



LABOR SOCIAL SECURITY SYSTEM IN FULFILLING THE RIGHTS OF CONTRACT WORKERS

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ABSTRACT

Employment social security is an essential form of legal protection for workers, including contract workers who remain vulnerable to inadequate social security coverage and unequal employment protection. Although Indonesian legislation establishes employers' obligations to provide employment social security, its implementation for contract workers remains imperfect. This study aims to examine the legal protection of employment social security for contract workers, identify the internal and external factors that hinder its implementation, and analyze the legal consequences for institutions that fail to enroll contract workers in employment social security. This study employs an empirical juridical method combining field research and library research. Primary legal sources include the 1945 Constitution, Law Number 13 of 2003 on Manpower, Law Number 40 of 2004 on the National Social Security System, Law Number 24 of 2011 on BPJS, and relevant implementing regulations. Data were obtained through interviews and analyzed qualitatively by comparing *das sollen* with *das sein*. The findings show that protection includes adequate income, occupational health insurance, freedom of association, and workplace safety, but implementation is hindered by internal and external barriers. Non-compliance may result in administrative sanctions. Stronger supervision, coordination, and institutional compliance are therefore required.

A. INTRODUCTION

Employment Social Security (*Jaminan Sosial Tenaga Kerja*/Jamsostek) is a program that protects the working population from numerous hazards that may arise, such as job accidents, death, preparation for old age, and retirement. Jamsostek also seeks to provide guarantees in the event of job loss due to termination of employment.¹ Employment Social Security can prevent economic shocks, such as work-related accidents or economic crises, including layoffs, that can cause workers and their families to slip into poverty. In such cases, Jamsostek becomes the main safety net that can secure their right to a decent life.²

The Employment Social Security Administering Body (*Badan Penyelenggara Jaminan Sosial*/BPJS Ketenagakerjaan) must continuously expand its coverage for Indonesian workers, improve the speed and accessibility of its services, and continue to innovate to provide maximum protection. This will enhance workers' preparedness to face the future labor market and help lift families out of the poverty trap.³

The National Social Security System Law No. 40 of 2004 establishes five types of social security programs, namely health protection, pension protection, retirement savings, Work Accident Insurance, and Death Insurance. These programs are designed to provide social security protection to members of the public through various forms of coverage according to their respective needs.

The implementation of these social security programs is administered by the Social Insurance Authority (BPJS) pursuant to Law Number 24 of 2011.⁴

¹ Adila Azani, "Social Security For Government Employees With Employment Agreements And Workers: Comparative Study And Ideal Model," *Unram Law Review* 9, no. 1 (2025): 69. See too, Siti Ummu Adillah, and Amin Purnawan, "Analysis of the fulfillment of labor social security as a work of legal protection," *Journal of Morality and Legal Culture* 1, no. 1 (2020): 35.

² Imam Soepomo, *Hukum Perburuahan Bidang Hubungan Kerja* (Jakarta: Djambatan, 2016), 34. See too, Destin Desy Ansrida, and Jonaedi Efendi, "State Responsibility in Safeguarding Workers Dismissed from Employment: A Study of Job Loss Insurance (JKP)," *IUS POSITUM: Journal of Law Theory and Law Enforcement* (2025): 69.

³ Asri Wijayanti, *Hukum Ketenagakerjaan Pasca Reformasi* (Sinar Grafika, Jakarta, 2013), 32. See too, Adila Azani, "Social Security For Government Employees With Employment Agreements And Workers: Comparative Study And Ideal Model," *Unram Law Review* 9, no. 1 (2025): 71; Siti Ummu Adillah, and Amin Purnawan, "Analysis of the fulfillment of labor social security as a work of legal protection," *Journal of Morality and Legal Culture* 1, no. 1 (2020): 36.

⁴ Alfrenso ER. Helweldery, "Sanksi atas pelanggaran terhadap pelaksanaan jaminan sosial ketenagakerjaan menurut undang-undang no. 24 tahun 2011 tentang badan penyelenggara jaminan sosial (BPJS)," *Lex Et Societatis* 7, no. 5 (2019): 31. See too, Muslim Harahap, Sugih Ayu Pratitis, and Andi Putra Sitorus, "Aspek Hukum Ketenagakerjaan Terhadap Jaminan Hak Kehilangan Pekerjaan Berdasarkan UU No. 11 Tahun 2020 Tentang Cipta Kerja," *Law Jurnal* 2, no. 2 (2022): 117; Suryaman Silaen, Besty Habeahan, and Roida Nababan. "Perlindungan Hukum Terhadap Pekerja Yang Tidak Didaftarkan Oleh Perusahaan Sebagai Peserta BPJS Ketenagakerjaan Berdasarkan Undang-Undang Nomor 24 Tahun 2011 Tentang Badan Penyelenggaraan Jaminan Sosial," *Nommensen journal of private law* 1, no. 1 (2022): 19.

