

A JURIDICAL-NORMATIVE INQUIRY INTO THE PROCEDURAL FRAMEWORK OF LEGAL PROTECTION FOR THE POOR TO ACCESS HEALTHCARE IN INDONESIA

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Abstract

This article uses a juridical-normative approach to examine health access for low-income people, focusing on procedural justice as an analytical framework. It highlights the legal system's role in protecting people with low incomes regarding health access and encourages reflection on more practical applications of procedural justice principles. Legal protection in health includes preventive and repressive aspects involving the government, hospitals, and the BPJS Kesehatan. The government and hospitals are responsible for providing good health facilities and patient safety. Participants can claim compensation for negligence or errors in health services. In contrast, hospitals are liable for losses caused by the medical team. The research highlights the importance of transparency, public participation, the right to information, and equality in ensuring quality health services for participants of the BPJS Kesehatan. However, there are areas for improvement, such as limited access to information, slow settlement processes, little compensation, legal uncertainty, and protection from discrimination. To address these weaknesses, increased transparency, accessibility, and efficiency are expected. Cooperation between the government and related agencies is essential for improving the effectiveness of the legal protection system for participants.

Keywords: BPJS Kesehatan; Legal Protection; Poor People, Procedural Justice

I. INTRODUCTION

The government must ensure an adequate standard of living for the community, particularly in terms of health. For this reason, the 1945 Constitution and other government regulations have regulated the mechanism for providing health services for the people of Indonesia¹. Every person has the right to live

in physical and mental prosperity, reside, and obtain a good and healthy environment and health services, which is the mandate of Article 28 H Point (1) of the 1945 Constitution (Amended). To empower the weak and underprivileged in line with human dignity, the state then develops a social security system for all its citizens [Article 34, Point (2)]². The state

¹ M Zamroni Fauzia Fahmi Budi Pramono, "Kebijakan Hukum Pemerintah Indonesia Dalam Pelaksanaan Vaksinasi Covid-19 Ditinjau Dari Hak Asasi Manusia Atas Kesehatan," *Preferensi Hukum* 04, no. 3 (2023): 355–72,

<https://www.ejournal.warmadewa.ac.id/index.php/juprehum/article/view/8242>.

² DPR dan MPR RI, "Negara Republik Indonesia Tahun 1945," *Warga dan Negara* § (1945),

is fully responsible for providing decent public healthcare facilities, as Article 34 Point (3) conditions. In addition, according to Article 5 Paragraph (1) of Law No. 36/2009 on Health, the equal right to obtain health resources is guaranteed to all people. Therefore, the right to health is a fundamental right for all people and all categories of citizens.

Referring to this framework, health services will be provided gradually to people experiencing poverty according to the financial capacity of local and central governments. To develop quality human resources, high resilience and competitiveness, and comprehensive national development, every effort aimed at improving the highest possible degree of public health is significant³. The government is expected to protect public health by paying for health costs through the budget provided by the provincial government for hospitals and health centres in their respective regions, based on the provisions of Article 19 Paragraph (2) of Law No. 40/2004 on the National Social Security System (the *SJSN* Law), which states that the purpose of providing health insurance is to ensure that participants receive health care benefits and protection to meet their basic health needs.

A health insurance participant is any individual who has paid contributions

personally or whose contributions are paid by the government, as stated in Article 20 Paragraph (1) of the *SJSN* Law⁴. Article 22 of the same law emphasizes that health insurance benefits consist of individual health services, including promotive, curative, and rehabilitative services, including necessary medicines and consumable medical materials. By paying contributions through the state budget, the government wants to guarantee that the underprivileged will receive their rights, especially regarding health. Everyone wants to be healthy, both for individuals and groups and even society.

According to the Health Law, everyone has the right to the best health status and should be involved in every health effort promoted by the government. All Indonesian citizens should enjoy this condition as much as possible. In line with this, BPJS Kesehatan Regulation No. 1 Year 2014 on the Implementation of Health Insurance states that health insurance guarantees that participants will receive health care benefits and protection to meet basic health needs as provided to all people who pay contributions or obtain relief from the government. Given the extent of this problem, the government endeavours to provide complete, integrated, equitable, and affordable health services for all people through the

<https://www.bkn.go.id/wp-content/uploads/2014/06/UUD-1945.pdf>.

³ Asyhadie Zaeni, *Aspek-Aspek Hukum Kesehatan Di Indonesia*, Jurnal Keperawatan Indonesia, 2017, <http://repository.unika.ac.id/19808/2/16.C2.0053> ARIS

PRIO AGUS SANTOSO%2C SH %289.82%29..pdf BAB I.pdf.

⁴ Sekretaris Negara RI, "UU RI No.40 Tahun 2004 Tentang Sistem Jaminan Sosial Nasional," Jdih BPK RI § (2004).

national health system. These efforts are made with an emphasis on the health services of the wider community to achieve the best degree of health.

The implementation of universal health coverage in Indonesia began in January 2014 and was widely seen as a significant step forward for Indonesia's population of 239.7 million. Indonesian policymakers committed to covering every citizen by 2019 under a system managed by the *BPJS Kesehatan* as the specialized implementing agency for social security in the health sector⁵. In line with this orientation, on 1 January 2014, *PT Askes (Persero)* was transformed into the Health Social Security Agency (*BPJS*). Under Article 5 of Law No. 24/2011 on the *BPJS*⁶, all responsibilities of the *PT Askes (Persero)* as a social security provider and implementer of the *Jamkesmas* program were transferred to the *BPJS Kesehatan*.

Since the *BPJS Kesehatan* was activated, participants of the *Jamkesmas* have automatically become Recipients of Fee Assistance (*Penerima Bantuan Iuran/PBI*). Many *Jamkesmas* participants still need help obtaining health services because they are unaware of the new procedures offered by the *BPJS Kesehatan* for the national health

insurance program⁷. The *PBI*, as stated in Article 4 Letter A of the *BPJS Kesehatan*'s Regulation No. 1/2014, consists of (a) individuals classified as poor or (b) individuals who do not have the financial capacity. Rapid advances in health science and technology have underpinned the development of increasingly sophisticated medical devices.

