhtaj, 2008).

The right of every citizen to obtain health was regulated by the amandement result of 1945 Constitution of the Indonesian Republic, clause 34 paragraph (3), stated that the country was responsible for the provision of health service facilities and public service facilities. The health right was regulated too by the Law of Indonesian Republic number 36 year 2009 about Health, clause 5 paragraph (1) stated that everyone had equal rights in gaining access to health resources. Then in paragraph (2), stated that everyone had the right in obtaining safe, quality and affordable health services. So it was very clear that the right of citizens to obtain optimal health degree become the country responsibility (Tim Penerbit Buku Biru, 2012).

Jonathan Montgomery as quoted by Katarina Tomasevski asserted that there were three levels of human rights standards in health: 1) individuality enforceable rights (aimed to secure minimum standards); 2) aspirational rights (aimed at directing national policy towards health improvement); and 3) legal obligation to ensure conditions that make it possible for citizens to choose to pursue maximal health. If one or all of these were not met then there would be human rights violations on health (Tim Penerbit Buku Biru, 2012).

In the implementation of health services in Indonesia there was something that could not to be fulfilled to achieve the optimal health level of health services professionals. It Meant there was a violation of human rights to citizens health by the country. The unprofessional health service was still available at the Puskesmas (PHC) level. Paramedics in Puskesmas could replace the authority of doctors as medical personnel, using the legal umbrella of the duty policy. The juridical review of abusive duty rules was contrary to the Medical Practice Act and Health Act (Soekiswati, 2018).

Legal inconsistencies occured for various reasons, including shortage of medical personnel, doctors at the level of Puskesmas, and primary health care. In addition, the spread of doctors were not evenly distributed, in some remote areas in Indonesia there was even no doctor on duty (Soekiswati, 2014).

The circumstances caused the diagnosis and therapy/ treatment given in the Puskesmas were often less appropriate. So it actually raised side effects or new disorders / diseases. And this condition caused the increasing number of catastrophic diseases. The under-standard health care was referred to as the cause of KTD (Unwanted Events) and in fact, it includes malpractice, because practice was beyond of competence (Beigi et al., 2013).

The inconsistency of health law as described above actually become the core of the problem in health services in Indonesia. A law violation that seemed to be a habit, then it grew practice of doctor's authority by non-doctor. This situation triggered the high catastrophic disease and the number of referral to the hospita ()l. Increased premiums of JKN participants have been done on April 1, 2016, and it did not solve the problem. Because the core of the problem had not been touched seriously (Peraturan Presiden Nomor 19 Tahun 2016)

The handling of the main JKN problem was to return to the ideological philosophy of the state (Pancasila) at the first principle, Belief in the One Supreme. In the first principle there was a transcendental philosophy that animated the next precepts. In all recognized religions in Indonesia, respect for life was upheld. In Islam for example, there was Qur'an in Sura Al Maidah: verse 32, that killing one soul equaled killing all mankind.

In order to respect the lives of every citizen, the structuring of primary health care professionals become the main thing to do. So far, the state had applied unfairly to the weak economic community and in some areas where its medical services were only done by paramedics who were not competent to do so. The core of the problem lied in the initial diagnosis of improper patients, so instead of healing, there was new disease or side effects.

The solution was not easy to apply, because paramedics had many years of medical practice, it would experience resistance and disagreement. So it was important to restore the competence of each health worker. The method that could be done was to change the correct perception based on transcendental, that helping the human spirit without adequate competence was the same as endangering the life that helped. This could be done through perceptual changes to restore the paramedics on track, with recurrent and conditioned soft-skill training principally on the mechanism of brain plasticity (Price and Wilson, 2006).

The situation was supported by the fulfillment of the doctors number and its distribution was regulated by the country. One thing that contradicted was when paramedics who had no medical competence were given medical authority on behalf of an abundant task, on the contrary the doctors candidates were so difficult to get a certificate because they did not pass many UKMPPD (Competency Examination Student Education Doctor). There were 2,500 young doctors who had not been able to get certificates of physician competence when they had passed every part in the hospital during professional education. The provision of intensive counseling facilities to prospective doctors was certainly more important than giving chance to the incompetent and increasing the referral number of patients referred to the hospital, because of the substandard service at the Puskesmas.

It was time for the government to change the policy that was not pro-citizen, with transcendental-based policy in the form of professional health services.

IV. CONCLUSION

Sustainable development in health was hampered by the unfinished problem of JKN. The situation was not sufficiently solved by raising the participants' premiums, as it had already been done in 2016 but the budget deficit still occured, even increasing the deficit. From the author's observation concluded that the core of the problem was the practice of unprofessional health services at the level of Puskesmas. The solution was based on transcendental philosophy that originated in the first principle

of Pancasila. That health service is a service to human life, it must be done professionally..

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