The public welfare system administered by BPJS covers two main categories of workers: workers with an employment relationship and workers without an employment relationship.⁵

According to the classification, BPJS participants with an employment relationship include workers in the formal sector and non-independent workers (those who are part of a company).⁶ This includes government employees (*Pegawai Negeri Sipil*/PNS), contract workers, Indonesian National Police/National Armed Forces personnel, retirees (PNS/TNI/POLRI), State-Owned Enterprises (SOE/*Badan Usaha Milik Negara*/BUMN), Regionally-Owned Enterprises (ROE/*Badan Usaha Milik Daerah*/BUMD), private sector employees, foundations, joint ventures, veterans, and independence pioneers. In such cases, employers are responsible for registering both themselves and their workers with BPJS *Ketenagakerjaan*.⁷

The social protection programs managed by BPJS *Ketenagakerjaan* apply to all types of workers, including private sector employees, contract workers, freelance laborers, interns, honorary workers, and especially contract workers.⁸ For Occupational Accident and Life Insurance Programs, the premiums are fully paid by the employer. The phased implementation of participant registration began no later than July 2015, in compliance with Presidential Regulation No. 109 of 2013 concerning the staged enrollment in social security programs. Regarding the program for workplace accident insurance, compensation is due from BPJS *Ketenagakerjaan*, and rehabilitation to workers who experience accidents while commuting to and from work or who suffer from diseases caused by or related to their work. These workers are entitled to medical services until full recovery and return to work.⁹

⁵ Marius Olivier, "Informality, employment contracts, and social insurance coverage: rights-based perspectives in a developing world context," *International Journal of Comparative Labour Law and Industrial Relations* 27, no. 4 (2011).

⁶ Adila Azani, "Social Security For Government Employees With Employment Agreements And Workers: Comparative Study And Ideal Model," *Unram Law Review* 9, no. 1 (2025): 71. See too, Ayu Anggi Deviona, Sriono Sriono, and Nimrot Siahaan, "Social Security and Compensation: Analyzing the Protection of Fixed-Term Employment Contract Workers under the Omnibus Law on Job Creation," *SIGn Jurnal Hukum* 6, no. 2 (2024): 89.

⁷ Sulastomo, *Mekanisme Pendaftaran BPJS Ketenagakerjaan* (Jakarta: PT Raja Grafindo Persada, 2011), 32.

⁸ Ayu Anggi Deviona, Sriono Sriono, and Nimrot Siahaan, "Social Security and Compensation: Analyzing the Protection of Fixed-Term Employment Contract Workers under the Omnibus Law on Job Creation," *SIGn Jurnal Hukum* 6, no. 2 (2024): 89. See too, Dahris Siregar, "Legal Protection in Specified-Term Employment Contracts: Striking a Balance between Workers' Rights and Obligations," *Istinbath: Jurnal Hukum* 22, no. 01 (2025): 86.

⁹ Adrian Sutedi, *Hukum Perburuhan*. Edisi 1 Cetakan 2 (Jakarta: Sinar Grafika, 2011), 43. See too, Destin Desy Ansrida, and Jonaedi Efendi, "State Responsibility in Safeguarding Workers Dismissed from Employment: A Study of Job Loss Insurance (JKP)," *IUS POSITUM: Journal of Law Theory and Law Enforcement* (2025): 71.

According to the 1945 Constitution's Article 27, paragraph (2), "Every citizen has the right to work and to earn a humane livelihood." The achievement of fundamental rights that are inalienable and protected by the Constitution is known as legal protection for workers. Furthermore, "The economy shall be organized as a common endeavor based on the principles of family," according to Article 33, paragraph (1).

Previous studies have examined employment social security in Indonesia, particularly in relation to workers' rights, BPJS Ketenagakerjaan, and the implementation of social security programs.¹⁰ However, the existing discussion remains relatively general and has not sufficiently addressed the specific legal protection of contract workers as a distinct category of workers.¹¹ In particular, limited attention has been given to the factors that hinder the fulfillment of social security rights for contract workers and the legal consequences for institutions or agencies that fail to provide such protection.¹² This gap indicates the need for a more focused legal analysis that examines not only the normative framework but also the challenges surrounding its implementation.

This study addresses the identified gap by providing an integrated legal analysis of social security protection for contract workers, covering the establishment of legal safeguards, the factors inhibiting their implementation, and the legal consequences arising from non-compliance (Zhafirah & Mardijono, 2023).¹³ Its novelty lies in connecting these three dimensions within a single analytical framework, thereby providing a more comprehensive understanding of the protection of contract workers' social security rights. The study is expected to contribute to the development of employment law scholarship and provide practical considerations for relevant agencies in

¹⁰ Adila Azani, "Social Security For Government Employees With Employment Agreements And Workers: Comparative Study And Ideal Model," *Unram Law Review* 9, no. 1 (2025): 74. See too, Siti Ummu Adillah, and Amin Purnawan, "Analysis of the fulfillment of labor social security as a work of legal protection," *Journal of Morality and Legal Culture* 1, no. 1 (2020): 38.

¹¹ Ayu Anggi Deviona, Sriono Sriono, and Nimrot Siahaan, "Social Security and Compensation: Analyzing the Protection of Fixed-Term Employment Contract Workers under the Omnibus Law on Job Creation," *SIGN Jurnal Hukum* 6, no. 2 (2024): 91. See too, Laila Nurul Hidayati, Aisyah Lashinta Dewi, Malkah Melia Oktaviana, Lia Sari, Salma Rifda Salsabila, and Kuswan Hadji, "Perlindungan Hukum Pekerja Kontrak Dalam Perspektif Undang-Undang Nomor 13 Tahun 2003 Dan Undang-Undang Omnibus Law," *Al-Zayn: Jurnal Ilmu Sosial & Hukum* 3, no. 3 (2025): 1934-1945.