Health facilities in the National Health Insurance program are classified into Primary Level Health Facilities (*Fasilitas Kesehatan Tingkat Primer/FKTP*) and Advanced Referral Health Facilities (*Fasilitas Kesehatan Rujukan Tingkat Lanjutan/FKRTL*). The *FKTP* can include Community Health Centres (*Pusat Kesehatan Masyarakat/Puskesmas*), Doctor Practices, Primary Clinics, and Class D Primary Hospitals. In contrast, the *FKRTL* includes Primary Clinics, General Hospitals, and Special Hospitals (Minister of Health Regulation No. 28/2014). According to Article 47 of the *BPJS Kesehatan*'s Regulation No. 1/2014 on the Implementation of Health Insurance, all types of health facilities must provide promotive, preventive, curative, and rehabilitative health services, including the provision of drugs and medical consumables according to medical needs.

⁵ Shinta Chyntia Agustina, Laksono Trisnantoro, and Dwi Handono, "Implementasi Program Indonesia Sehat Dengan Pendekatan Keluarga (Pis Pk) Menggunakan Tenaga Kontrak Di Kabupaten Kulon Progo Tahun 2018 Implementation of Health Indonesia With Family Approach (Pis Pk) Using Contract in Kulon Progo District 2018," *Jurnal Kebijakan Kesehatan Indonesia: JKKI* 08, no. 03 (2019): 104–12.

⁶ Menteri Hukum dan HAM RI, "Undang-Undang Republik Indonesia Nomor 24 Tahun 2011 Tentang Badan Penyelenggara Jaminan Sosial," 1 § (2011).

⁷ Andi Nur Fiqhi Utami and Dyah Mutiarin, "Evaluasi Program Jaminan Kesehatan Nasional Pada Fasilitas Kesehatan Tingkat I Kabupaten Sleman Tahun 2016," *Journal of Governance and Public Policy* 4, no. 1 (2017): 39–70, <https://doi.org/10.18196/jgpp.4171>.

The primary purpose of establishing the *BPJS Kesehatan* is to ensure everyone has easy access to medical care⁸. Furthermore, there is no difference between the *BPJS Kesehatan*'s treatment classes for outpatient treatment and medication, and the quality of service for classes 1 and 2 should be the same. However, the veracity of this statement is sometimes in doubt as the reality contradicts itself with certain hospitals denying many patients of the *BPJS Kesehatan*'s access to treatment because they cannot accommodate them all or due to the lack of referral letters.

Previous research findings prove that hospitals often refuse BPJS Kesehatan patients to receive treatment, which violates the fundamental rights of BPJS Kesehatan participants⁹. Even if served, medical treatment for BPJS Kesehatan patients, especially the PBI category, is only sometimes obtained for free¹⁰. Reflecting on this case, all people should have the opportunity to enjoy the right to proper health, regardless of their social status. Every BPJS Kesehatan participant who seeks treatment at hospitals, clinics, or other health facilities is entitled to receive appropriate medical services irrespective of the price of expensive drugs or

requiring intensive care. In addition to the problems faced by underprivileged patients who cannot obtain health care through the BPJS Health card, other things are also complained about, namely the slow handling and the requirement for hospital recommendations to buy drugs outside because it is not the type of hospital that is covered by the BPJS procedures. That contradicts the Health Law, which stipulates that health facilities, both public and private, are prohibited from requesting down payments in emergencies and rejecting patients (Article 32 of Law No. 36/2009 on Health)¹¹.

Implementing national health insurance is one of the government's strategic measures to provide legal protection in the health sector and realize public welfare. Legal protection in health services aims to ensure legal certainty for patients to avoid losses when seeking access to and receiving services managed by all healthcare service provider institutions in Indonesia. Barriers to accessing hospital health services experienced by patients of BPJS Kesehatan, especially PBI beneficiaries, cast doubt on the availability of guarantees of their full accessibility to the National Health Insurance program at certain health facilities.

⁸ Irna Permata Sari, Fauzi Arif Lubis, and Khairina Tambunan, "Analisis Efektivitas Program BPJS Kesehatan Dalam Meningkatkan Kesehatan Dan Kesejahteraan Masyarakat," *Reslaj: Religion Education Social Laa Roiba Journal* 6, no. 1 (2023): 512–21, <https://doi.org/10.47467/reslaj.v6i1.4575>.

⁹ Yasmin Shafa, Jefik Zulfikar Hafizd, and Ubaidillah, "Analisis Pengelolaan Asuransi Kesehatan Perspektif Hukum Ekonomi Syari'ah," *Perfecto: Jurnal Ilmu Hukum* 01, no. 21 (2023): 153–66.

¹⁰ Norliza Katuk et al., "Halal Certification for Tourism Marketing: The Attributes and Attitudes of Food Operators in Indonesia," *Journal of Islamic Marketing* 12, no. 5 (2021): 1043–62, <https://doi.org/10.1108/JIMA-03-2020-0068>.

¹¹ Menteri Hukum dan HAM RI, "Undang-Undang Republik Indonesia Nomor 36 Tahun 2009 Tentang Kesehatan," 1 JDIH Kementerian Hukum dan HAM RI § (2009).

From a juridical perspective, the constitutional recognition of the right to health under Articles 28H and 34 of the 1945 Constitution imposes a positive obligation upon the State to ensure effective and non-discriminatory healthcare access. Nevertheless, practical obstacles experienced by PBI participants demonstrate that formal legal guarantees do not automatically translate into substantive legal protection. The persistence of administrative barriers indicates a discrepancy between constitutional mandates and the implementation of healthcare policies, thereby raising questions regarding the effectiveness of procedural safeguards embedded in Indonesia's healthcare regulatory framework.

The writing of this article is motivated by the urgency to understand the complex issues related to health access faced by people experiencing poverty. Equitable access to health services is essential for realizing a healthy and empowered society. Within the community, there are vulnerable groups, namely people with low incomes, who often face severe challenges in accessing decent and affordable health services. In this context, the issue of health access is not limited to logistical or geographical problems but also includes the interconnectedness of economic, social, and legal factors that affect the ability of people experiencing poverty to obtain health care that suits their needs.

Despite the existence of comprehensive constitutional and statutory guarantees concerning the right to health, significant gaps remain between normative legal protections and their practical implementation. Reports issued by the Indonesian Ombudsman and findings from BPJS Kesehatan evaluations indicate recurring complaints related to administrative barriers, delayed referrals, rejection of PBI participants, and unequal treatment in healthcare facilities. Previous studies have primarily focused on administrative aspects and health policy implementation, while limited attention has been devoted to examining these issues through the perspective of procedural justice. Therefore, this study contributes novelty by critically evaluating the effectiveness of Indonesia's legal protection mechanisms for low-income communities by integrating juridical-normative analysis with procedural justice theory.

Access to healthcare is not just about the availability of medical facilities but also about the ability of low-income people to navigate through economic and administrative barriers¹². Understanding this issue, therefore, requires us to engage a multidisciplinary perspective, combining economic, social, and legal elements to detail the obstacles faced by this group of people in accessing equitable and quality health services. A deep understanding of health access for people experiencing

¹² RI.

poverty is the foundation for a comprehensive juridical-normative analysis. The juridical-normative analysis is a very relevant tool in describing and understanding the legal framework affecting people with low incomes' right to health access. In line with that, the need for juridical-normative analysis arises as a response to the need to dig deeper into how existing legal principles are reflected in protection mechanisms related to health access.

By utilizing this approach, the research can identify discrepancies between the normative aspects of the law and the reality of its implementation in protecting people experiencing poverty. It is important to note that this analysis is not only limited to understanding the technical aspects of the law but also includes normative dimensions that characterize justice and sustainability in the context of health access. A juridical-normative analysis will allow us to assess the extent to which the existing legal framework can provide adequate protection, address the barriers faced by people experiencing poverty, and, ultimately, provide a strong foundation for legal reform. In this case, the legal protection mechanism should guarantee every individual's fundamental health rights, regardless of their economic or social background. Therefore, the juridical-normative analysis will involve tracing the explicit legal provisions relating to access to health and the interpretation and implementation of the law in practice.

This article focuses on a juridical-normative analysis of the issue of access to health for people with low incomes, emphasizing a review from the perspective of procedural justice theory. The urgency of this paper lies in an in-depth understanding of the complexity of the issues faced by this vulnerable group in accessing fair and quality health services. Procedural justice is the theoretical foundation that guides this analysis, considering that legal and administrative processes play a crucial role in determining the extent to which the health rights of people experiencing poverty can be guaranteed. Procedural justice emphasizes the importance of fair, transparent, and inclusive procedures in the legal system governing access to health.

The analysis starts with the understanding that access to health is not only about the availability of medical facilities but also about the ability of people experiencing poverty to break through economic and administrative barriers. Procedural justice theory invites us to evaluate how existing legal procedures create a fair environment for low-income people to access health services. From this perspective, juridical-normative analyses are limited to directly identifying barriers and discussing existing legal procedures in depth, including their interpretation and implementation in practice. Thus, this article attempts to bridge the gap between the normative aspects of the law and the reality of its implementation, particularly in the context of procedural justice.

It is crucial to investigate the extent to which principles of procedural justice are reflected in protection mechanisms related to health access. That involves an examination not only of the explicit legal provisions relating to health access but also an assessment of how these procedures are carried out in practice. Using procedural justice theory as an analytical framework, this article aims to provide in-depth insights into how the legal system can adequately protect people experiencing poverty regarding health access. As such, this article not only offers further understanding of the normative aspects of the law but also invites reflection on how the principles of procedural justice can be applied more effectively to address the challenges faced by this vulnerable group of people.

II. RESEARCH METHODS

This research employs a juridical-normative¹³ legal approach by examining legal norms¹⁴ governing healthcare accessibility for low-income communities in Indonesia. The primary legal materials consist of the 1945 Constitution of the Republic of Indonesia, Law Number 36 of 2009 concerning Health, Law Number 40 of 2004 concerning the National Social Security System, Law Number 24 of 2011 concerning the Social Security Organizing Agency, Presidential Regulations

governing National Health Insurance, and relevant BPJS Kesehatan regulations.

Secondary legal materials include books, scholarly journal articles, legal commentaries, policy reports, Ombudsman reports, and academic studies concerning health rights and procedural justice. Legal materials were collected through document studies and literature reviews.

The collected legal materials were analyzed qualitatively through statutory approaches, conceptual approaches, and legal reasoning techniques. The analysis employed methods of statutory interpretation, conceptual analysis, and procedural justice assessment to evaluate the effectiveness of existing legal protection mechanisms and identify inconsistencies between normative legal guarantees and practical implementation.

III. RESEARCH RESULTS AND DISCUSSION

3.1 Legal Protection Mechanism for Service Accessibility of the *BPJS Kesehatan*'s Participants in Indonesia

Law is a collection of collectively agreed-upon rules, both unwritten and written, which are usually called "regulations or laws"

¹³ Tutut Ferdiana Mahita Paksi, "Analysis of the Formation of Laws and Regulations in the Indonesian Legislation Hierarchy," *Ekspose: Jurnal Penelitian Hukum Dan Pendidikan* 21, no. 2 (2022): 1451–59, <https://doi.org/10.30863/ekspose.v21i2.3439>.

¹⁴ Muhamad Azhar Kornelius Benuf, "Metodologi Penelitian Hukum Sebagai Instrumen Mengurai Permasalahan Hukum Kontemporer," *Jurnal Gema Keadilan* 7, no. 1 (2020): 20–33, <https://doi.org/10.24246/jrh.2019.v3.i2.p145-160>.

and bind the actions of particular groups of people. Meanwhile, "protection" refers to the act of protecting and the state of being protected. In this paper, the concept of legal protection reflects the actions of state administrators or public organizations to provide, grant, and protect rights and obligations to others through regulations, decisions, or policies. Regarding its conceptual meaning, legal protection reflects the protective function of law, which is the direction of legal influence oriented towards protecting public relations, inviolability, and eliminating relations "alien" to society. It can be positioned as one of the elements of legal impact, along with legal institutions, legal management, and legal regulation¹⁵. 1). Legal protection, as stated in Law No. 39/1999 on Human Rights, applies to every effort made consciously by every person, both government and private institutions, to fight for security, control, and fulfilment of welfare in Indonesia¹⁶.

Legal protection is a concept that underlies the existence of a legal system in a society. It involves providing security, rights,

and justice to individuals or groups to maintain balance and social justice¹⁷. Legal protection covers many aspects, from human rights to contractual rights and criminal liability. At a basic level, legal protection focuses on individual rights. That includes the rights to life, liberty, and property¹⁸. These rights are considered fundamental human rights guaranteed by the Constitution or applicable laws. Legal protection at this level is a barrier to actions that may harm or violate these rights.