¹² Terubus, Rafadi Khan Khayru, Tri Hambodo, Sudjai Sudjai, and Didit Darmawan, "Effectiveness of The Job Creation Law to Guarantee Contract Workers' Rights," *Legalis et Socialis Studiis (L355)* 2, no. 3 (2024): 12. See too, Dahris Siregar, "Legal Protection in Specified-Term Employment Contracts: Striking a Balance between Workers' Rights and Obligations," *Istinbath: Jurnal Hukum* 22, no. 01 (2025): 86.

¹³ Siti Ummu Adillah, and Amin Purnawan, "Analysis of the fulfillment of labor social security as a work of legal protection," *Journal of Morality and Legal Culture* 1, no. 1 (2020): 39.

strengthening compliance with social security obligations and ensuring the effective fulfillment of contract workers' legal rights.

Contract workers' role in national development is expanding, as are the dangers, responsibilities, and issues they face. As a result, it is deemed vital to provide them with protection, care, and increased well-being, which in turn will increase job productivity.

The objectives of this study are to explain the establishment of legal safeguards for contract workers social security, identify the factors that hinder the implementation of social security protection in fulfilling the rights of contract workers, and examine the legal consequences for relevant agencies that fail to include contract employees in social security programs.

Considering the above background description, the primary difficulties in this study include the following:

1. How is the realization of legal protection for public welfare for contract employees?
2. What are the inhibiting factors in the realization of the protection of public welfare for workers in fulfilling the rights of contract workers?
3. What are the legal consequences for related agencies that do not include Contract workers in employment social security?

B. RESEARCH METHODS

This study employs an empirical juridical research method using a combination of field research and library research. The empirical juridical approach is used to examine the implementation of legal protection for contract workers' employment social security in practice, while the normative analysis is used to assess the applicable legal framework. Primary legal sources consist of the 1945 Constitution of the Republic of Indonesia, Law Number 13 of 2003 concerning Manpower, Law Number 40 of 2004 concerning the National Social Security System, Law Number 24 of 2011 concerning the Social Security Administering Bodies (BPJS), Government Regulation Number 44 of 2015 concerning the Work Accident Insurance and Death Insurance Programs, and Presidential Regulation Number 109 of 2013 concerning the Staged Enrollment in Social Security Programs, insofar as they remain applicable. These legal sources are examined to determine the normative basis of social security protection and the obligations of employers toward contract workers.

Secondary legal sources include books, academic journals, previous research, legal commentaries, and other scholarly publications concerning employment law, social security, contract workers, and legal protection. Primary empirical data are obtained through interviews with respondents and informants who are considered relevant to the implementation of employment

social security for contract workers.¹⁴ Field research is conducted to identify the actual implementation of legal protection, the factors that hinder the fulfillment of social security rights, and the practices of relevant agencies in registering and providing social security coverage to contract workers. The selection of respondents and informants is based on their relevance, knowledge, and involvement in employment and social security matters.¹⁵

The collected data are analyzed using a qualitative descriptive analysis. The analysis begins with data reduction by selecting and organizing information relevant to the research questions, followed by classification of the findings according to the legal protection provided, implementation barriers, and legal consequences of non-compliance. The empirical findings are then compared with the applicable statutory provisions and relevant legal doctrines to identify conformity or discrepancies between *das sollen* (the normative legal framework) and *das sein* (its implementation in practice). The analysis subsequently interprets these findings to formulate conclusions regarding the effectiveness of legal protection for contract workers and the legal consequences applicable to agencies that fail to fulfill their social security obligations.

C. DISCUSSION

1. Implementation of Legal Protection for Employment Social Security of Contract Employees

Protecting human dignity and acknowledging human rights for legal subjects in accordance with the law's provisions is known as legal protection. It consists of rules or norms that protect one's interests from being harmed by another.¹⁶ Protecting the dignity and humanity of workers, both individually and as members of the workforce, forms the concept of legal protection for workers in Indonesia. According to Philipus M. Hadjon¹⁷, legal protection for workers consists of two fundamental aspects: protection from employers and protection through government action.

¹⁴ Hadari Nawawi, *Metode Penelitian Bidang Sosial* (Yogyakarta: Gajah Mada University Press, 2017), 23.

¹⁵ Bambang Waluyo, *Penelitian Hukum Dalam Praktik* (Jakarta: Sinar Grafika, 2012), 23.

¹⁶ Muhammad Faturrachman, Mahlil Adriaman, and Jasman Nazar, "Perlindungan hak jaminan sosial tenaga kerja bagi pihak yang tidak menyelenggarakan jaminan sosial tenaga kerja," *YUSTISI* 11, no. 2 (2024): 279. See too, Suryaman Silaen, Besty Habeahan, and Roida Nababan, "Perlindungan Hukum Terhadap Pekerja Yang Tidak Didaftarkan Oleh Perusahaan Sebagai Peserta BPJS Ketenagakerjaan Berdasarkan Undang-Undang Nomor 24 Tahun 2011 Tentang Badan Penyelenggaraan Jaminan Sosial," *Nommensen journal of private law* 1, no. 1 (2022): 19.