In addition, the concept of legal protection also involves aspects of justice in the legal system. That includes the right to fair treatment before the law, without discrimination or abuse of power. Justice also involves equal access to the justice system so that every individual has the opportunity to defend their rights¹⁹. In the civil context, legal protection involves the protection of contractual rights. Parties to an agreement have the right to demand the fulfilment of obligations following the terms of the contract. In the event of a breach of contract, the law provides a mechanism to file a lawsuit and

¹⁵ Anastasia E. Semyonovkyh, "Legal Protection and Legal Defense: Approaches to the Study of Concepts," *SHS Web of Conferences* 134 (2022): 00122, <https://doi.org/10.1051/shsconf/202213400122>.

¹⁶ Abdullayev Ibrohim Numanovich and Marupov Azizxon Abbosxonovich, "The Analysis Of Lands In Security Zones Of High-Voltage Power Lines (Power Line) On The Example Of The Fergana Region PhD of Fergana Polytechnic Institute, Uzbekistan PhD Applicant of Fergana Polytechnic Institute, Uzbekistan," *EPRA International Journal of Multidisciplinary Research (IJMR)-Peer Reviewed Journal*, no. 2 (2020): 198–210, <https://doi.org/10.36713/epra2013>.

¹⁷ P Issn Number, E Issnnumber, and Yulias Erwin, "Fulfillment Of The Rights And Legal Remedies Of Foreign Workers" 13, no. 2337 (2025): 127–40.

¹⁸ Yulias Erwin Muhammad Amin, Nurjannah Septyanun, "Perlindungan Hukum Terhadap Pembeli Beritikad Baik Pada Jual Beli Hak Atas Tanah," *Collegium Studiosum Journal* 6, no. 2 (2023): 479–91.

¹⁹ Nurjannah Septyanun, "Prinsip Anti Diskriminasi Dan Perlindungan Hak-Hak Maternal Pekerja Perempuan Dalam Perspektif Keadilan Gender the Principles of Anti-Discrimination and Protection of Maternal Rights of Female Laborers Viewed From," *IUS: Kajian Hukum Dan Keadilan* 1, no. 1 (2013): 32–43.

obtain damages²⁰. Legal protection also involves criminal liability. Criminal law aims to protect society from criminal acts and sanction criminals. That includes the suspect's right to a fair trial, the right to have a legal defence and fair law enforcement.

In its implementation, legal protection involves the role of various institutions, including the judiciary, police, and other law enforcement agencies. These agencies work together to enforce the law and deliver justice to individuals or groups needing protection. Legal protection covers a broad spectrum, ranging from human rights to contractual rights and criminal liability. It reflects a society's commitment to creating a legal system that is fair and equitable and protects individuals from actions that could harm them.

Legal protection theory examines the efforts and procedures employed to safeguard vulnerable parties in a contract. This theory discusses the form and purpose of protection, the legal subject being protected, and the object of protection given to the subject. In simple terms, legal protection is an attempt to protect the human rights of a person harmed or harassed by others. People are protected to enjoy the rights guaranteed by law. In addition, legal protection encompasses various efforts by law enforcement to provide individuals

with physical and mental security from various dangers and disturbances.

Legal protection centres on the recognition of the human rights of legal subjects and the protection of human dignity in the rule of law as an effort to prevent injustice. It is a measure that supports the safeguarding of the human rights of the aggrieved while providing people with the opportunity to enjoy their constitutional rights. The two types of legal protection for the people are preventive legal protection, which allows people to voice their opinions before definitive laws are made to prevent disputes, and repressive legal protection, which allows people to resolve disputes²¹. Therefore, legal protection means that the state guarantees that everyone can exercise the rights and interests protected by law in their capacity as legal subjects²².

Legal protection refers to protection provided by law or channelled through mechanisms and procedures under legal provisions. Legal protection is provided through (1) the establishment of regulations, which provide rights and obligations and guarantee the rights of legal subjects, and (2) the enforcement of regulations, which is carried out through the application of (a) state administrative law, which serves to prevent violations of consumer rights with agreements

²⁰ Mukhtar, Nurjannah Septyanun, and Yulias Erwin, "Tanggung Jawab Private Karyawan Dan Perusahaan Terhadap Kerugian Konsumen," *Collegium Studiosum Journal* 6, no. 2 (2023): 387–99, <https://doi.org/10.56301/csj.v6i2.1102>.

²¹ Nurjannah Septyanun et al., "Judicial Consideration Of Decision No. 273/Pdt.G/2021/Pa.Bkt

In The Perspectives Of Benefit And Justice In Murabahah Contract," *Jurnal Jurisprudence* 12, no. 2 (2023): 188–203, <https://doi.org/10.23917/jurisprudence.v12i2.1344>.

²² Salim and Erlies Septiana Nurbani, *Penerapan Teori Hukum Pada Penelitian Disertasi Dan Tesis*, 3rd ed. (Mataram: Rajawali Pers, 2016).

and supervision (preventive), and (b) criminal law, which deals with violations of consumer rights by imposing criminal sanctions and penalties (repressive), and (c) civil law which serves to restore rights by paying compensation or compensation (curative)²³.

Following the focus of this article, the concept of legal protection intersects with the domain of guaranteeing the accessibility of health services for BPJS Kesehatan participants, so the provisions and mechanisms of legal protection to guarantee the accessibility of health services are a reflection of the legal system's efforts to ensure that each participant has guaranteed and protected rights when accessing health services. That involves a series of regulations and procedures to ensure that BPJS Kesehatan participants can enjoy their rights without unnecessary obstacles.

Legal protection in the health domain emphasizes the government's efforts to protect people's health and well-being through strategic measures such as the implementation of national health insurance schemes or guarantees, disease control programs, state funding of health facilities to provide preventive and curative care, and the implementation of laws or regulations as a

framework for programs and facilities²⁴. Legal protection in healthcare ensures that patients have legal security when getting the medical care they are supposed to receive²⁵. This strategic step is orientated to guarantee and protect citizens' right to health. The right to health reflects the collection of freedoms and rights that enable a person to achieve the highest standard of health protection obtainable within his or her jurisdiction²⁶. Health insurance can provide financial protection to prevent impoverishment²⁷.