¹⁷ Philipus. M. Hadjon, *Perlindungan Hukum Bagi Masyarakat Indonesia*, (Surabaya: Bina Ilmu, 1983), 232.

Article 5 of the Manpower Act clearly regulates worker protection. It states that every worker has the right, in accordance with their interests, to equal job opportunities and a respectable standard of living free from discrimination based on gender, ethnicity, race, religion, or political affiliation and capabilities, including equal treatment for persons with disabilities.¹⁸ Furthermore, Article 6 requires employers to provide workers with their rights and obligations without discrimination based on gender, ethnicity, race, religion, skin color, or political affiliation.¹⁹ Legal protection for workers can be provided primarily through labor laws that guarantee the right to decent employment, workplace protection, occupational health and safety, fair wages, and access to social security, including protection after retirement. These legal safeguards establish the fundamental rights and obligations of both workers and employers within the employment relationship.

In addition to statutory protection, workers may obtain legal protection through labor unions (SP/SB), which provide a mechanism for workers to express concerns, negotiate employment conditions, and claim their legally guaranteed rights. Labor unions also play an important role in representing workers in the formulation of Collective Labor Agreements (*Perjanjian Kerja Bersama*/PKB), which establish the respective rights and obligations of employees and employers and serve as a common guideline for maintaining fair and balanced industrial relations.²⁰

Legal protection refers to actions or legal measures by the government that are provided to legal subjects in accordance with their rights and obligations under Indonesian positive law. Legal protection arises from a legal relationship, which is an interaction between legal topics that has legal significance or repercussions.²¹

According to interviews with the Department of Manpower, in general, protection for workers is already regulated under Law Number 13 of 2003 on Manpower. However, recently, there has been growing public concern, especially regarding workers employed under contract systems. This concern

¹⁸ Moch Yusuf Efendi, and Ali Huristak Hartawan Hasibuan, "Upaya Hukum Pekerja Industri Hiburan Malam Terhadap Jaminan Sosial Ketenagakerjaan yang Diabaikan," *SEIKAT: Jurnal Ilmu Sosial, Politik dan Hukum* 5, no. 4 (2026): 2493. See too, Robby Tejamukti Kusuma, "Efektivitas perlindungan hukum terhadap pekerja kontrak dalam sistem outsourcing pasca berlakunya Undang-Undang Cipta Kerja dan Peraturan Pemerintah Nomor 35 Tahun 2021," *IBLAM Law Review* 5, no. 2 (2025): 34.

¹⁹ Robert Libra, and Dwita Feby Ramadhani, "Perlindungan Hukum Terhadap Pekerja Harian Lepas Yang Dipekerjakan Pada Instansi Pemerintah Daerah Setelah Berlakunya Undang-Undang Nomor 6 Tahun 2023 Tentang Cipta Kerja," *ANDREW Law Journal* 4, no. 1 (2025): 135.

²⁰ Adrian Sutedi, *Hukum Perburuhan*. Edisi 1 Cetakan 2 (Jakarta: Sinar Grafika, 2011), 44.

²¹ Destin Desy Ansrida, and Jonaedi Efendi, "State Responsibility in Safeguarding Workers Dismissed from Employment: A Study of Job Loss Insurance (JKP)," *IUS POSITUM: Journal of Law Theory and Law Enforcement* (2025): 71.

arises from the stark differences in welfare received by contract workers compared to permanent employees.²²

In reality, despite these public concerns, many companies, government offices, and public agencies are increasingly inclined to employ workers under contract systems, often through third-party outsourcing agencies.²³ The preference for third-party employment arises from cost-efficiency, as these entities are not required to provide various benefits and protections such as educational allowances, paid leave, or health insurance to contract workers. By using third-party labor, companies and government agencies only need to pay workers based on the agreed contract wage, without the obligation to offer additional benefits.

The implementation of legal protection for the employment social security of contract employees is carried out through various forms of protection.²⁴ One important form is the provision of adequate income, including protection for workers who are temporarily unable to work through no fault of their own. In addition, workers are entitled to health insurance, which provides protection against health-related risks and supports their ability to maintain productivity and continue fulfilling their employment responsibilities.

Another important form of protection is the guarantee of freedom of association and the right to organize, allowing contract workers to collectively express their interests and seek the fulfillment of their employment rights. Legal protection also includes workplace safety and security, which aims to prevent occupational accidents and protect workers from risks arising in the workplace. These forms of protection constitute essential elements in fulfilling the employment social security rights of contract workers.²⁵

Based on interviews with BPJS Ketenagakerjaan staff, the protection of workers as governed by Law Number 13 of 2003 on Manpower, is meant to ensure the maintenance of a pleasant working relationship between employers and employees, particularly in the face of power imbalances where the stronger party may exert pressure on the weaker one. This law provides

²² Syahrudin, Wawancara dengan Dinas Tenaga Kerja dan Staff BPJS Ketenagakerjaan, Banda Aceh, 2024.