Legal protection of accessibility to health services is an effort to ensure legal certainty for patients in gaining access to and using health services. The legal basis for the right to health can be found in international laws and treaties. Article 25 of the 1948 Universal Declaration of Human Rights states that everyone has the right to a standard of living adequate for the health and well-being of himself and his family, including medical care. Meanwhile, Article 27 affirms that everyone has the right to "share in the progress of science and its benefits."

Legal protection in health involves a set of principles, policies, and mechanisms designed to protect the rights of individuals

²³ Arfan Bakhtiar and Faizah Salsabila Hidayat, "Evaluasi Sistem Manajemen Keamanan Informasi Berdasarkan Penilaian Indeks Kami V.4.2 Pada Dinas Xyz Provinsi Jawa Tengah," 2023, 1–10.

²⁴ Diya Uberoi and Maria de Bruyn, "Human Rights versus Legal Control over Women's Reproductive Self-Determination," *Health and Human Rights* 15, no. 1 (2013): 161–74.

²⁵ Ontran Sumantri Riyanto and Erna Tri Rusmala Ratnawati, "Hak Atas Informasi Kesehatan Dan Perlindungan Hukum Bagi Dokter: Implikasi Ham

Dalam Komunikasi Dokter-Pasien," *Juris Humanity: Jurnal Riset Dan Kajian Hukum Hak Asasi Manusia* 3, no. 1 (2024): 78–88, <https://doi.org/10.37631/jrkhm.v3i1.39>.

²⁶ Manfred Lau et al., "Creating Universal Health Care in Ireland: A Legal Context," *Health Policy* 125, no. 6 (2021): 777–85, <https://doi.org/10.1016/j.healthpol.2021.04.003>.

²⁷ Y Mahendradhata et al., *The Republic of Indonesia Health System Review*, vol. 7, 2017.

concerning their health. These include the right to healthcare accessibility, health information, patient safety, and the right to make decisions about their medical care. The importance of legal protection in the context of health lies in the endeavour to create a safe, fair, and equal environment for all individuals to achieve optimal health. The right to accessibility of health services is one of the main pillars of this concept. Every individual has the right to access quality healthcare without discrimination, and legal protection aims to ensure this right is respected and safeguarded.

In addition, the right to health information is crucial in legal protection. Individuals have the right to obtain clear and comprehensive information regarding their health condition, diagnosis, and available treatment options. Legal protection includes providing information in understandable language and supporting knowledge-based, informed decision-making for individuals. Patient safety is also given serious attention in the concept of legal protection. That involves the individual's right to receive safe and effective care and legal mechanisms to deal with claims or complaints in the event of a failure to provide adequate safety standards.

Legal protection in health also includes the right to make decisions about one's medical treatment. That includes the right to give or withhold consent to medical interventions and apply for advance directives if individuals cannot make their own decisions in the future. The importance of legal protection in health is

also found in efforts to address unequal access to health services. That includes legal protection for vulnerable groups, such as children, the elderly, and people with disabilities, to ensure that they get equal treatment and protected rights. Thus, the concept of legal protection in the context of health creates a framework that involves fundamental rights and protections for individuals. It creates the foundation for a health system that is fair and transparent and respects the dignity of every individual on the journey to better health.

As one of the crucial elements of legal protection in health, service accessibility is not simply the physical ease of reaching a medical facility but includes several interrelated elements to ensure that every individual has an equal opportunity to obtain quality health care. The role of accessibility includes social, economic, and cultural aspects that contribute to shaping the public health landscape. Law No. 36/2009 on Health regulates the fundamental principle that every citizen has the right to quality health services. Article 17 of this law states, "Everyone has the right to obtain health services with no discriminatory treatment." That includes participants of the *BPJS Kesehatan* who are entitled to the same accessibility of health services, without any discrimination, in public and private hospitals.

Introductory provisions governing service accessibility for participants of the *BPJS Kesehatan* can be found in relevant legislation, such as the *BPJS Kesehatan's*

Regulation No. 1/2014. This document stipulates the rights and obligations of participants, including the right to obtain health services that cover promotive, preventive, curative, and rehabilitative aspects. This provision creates a solid legal foundation to ensure equitable accessibility of health services. The *BPJS Kesehatan* has several regulations governing the rights and obligations of participants and health service providers. One of the relevant regulations is Regulation No. 1/2014 on the Implementation of Health Insurance. In this regulation, there are provisions governing the rights and obligations of hospitals, including private hospitals, in providing services to participants of the *BPJS Kesehatan*.

The *BPJS Kesehatan* has entered into cooperation agreements with various hospitals in Indonesia. This agreement regulates the rights and obligations between hospitals and the *BPJS Kesehatan*, including participant payment mechanisms and services. The agreement should guarantee equal accessibility of health services for all participants. To maintain the accessibility of health services for participants, there are provisions regarding law enforcement and sanctions against hospitals that violate regulations. Suppose a hospital refuses participants or violates patient rights. In that case, participants can report the incident to the *BPJS Kesehatan*, which has the authority to follow up on such violations and impose sanctions on the hospitals concerned.

Legal protection for participants in obtaining health services can be divided into two main aspects: preventive legal protection and repressive legal protection. Preventive legal protection involves the local government providing participants with excellent and safe healthcare facilities. Hospitals must also provide professional medical personnel, accept criticism and suggestions, and protect patient safety. In addition, there are provisions on patient safety assurance that must be reported to the committee overseeing patient safety. On the other hand, repressive legal protection involves the efforts of participants to seek redress if they feel they have received unsatisfactory service or there has been a mistake from the hospital. Complaints can be filed against hospitals that do not provide services following the provisions.

In addition, there are provisions regarding participant complaints against health facilities that collaborate with the *BPJS Kesehatan* and dispute resolution between participants, health facilities, and the *BPJS Kesehatan*. Patients also have the right to obtain compensation if the health services received are not under the expected standards. In addition, the *BPJS Kesehatan* is responsible for managing the health insurance program and submitting annual management reports.

These legal protections are regulated in the National Social Security System Law, the Social Security Organising Agency Law, and other supporting regulations. With these provisions, it is expected that *BPJS Kesehatan*

participants can obtain quality health services and that their rights are legally protected. Legal protection of the civil rights of BPJS Kesehatan participants to obtain health services can cover various aspects, including preventive and repressive aspects and related laws and doctrines. The Indonesian legal system has regulated various protection mechanisms for BPJS Kesehatan participants, as seen in the following table 1.

Table 1. Various Legal Protection Mechanisms for the Civil Rights of Participants of the BPJS Kesehatan

No	Aspects of Legal Protection	Descriptions
1	Preventive	- Local governments provide excellent and safe healthcare facilities for participants. - Hospitals must provide professional medical personnel and accept criticism and suggestions from patients. - Hospitals should protect patient safety and report patient safety assurance to the committee overseeing patient safety.
2	Repressive	- Participants have the right to seek compensation if the hospital is proven to have committed errors or omissions in health services. - The hospital is liable for losses caused by negligence or mistakes made by the medical team.
3	The <i>SJSN</i> dan the <i>BPJS Kesehatan</i>	- The <i>SJSN</i> and the <i>BPJS Kesehatan</i> are part of a mandatory social health insurance system. - The rights of social security participants are stipulated in various articles, such as Article 15, Article 20, and Article 22 of the <i>SJSN</i> Law. - Family members of participants also have the right to health insurance benefits. - Article 22 of the <i>SJSN</i> Law regulates the types of health services that must be provided.

4	Dispute Settlement	- A dispute resolution mechanism applies to resolving complaints and problems between participants and health facilities cooperating with BPJS Kesehatan. - Dispute resolution may be conducted through mediation or court under laws and regulations.
5	Hospital Responsibilities	- Various doctrines, such as liability without fault in civil law and the doctrine of vicarious liability in common law, govern the responsibility of hospitals in providing health services to patients. - Article 1367 of the Civil Code also regulates the legal protection of patients against hospitals.
6	Criminal Settlement	Errors or omissions that cause harm to recipients of health services can be prosecuted criminally according to the elements of criminality that are fulfilled.

Source: Processed by Researchers from Various Literature.

Empirical evidence demonstrates that legal guarantees do not always ensure effective access to healthcare services for PBI participants. Ombudsman reports have consistently documented complaints involving prolonged administrative procedures, delayed referrals, rejection of patients due to hospital capacity limitations, and unequal treatment between BPJS participants and non-BPJS patients. Similarly, BPJS Kesehatan evaluations reveal that participants in remote and economically disadvantaged areas continue to experience difficulties accessing specialist services and obtaining comprehensive information regarding their rights and available complaint mechanisms.

These findings indicate that the existing legal framework has not been fully translated

into substantive justice. In practice, procedural barriers often prevent low-income communities from enjoying the constitutional right to health guaranteed under Indonesian law.

These legal protections reflect efforts to ensure BPJS Kesehatan participants receive quality health services, following the rights and obligations stipulated in applicable laws and doctrines. These are steps taken to maintain procedural justice in the health insurance system in Indonesia.

Although the legal framework provides extensive guarantees, the implementation of these protections remains inconsistent. The existence of complaint mechanisms and dispute resolution procedures does not necessarily ensure accessibility because vulnerable participants often lack legal literacy, information, and resources necessary to utilize such mechanisms effectively. Consequently, procedural arrangements that appear legally sufficient may still fail to produce substantive justice outcomes for economically disadvantaged communities.

3.2 Relevance of Legal Protection Mechanism for Service Accessibility of Participants with Fulfilment of Procedural Justice Principles

The focus of the author's attention is to examine the relevance of legal protection mechanisms to the fulfilment of the principle of procedural justice by the *BPJS Kesehatan* to

ensure full accessibility of PBI patients to health services available in several health facilities. Therefore, a review of the meaning and scope of the theory of procedural justice, one of the factors of the theory of justice, must be presented.

In general, justice can be divided into three types, namely (1) distributive justice, which refers to the outcome of a decision or exchange based on the principles of equity, equality, and need; (2) procedural justice, which refers to the procedures or systems used to produce these outcomes that rely on the principles of consistency, elimination of bias, accuracy, correctability, representativeness, and ethicality; and (3) interactional justice: the interpersonal treatment that individuals receive from service providers in the form of respect, honesty, and courtesy, which will ultimately affect procedural justice.

Procedural justice theory is always concerned with studying the proper procedures that officials should use as an issue or matter of fairness when they apply and enforce the law or exercise the discretion given to them by the law. Procedural fairness reflects political morality because procedurally fair treatment at the hands of officials is a prerequisite for the

justifiable exercise of state power²⁸. The theory is rooted in the social psychological concept of justice derived from Thibaut and Walker's, work on the influence of procedures in social interactions. There are four main components of procedural justice: neutrality, voice, respect, and trust²⁹.

Procedural justice emphasizes fair procedures from a normative perspective, distinguishing from procedural fairness, which focuses on legal rules and judicial notions of fairness³⁰. In practice, this type of fairness involves all parties affected by the decision in the decision-making process³¹. Procedural justice recognizes that courts and their users' perceptions of the fairness of a legal process can impact their ability to accept and "live with" the decision. Concerning this meaning, four factors guide users' assessment of the fairness of a process: (1) voice or opportunity for users to 'tell their own story'; (2) neutrality of the decision-maker, including lack of bias, transparency, and consistency in the application of rules; (3) trustworthiness of

third-party authorities; and (4) courtesy and respect. Nonetheless, procedural justice in common law language also has another meaning, such as the fairness of the process by which a decision is reached³².

The right to a due process of law is the most representative concept to explain the meaning of procedural fairness under procedural justice theory. Legally binding in many national constitutions and international instruments, referred to by different names or shaped by normative provisions when applied to legal procedures, the right to due process can be characterized as an attribute of the rule of law, rooted in fundamental conceptions of fairness and reasonableness. Due process is also a complex concept as it addresses different types of public authorities mandated to follow its requirements in their relations with³³.

One of the critical points of many of the above arguments is that procedural justice is positioned as a concept of fairness in the dispute resolution process and how the outcome and quality of the experience

²⁸ Denise Meyerson, Catriona Mackenzie, and Therese MacDermott, *Introduction Procedural Justice in Law, Psychology, and Philosophy, Procedural Justice and Relational Theory*, vol. i, 2020, <https://doi.org/10.4324/9780429317248-1>.

²⁹ Andrea M. Cohen, Galia, and Headley, "Training and 'Doing' Procedural Justice in the Frontline of Public Service: Evidence from Police," *Review of Public Personnel Administration* 0, no. 0 (2023): 153–73.