²³ Moch Yusuf Efendi, and Ali Huristak Hartawan Hasibuan, "Upaya Hukum Pekerja Industri Hiburan Malam Terhadap Jaminan Sosial Ketenagakerjaan yang Diabaikan," *SEIKAT: Jurnal Ilmu Sosial, Politik dan Hukum* 5, no. 4 (2026): 2498. See too, Robby Tejamukti Kusuma, "Efektivitas perlindungan hukum terhadap pekerja kontrak dalam sistem outsourcing pasca berlakunya Undang-Undang Cipta Kerja dan Peraturan Pemerintah Nomor 35 Tahun 2021," *IBLAM Law Review* 5, no. 2 (2025): 38.

²⁴ Christina NM. Tobing, Sryani Br Ginting, and Hasnul Arifin Melayu, "Analysis Of Labor Rights After The Job Creation Law In Perspective Of Human Rights," *Jurnal Hukum dan Peradilan* 12, no. 1 (2023): 99.

²⁵ Syahrudin, Wawancara dengan Dinas Tenaga Kerja dan Staff BPJS Ketenagakerjaan, Banda Aceh, 2024.

regulations regarding the implementation of worker protection. The protection includes safeguarding permanent employment and protection of wages, which are essential to ensuring employment stability and the fulfillment of workers' basic economic rights.²⁶ These forms of protection are intended to provide contract workers with greater certainty regarding the continuity of their employment and the receipt of fair and adequate remuneration. According to interviews with Contract Employee 1 and Contract Employee 2, these protections remain important aspects in assessing the extent to which their employment rights are fulfilled.

The legal protection provided in relation to employment social security for contract workers includes income protection, occupational health insurance, and workplace safety and security. These forms of protection are intended to ensure that contract workers receive adequate economic protection, access to occupational health coverage, and a safe working environment in accordance with their employment rights.²⁷

In a separate interview with Contract Employee 2, it was further explained that the implementation of legal protection also includes protection of permanent employment, which may only be applied to certain types of work, as well as wage protection. These forms of protection provide greater employment and economic security for contract workers and contribute to the fulfillment of their basic employment rights.²⁸

2. Inhibiting factors in the implementation of protection of social security for workers in fulfilling the rights of contract workers.

Social security is essentially a form of social protection aimed at addressing risks to ensure that all citizens can meet their basic needs for a decent life. Drs. Harun Alrasyid stated that social security is a form of welfare protection for society, arranged or overseen by the government, to preserve and raise the people's standard of living.

Social security can be interpreted both broadly and in a small. In its broad sense, social security encompasses various efforts that can be carried out by the community and/or the government. According to Sentanoe Kertonegoro, these efforts can be grouped into four main categories:

- a. Preventive and developmental efforts, which include initiatives in the areas of education, family planning, health, religion, and legal assistance, among other things that fall under *Social Services*.

²⁶ Syahrudin, Wawancara dengan Dinas Tenaga Kerja dan Staff BPJS Ketenagakerjaan, Banda Aceh, 2024.

²⁷ Syahrudin, Wawancara dengan Dinas Tenaga Kerja dan Staff BPJS Ketenagakerjaan, Banda Aceh, 2024.

²⁸ Syahrudin, Wawancara dengan Dinas Tenaga Kerja dan Staff BPJS Ketenagakerjaan, Banda Aceh, 2024.

- b. Recovery and rehabilitation efforts, such as aid for natural disaster victims, the elderly, orphans, persons with disabilities, and other vulnerable groups, categorized as *Social Assistance*.
- c. Developmental efforts, including initiatives in nutrition improvement, housing, transmigration, cooperatives, and similar areas, classified as *Social Infrastructure*.
- d. Labor protection efforts, specifically targeted at the workforce, who are the core of national development and constantly face socio-economic risks, categorized as Social Insurance.

Agusmindah stated that social security is a form of protection for workers related to income in material form, aimed at fulfilling their basic living needs, particularly in the event of unforeseen circumstances that prevent a person from working. This is also referred to as economic protection.²⁹ In practice, the provision of social security protection for contract employees does not always run smoothly as expected or intended by lawmakers. Several obstacles hinder the realization of these legislative intentions. The same issue applies to the provision of protection for workers employed under contract systems.

Social Security's general definition can be found in Law Number 40 of 2004 concerning the National Social Security System (*Sistem Jaminan Sosial Nasional*/SJSN). Article 1, point 1, states that social security is "a form of social protection to ensure that all people can meet their basic needs for a decent life." In relation to employment, social security for workers/laborers is narrowly defined as the compensation received by workers if, through no fault of their own, they are unable to work, thus ensuring income security in cases where they lose their wages for reasons beyond their control.³⁰

The National Social Security System, or SJSN, is the government's initiative in Indonesia to guarantee social welfare and protection for all citizens, as required by Articles 28H and 34 of the 1945 Constitution of the Republic of Indonesia.³¹ Law Number 24 of 2011, establishing the Social Security Administering Body, is used to carry out this constitutional requirement.³²

²⁹ Agusmindah, *Hukum Ketenagakerjaan Indonesia*, Dinamika & Kajian Teori (Jakarta: Ghalia Indonesia, 2010), 23.