³⁰ T MacDermott and D Meyerson Quarterly, "Australian Tribunals and Alternative Dispute Resolution: A Procedural Justice Perspective," *Journal Civil Justice Quarterly* 37, no. 4 (2018): 20, <https://researchers.mq.edu.au/en/publications/australian-tribunals-and-alternative-dispute-resolution-a-procedu>.

³¹ Johannes Langemeyer and James J.T. Connolly, "Weaving Notions of Justice into Urban Ecosystem Services Research and Practice," *Environmental Science and Policy* 109, no. July (2020): 1–14, <https://doi.org/10.1016/j.envsci.2020.03.021>.

³² Tina Popa et al., "Procedural Justice In A Tribunal Context: An Exploration And Extension Of The Concept From A Human-Centred Design Perspective Legal Culture and Conventional Justice Systems Have a Long-Engrained History of Prioritising Fact-Finding Processes , Court Proc," *UNSW Law Journal* 32, no. 2008 (2022): 1657–92.

³³ Ricardo Lillo Lobos and Analyzes, *Understanding Due Process in Non - Criminal Matters About This Book*, vol. 97, 2022.

influence people's perceptions of fairness. In other words, procedural justice refers to the fairness used by those in authority to achieve specific outcomes or decisions during the dispute resolution process. Procedural justice processes can be used in many places, such as court systems, workplaces, schools, and governments. Perceived fairness in procedural justice processes is critical to building trust and respect between the government and the public. Therefore, perceived fairness is an essential component of procedural justice.

Procedural justice is a concept within law and governance that focuses on the fairness and transparency of the processes used by those in positions of authority to make decisions. It is a critical element of the interactions between citizens and authority figures, influencing the legitimacy and acceptance of those in power. Researchers such as Tyler, Lind, and others extensively explored and developed the concept.

Concrete examples of procedural injustice can be observed in complaints submitted by PBI participants concerning delayed referrals, rejection due to incomplete administrative documents, and limited information regarding complaint procedures. Such cases illustrate how administrative procedures may become barriers rather than facilitators of healthcare accessibility. From the perspective of procedural justice, these circumstances indicate deficiencies in transparency, participation, and equal treatment principles. Consequently, the

effectiveness of legal protection mechanisms cannot merely be measured by the existence of regulations but must also be evaluated based on the extent to which healthcare procedures are implemented fairly and inclusively for vulnerable populations.

Table 2. Main Aspects and Characteristics of Procedural Justice

No.	Aspects	Descriptions
1	Voice and Participation	That involves allowing individuals to express their views and concerns during decision-making processes. Listening to and seriously considering these views is crucial for fostering a sense of fairness.
2	Neutrality	It emphasizes the importance of unbiased and consistent decision-making by authorities, using clear and transparent rules and evidence. That aligns closely with the 'informed consent' concept in clinical settings.
3	Respect and Dignity	Treating individuals courteously, valuing their uniqueness, and respecting their rights and needs are fundamental. This aspect reinforces an individual's standing in the community.
4	Trustworthiness	The perception is that authority figures act in the best interests of individuals and are genuine and sincere in their actions.

Source: Processed by Researchers from Various Literature.

Procedural justice is crucial in legal and governance contexts and extends to healthcare, particularly in patient involvement in decision-making. This approach is believed to enhance cooperation with authority figures and acceptance of laws and regulations, as individuals are likelier to comply with outcomes they perceive as reasonably derived. Research in this field has shown that when procedural justice is lacking, it can lead to disenfranchisement from decision-making, reduced trust in authorities, and diminished perception of legitimacy. Thus, procedural justice significantly shapes the dynamics between individuals and authority figures across various domains.

Below is a table categorizing the authors mentioned in the narrative, along with their key arguments or contributions to the concept of procedural justice. This table represents the diversity of perspectives and the depth of research in procedural justice, highlighting its multifaceted nature and applicability in various domains.

Table 3. Diversity Perspectives in Procedural Justice Research

No.	Author(s)	Key Arguments/Contributions
1	Tyler (1990, 2004)	Emphasized the importance of fairness in the interaction process between citizens and authorities.
2	Lind & Tyler (1988)	Highlighted the significance of allowing individuals to voice their concerns in decision-making processes,

		linking this to perceptions of fairness and legitimacy.
3	Tyler & Blader (2003)	Suggested that lack of procedural justice implies decisions are made on personal opinions, signalling to people that they are unworthy.
4	Murphy (2009)	Focused on respecting the public, including politeness and recognizing a person's rights.
5	Goodman-Delahunty (2010)	Pointed out that the quality of interpersonal care is vital to perceptions of authorities' professionalism.
6	Tyler & Fagan (2008)	Discussed how personal interactions with state officials influence citizens' perceptions of procedural justice.
7	Jackson et al. (2010)	Identified the elements that make authorities' actions procedurally fair, including neutrality, participation, trustworthiness, and respect.
8	Tomlin et al. (2023)	Applied procedural justice to patient involvement in healthcare decision-making and the consequences of disenfranchisement from such processes.
9	Fitzalan Howard & Wakeling (2020)	Define procedural justice and identify its fundamental principles: voice, neutrality, respect and dignity, and trustworthiness.
10	McKenna et al. (2001, 2000)	Discussed the importance of voice in decision-making and the impact of neutrality in the context of informed consent.
11	De Mesmaecker (2014), Lind et al. (1990), Wittouck (2019)	Extended the procedural justice framework to include information, performance, and authoritativeness.

- 12 Thibaut and Walker (1975) Discussed procedural justice as the fairness of processes behind decisions or outcomes influencing the recipient's judgment.

policy and resource allocation. That creates an opportunity for communities, including low-income people, to have a voice in setting health priorities and generating policies that better reflect their needs and realities.

Source: Processed by Researchers from Various Literature.

Procedural justice for accessibility of health services is using specific procedures or systems by institutions providing health care services oriented towards realizing equal accessibility to all patients. Accessibility of health services is the ease of entry provided by health institutions or facilities to patients to obtain or use the services they need. The principles of procedural justice form the foundation for implementing an equitable and inclusive health system.