³⁰ Imam Soepomo, *Hukum Perburuahan Bidang Hubungan Kerja* (Jakarta: Djambatan, 2016), 35. See too, Destin Desy Ansrida, and Jonaedi Efendi, "State Responsibility in Safeguarding Workers Dismissed from Employment: A Study of Job Loss Insurance (JKP)," *IUS POSITUM: Journal of Law Theory and Law Enforcement* (2025): 75.

³¹ Azyra Fadillah, and Rio Arif Pratama, "Analisis Implikasi Hukum Perjanjian Kerja Waktu Tertentu Yang Dibuat Secara Tidak Tertulis: Melalui Pendekatan Hukum Progresif," *Bureaucracy Journal: Indonesia Journal of Law and Social-Political Governance* 5, no. 1 (2025): 579.

³² Alfrenso ER. Helweldery, "Sanksi atas pelanggaran terhadap pelaksanaan jaminan sosial ketenagakerjaan menurut undang-undang no. 24 tahun 2011 tentang badan penyelenggara jaminan sosial (BPJS)," *Lex Et Societatis* 7, no. 5 (2019): 32. See too, Muslim Harahap, Sugih Ayu Pratitis, and Andi Putra Sitorus, "Aspek Hukum Ketenagakerjaan Terhadap Jaminan Hak

Employment social security is a type of protection for workers that takes the form of monetary compensation to partially replace lost or reduced income as a result of events that the worker has experienced. It can also be defined as a policy initiative targeted at employees, particularly those in corporate settings, to guarantee reciprocal protection and advantages between the workforce and employers through structured contacts.³³ Based on interviews with the Manpower Office, there are several factors that hinder the implementation of social security protection for contract employees. The barriers to implementing employment social security protection for contract employees can be categorized into internal and external factors. Internal barriers include the absence of sufficient budgetary resources to cover the full BPJS Employment contributions for contract employees, the lack of written employment agreements containing provisions concerning BPJS Employment coverage, and the absence of labor unions within companies employing contract workers.³⁴ These conditions may limit the institutional capacity of employers and workers to ensure the consistent fulfillment of social security obligations.³⁵

External barriers, meanwhile, include the absence of a cooperation agreement between the company and BPJS Employment, limited supervision by the Manpower, Transmigration, and Industry Office, and the tendency of the Manpower Office to respond primarily to workers' reports after disputes or

Kehilangan Pekerjaan Berdasarkan UU No. 11 Tahun 2020 Tentang Cipta Kerja," *Law Jurnal* 2, no. 2 (2022): 118; Suryaman Silaen, Besty Habeahan, and Roida Nababan. "Perlindungan Hukum Terhadap Pekerja Yang Tidak Didaftarkan Oleh Perusahaan Sebagai Peserta BPJS Ketenagakerjaan Berdasarkan Undang-Undang Nomor 24 Tahun 2011 Tentang Badan Penyelenggaraan Jaminan Sosial," *Nommensen journal of private law* 1, no. 1 (2022): 21.

³³ Muhamad Hasan Muaziz, "Legal Analysis Of Investment Management In Employmen Social Security Providering Agency (Bpjs Ketenagakerjaan)," *AL WASATH Jurnal Ilmu Hukum* 3, no. 1 (2022): 18. See too, Pratomo Beritno, "Perlindungan Hukum terhadap tenaga Kerja yang tidak Mendapatkan BPJS Ketenagakerjaan," *Jurnal Ilmu Hukum Tambun Bungai* 7, no. 1 (2022): 87; Sutrisno, "Peranan Jaminan Sosial Tenaga Kerja oleh Badan Penyelenggara Jaminan Sosial Bagi Karyawan (Studi di Kantor BPJS Ketenagakerjaan Kediri)," *Mizan: Jurnal Ilmu Hukum* 11, no. 2 (2022): 256.

³⁴ Jemikan, "Kajian Yuridis terhadap Pelaksanaan BPJS Ketenagakerjaan di Lingkungan Yayasan Perguruan 17 Agustus 1945 Surabaya," *DiH: Jurnal Ilmu Hukum* (2018): 233. See too, Ngabidin Nurcahyo, "Perlindungan hukum tenaga kerja berdasarkan peraturan perundang-undangan di Indonesia," *Jurnal Cakrawala Hukum* 12, no. 1 (2021): 72.

³⁵ Christina NM. Tobing, Sryani Br Ginting, and Hasnul Arifin Melayu, "Analysis Of Labor Rights After The Job Creation Law In Perspective Of Human Rights," *Jurnal Hukum dan Peradilan* 12, no. 1 (2023): 101. See too, Bagus Anggita Pradana, Lauddin Marsuni, and Sri Lestari Poernomo, "Analisis hukum program jaminan sosial ketenagakerjaan terhadap peningkatan perlindungan sosial bagi pekerja," *Legal Dialogica* 1, no. 1 (2025): 232. See too, Akmal Lageranna, "Risiko pemberi kerja atas ketidakpatuhan dalam program jaminan sosial ketenagakerjaan," *Dharmasisya Jurnal Program Magister Hukum FHUI* 1, no. 3 (2021): 3; Sherly Mutya, Elwi Danil, and Khairani Khairani, "Pemenuhan hak atas jaminan kesehatan terhadap pekerja swasta dengan status probation atau masa percobaan di Kota Padang," *UNES Law Review* 6, no. 1 (2023): 1579.

problems arise between workers and employers. These external conditions indicate that effective protection depends not only on the internal capacity of employers but also on coordination and institutional oversight.³⁶

Based on interviews with staff from BPJS Employment, additional obstacles were identified in three areas, namely regulatory, employment agreement, and supervision-related barriers. These findings complement the preceding factors by indicating that implementation problems may also arise from the interaction between the applicable regulatory framework, the clarity of employment agreements, and the effectiveness of institutional supervision.

The main obstacle identified in the implementation of social security protection for contract employees is the issue related to existing regulations, particularly those concerning the execution of employment agreements for contract workers.³⁷

3. Legal consequences for relevant agencies that do not include contract employees in social security

The Social Security Administering Body (SSAB/BPJS) is a legal entity established to implement social security programs. This is stated in Article 1, point 1 of Law Number 24 of 2011 concerning the Social Security Administering Body. Under this law, two BPJS institutions were established: BPJS Health and BPJS Employment.³⁸ Every employer is obligated to register their workers to receive social security in the form of BPJS Employment, which ensures the protection of workers' rights in all related aspects.

Based on interviews with the Manpower Office and BPJS Employment staff, the legal consequence for institutions that do not enroll contract employees in the employment social security program is the imposition of

³⁶ Azyra Fadillah, and Rio Arif Pratama, "Analisis Implikasi Hukum Perjanjian Kerja Waktu Tertentu Yang Dibuat Secara Tidak Tertulis: Melalui Pendekatan Hukum Progresif," *Bureaucracy Journal: Indonesia Journal of Law and Social-Political Governance* 5, no. 1 (2025): 581.

³⁷ Rena Putri Nirwana, and Ratih Damayanti, "Kontrak kerja serta perlindungan hukum hak dan kewajiban pekerja dalam sistem ketenagakerjaan di Indonesia," *Media Hukum Indonesia (MHI)* 2, no. 4 (2024): 23. See too, Talitha Zhafirah, and HR Adianto Mardijono, "Perlindungan hukum atas hak pekerja dalam perjanjian kontrak kerja," *Bureaucracy Journal: Indonesia Journal of Law and Social-Political Governance* 3, no. 1 (2023): 219.

³⁸ I. P. Y. I. Permana, I. Nyoman Suyatna, and Kadek Sarna, "Implementasi Undang-Undang Nomor 24 Tahun 2011 Tentang Badan Penyelenggara Jaminan Sosial Terkait Pendaftaran Peserta Program Jaminan Sosial Ketenagakerjaan Di Kabupaten Gianyar," *Kertha Negara* 5, no. 02 (2017): 11. See too, Alfrenso ER. Helweldery, "Sanksi atas pelanggaran terhadap pelaksanaan jaminan sosial ketenagakerjaan menurut undang-undang no. 24 tahun 2011 tentang badan penyelenggara jaminan sosial (BPJS)," *Lex Et Societatis* 7, no. 5 (2019): 34; Muslim Harahap, Sugih Ayu Pratitis, and Andi Putra Sitorus, "Aspek Hukum Ketenagakerjaan Terhadap Jaminan Hak Kehilangan Pekerjaan Berdasarkan UU No. 11 Tahun 2020 Tentang Cipta Kerja," *Law Jurnal* 2, no. 2 (2022): 119.

administrative sanctions on the employer.³⁹ The administrative sanctions imposed on employers for non-compliance with employment social security obligations may take several forms. The first is a written warning issued by BPJS, which serves as a formal notice requiring the employer to fulfill its obligations. The second is a fine imposed by BPJS, which functions as a stronger administrative measure to encourage compliance with social security requirements. The third is the denial of certain public services provided by the central or local government at the request of BPJS. These sanctions are intended to create an administrative incentive for employers to register eligible workers and fulfill their employment social security obligations.⁴⁰

The denial of certain public services may apply to employers other than state organizers and can affect several aspects of their business activities.⁴¹ Such services include business-related permits, permits required for participation in project tenders, permits to employ foreign workers, permits for companies providing labor services, and building permits (IMB). The application of these measures demonstrates that non-compliance with employment social security obligations may have consequences beyond the employment relationship itself, particularly by affecting an employer's ability to obtain or maintain government-related permits and services. Accordingly, administrative sanctions serve not only as a form of legal enforcement but also as a mechanism for encouraging employers to comply with their social security responsibilities.

The regulation regarding the obligation of employers to register their employees with BPJS Employment has been socialized for a long time.⁴² Regarding employee participation in BPJS employment, Article 15, paragraph (1) of the BPJS Law requires employers to gradually register themselves and

³⁹ Destin Desy Ansrida, and Jonaedi Efendi, "State Responsibility in Safeguarding Workers Dismissed from Employment: A Study of Job Loss Insurance (JKP)," *IUS POSITUM: Journal of Law Theory and Law Enforcement* (2025): 77.