Table 4. Fulfillment of Procedural Justice Principles in Health System Management

No.	Principles	Descriptions
1	Transparency	Any information relevant to the care process, including diagnosis and treatment plans, should be easily accessible and understandable to the patient. That gives individuals control over their health-related decisions and creates an environment where communication between healthcare providers and patients can occur effectively.
2	Public Participation	The importance of involving communities in decision-making regarding health

3	Right to Information	Every individual has the right to understand information related to their health. That includes the right to adequately explain the diagnosis, medical procedures, and risks associated with a particular treatment. Ensuring this understanding is essential in ensuring that health decisions can be made based on adequate information and clear understanding.
4	Equality	There should be no discrimination in accessing or providing health services. That secures the right of every individual, including people experiencing poverty, to equal and respectful treatment in the health system.

Source: Processed by Researchers from Various Literature.

The legal protection mechanism for BPJS Kesehatan participants reflects various aspects of the principle of procedural justice. The principle of procedural justice emphasizes the importance of providing fair opportunities and transparent processes in resolving legal

disputes or problems. The following are some of how the legal protection mechanisms of the BPJS Kesehatan participants reflect the principle of procedural justice:

Table 5. Fulfillment of Procedural Justice Principles in the Legal Protection Mechanism for Participants of the BPJS Kesehatan

No.	Principles	Descriptions
1	Grievances and Complaints	Participants have the right to complain about the services they receive. This mechanism allows participants to raise their concerns and initiate a resolution process.
2	Dispute Resolution	A mechanism regulates dispute resolution between participants, health facilities, and BPJS Kesehatan. This dispute resolution process should follow the principles of procedural justice, such as listening to all parties involved, providing an opportunity to defend themselves, and providing a fair and transparent decision.
3	Surveillance	There is oversight of the program's implementation, which covers various aspects, including health services provided by health facilities that collaborate with the BPJS Kesehatan. This supervision can ensure that all parties operate following applicable regulations.
4	Compensation	Participants can seek redress if they feel their rights have been violated or receive services that do not meet expected standards. That reflects an effort to provide fair

compensation to participants who feel aggrieved.

5	Transparency	The principle of transparency in grievance, dispute resolution, and supervision processes ensures that participants have equal access to information and processes related to their legal protection.
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Source: Processed by Researchers from Various Literature.

The legal protection mechanism for participants has been designed to reflect the principles of procedural justice by providing fair opportunities, open processes, and decisions based on objective facts. Nonetheless, there are still some weaknesses or gaps that can be identified in the system:

Table 6. Weakness of Legal Protection Mechanism for Participants of the BPJS Kesehatan

No.	Principles	Descriptions
1	Limited Access to Information	Some participants may need more access to information about their legal rights and protection mechanisms. That can be a barrier to utilizing available protection mechanisms.
2	Possible Slow Settlement Process	The dispute or grievance resolution process may take a long time, which may cause inconvenience to participants who are facing urgent health issues. Too much bureaucracy in dispute resolution can also be a problem.

3	Limitations on Compensation	Although participants have the right to compensation, the amount of compensation provided may not always be sufficient to compensate for the actual losses suffered by participants. That may reduce the effectiveness of legal protection mechanisms.
4	Legal Uncertainty	Interpreting laws and regulations relating to the <i>BPJS Kesehatan</i> can be vague or inconsistent. That can lead to uncertainty in the legal protection of participants.
5	Limited Means of Dispute Settlement	Means to resolve disputes may be limited, especially in areas far from health service centers or offices of the <i>BPJS Kesehatan</i> . That can be a problem for participants living in remote areas.
6	Protection from Discrimination	Although legal safeguards should protect participants from discrimination in health care, there is still a risk of undetected or overlooked discrimination in practice.
7	Economic Constraints	Although the <i>BPJS Kesehatan</i> aims to provide access to affordable healthcare, participants may still face economic constraints, such as additional costs they have to pay outside coverage.
8	Participant education	Not all participants may have a sufficient understanding of their rights and obligations in the <i>BPJS Kesehatan</i> system. Better education of participants can help them utilize legal

protection mechanisms more effectively.

Source: Processed by Researchers from Various Literature.

Improving transparency, accessibility, and efficiency in the legal protection mechanisms of BPJS Kesehatan participants can help address some of these weaknesses. In addition, the government and relevant agencies should work together to improve this legal protection system to make it more effective in protecting the rights of BPJS Kesehatan participants.

Several regulatory weaknesses can be identified within the SJSN Law and the BPJS Law. First, both statutes establish general guarantees of healthcare access without providing sufficiently detailed procedural standards regarding the protection of PBI participants facing service refusals. Second, ambiguities persist concerning the obligations of private healthcare facilities in delivering equal treatment to PBI beneficiaries. Third, the legal framework has not sufficiently harmonized constitutional healthcare rights with administrative requirements, resulting in excessive procedural burdens that disproportionately affect low-income communities. Consequently, legal protection remains predominantly formal and has not yet fully achieved substantive and procedural justice objectives.

IV. CONCLUSION

This study uses a juridical-normative approach focusing on access to health services

for low-income communities. The theory of procedural justice serves as an analytical framework to assess the effectiveness of legal protection mechanisms in supporting this vulnerable group.

The findings demonstrate that Indonesia's legal framework has established preventive and repressive mechanisms to protect the health rights of BPJS Kesehatan participants through constitutional guarantees, statutory regulations, and administrative procedures. The government, healthcare facilities, and BPJS Kesehatan share responsibilities in ensuring healthcare accessibility, patient safety, dispute resolution, and compensation for negligence or errors in health services.

The study further reveals that the legal protection mechanisms for BPJS Kesehatan participants generally reflect the principles of procedural justice through arrangements concerning complaints procedures, dispute resolution, supervision, transparency, and participants' rights to information. Nevertheless, several challenges remain, including limited access to information, lengthy dispute settlement procedures, inadequate compensation mechanisms, legal uncertainty, economic constraints, and insufficient participant education. These limitations may hinder vulnerable communities from effectively exercising their right to healthcare.

Furthermore, the findings should be evaluated in light of international human rights

standards on the right to health in order to determine whether the existing legal protection mechanisms adequately fulfill the principles of accessibility, availability, and non-discrimination in healthcare services. Although Indonesia has established a comprehensive legal framework for health protection, the persistence of procedural and administrative barriers indicates that substantive realization of the right to health for low-income communities remains an ongoing challenge. Therefore, greater transparency, accessibility, and inter-institutional cooperation are necessary to strengthen the effectiveness of legal protection mechanisms and ensure equitable healthcare access for all participants.

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