⁴⁰ Rahmawati Kusuma, A. D. Basniwati, Lalu Guna Nugraha, and Sri Hariati, "Hak Peserta Badan Penyelenggara Jaminan Sosial Ketenagakerjaan," *Pakuan Law Review* 7, no. 2 (2021): 196. See too, Alfrenso ER. Helweldery, "Sanksi atas pelanggaran terhadap pelaksanaan jaminan sosial ketenagakerjaan menurut undang-undang no. 24 tahun 2011 tentang badan penyelenggara jaminan sosial (BPJS)," *Lex Et Societatis* 7, no. 5 (2019): 33. See too, Muslim Harahap, Sugih Ayu Pratitis, and Andi Putra Sitorus, "Aspek Hukum Ketenagakerjaan Terhadap Jaminan Hak Kehilangan Pekerjaan Berdasarkan UU No. 11 Tahun 2020 Tentang Cipta Kerja," *Law Jurnal* 2, no. 2 (2022): 118.

⁴¹ Rena Putri Nirwana, and Ratih Damayanti, "Kontrak kerja serta perlindungan hukum hak dan kewajiban pekerja dalam sistem ketenagakerjaan di Indonesia," *Media Hukum Indonesia (MHI)* 2, no. 4 (2024): 23. See too, Talitha Zhafirah, and HR Adianto Mardijono, "Perlindungan hukum atas hak pekerja dalam perjanjian kontrak kerja," *Bureaucracy Journal: Indonesia Journal of Law and Social-Political Governance* 3, no. 1 (2023): 219.

⁴² Anjiri, Wawancara dengan Dinas Tenaga Kerja dan Staff BPJS Ketenagakerjaan, Banda Aceh, 2024.

their employees as BPJS members based on the social security program they follow.

Employers other than state organizers are required to fulfill specific administrative obligations to ensure the effective implementation of employment social security. First, employers must register themselves and their employees as BPJS participants gradually, in accordance with the social security programs in which they are required to participate. This registration obligation ensures that eligible employees obtain social security protection according to the applicable programs and allows BPJS to administer participation systematically.⁴³

In addition, employers are required to provide complete and accurate data concerning themselves, their employees, and their employees' family members to BPJS.⁴⁴ Accurate data are essential for ensuring that participant registration, contribution administration, and the provision of social security benefits can be carried out properly. The fulfillment of these obligations therefore constitutes an important part of the employer's responsibility in ensuring that workers receive their employment social security rights and that the BPJS system can operate effectively.

D. Conclusion

Based on the findings of this study, legal protection of employment social security for contract employees is implemented through several forms of protection, namely adequate income, occupational health insurance, freedom of association and the right to organize, and occupational safety and security. These forms of protection demonstrate that the fulfillment of social security rights for contract employees encompasses not only financial protection but also health, organizational, and workplace safety aspects. Nevertheless, the implementation of these protections remains subject to various internal and external obstacles that may limit the effective fulfillment of contract employees' social security rights.

The internal obstacles include the absence of sufficient budgetary resources to pay BPJS Employment contributions in full, the lack of written employment contract provisions concerning BPJS Employment, and the absence of labor unions within companies employing contract workers.

⁴³ Jemikan, "Kajian Yuridis terhadap Pelaksanaan BPJS Ketenagakerjaan di Lingkungan Yayasan Perguruan 17 Agustus 1945 Surabaya," *DiH: Jurnal Ilmu Hukum* (2018): 243. See too, Ngabidin Nurcahyo, "Perlindungan hukum tenaga kerja berdasarkan peraturan perundang-undangan di Indonesia," *Jurnal Cakrawala Hukum* 12, no. 1 (2021): 77.

⁴⁴ Rena Putri Nirwana, and Ratih Damayanti, "Kontrak kerja serta perlindungan hukum hak dan kewajiban pekerja dalam sistem ketenagakerjaan di Indonesia," *Media Hukum Indonesia (MHI)* 2, no. 4 (2024): 23. See too, Talitha Zhafirah, and HR Adianto Mardijono, "Perlindungan hukum atas hak pekerja dalam perjanjian kontrak kerja," *Bureaucracy Journal: Indonesia Journal of Law and Social-Political Governance* 3, no. 1 (2023): 219.

External obstacles include the absence of cooperation agreements between companies and BPJS Employment, insufficient supervision by the Manpower, Transmigration, and Industry Office, and the tendency of the Manpower Office to act only after receiving reports concerning disputes between workers and employers. Where relevant institutions fail to enroll contract employees in employment social security, the applicable legal consequences include administrative sanctions in the form of written warnings issued by BPJS, fines imposed by BPJS, and denial of certain public services provided by the central or local government at the request of BPJS. These findings imply that effective protection requires stronger institutional compliance, supervision, and coordination among employers, BPJS Employment, and government authorities.

This study is limited by its empirical focus and the scope of respondents and institutional perspectives examined, which may limit the generalizability of the findings to other employment sectors or regions. Future research should therefore involve a broader range of respondents and comparative settings to examine variations in the implementation of social security protection for contract workers. Further studies may also examine the effectiveness of administrative sanctions and institutional supervision in improving employer compliance, thereby contributing to stronger enforcement and more effective fulfillment of contract workers' social security rights.

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