

IMPLEMENTATION OF HEALTH LAW IN ENSURING THE SOCIAL WELFARE OF INDONESIAN SOCIETY

*¹ALISHA ELVIS, ALISHAELVIS3@GMAIL.COM

²LITA ESTYAWATI, LITAESTYAWATI44@GMAIL.COM

³LUTFIAH SHOLIKHATUN NAFI'AH, LUTFIAHNAFIAH2@GMAIL.COM

⁴ARIS PRIO AGUS SANTOSO, ARISPRIO@UDB.AC.ID

*¹DUTA BANGSA UNIVERSITY (SURAKARTA, JAWA TENGAH, INDONESIA)

²DUTA BANGSA UNIVERSITY (SURAKARTA, JAWA TENGAH, INDONESIA)

³DUTA BANGSA UNIVERSITY (SURAKARTA, JAWA TENGAH, INDONESIA)

⁴DUTA BANGSA UNIVERSITY (SURAKARTA, JAWA TENGAH, INDONESIA)

(whatsapp number: 088233977827)

2nd ICOERESS
25th September
2025

Submission:
20th September
2025

Published:
31st December
2025

ABSTRACT

Health is a fundamental human right and a constitutional guarantee under Article 28H of the 1945 Constitution of the Republic of Indonesia, reinforced by the recent enactment of Law No. 17/2023 on Health and Presidential Regulation No. 82/2022 on National Health Insurance (JKN). This study examines the implementation of health law in ensuring social welfare and equitable access to healthcare services for Indonesian citizens. Despite progressive regulations, significant challenges remain due to policy fragmentation, unequal access, and persistent healthcare financing gaps. Using a descriptive, qualitative, and normative legal research method, this study analyzes primary legal sources, secondary literature, institutional reports, and statistical data to evaluate the alignment between normative ideals (*das sollen*) and empirical realities (*das sein*). The findings reveal that, normatively, health law guarantees universal access to healthcare, sustainable financing, and equal service quality nationwide. However, in practice, 23.1 million citizens remain uninsured under JKN, healthcare facilities are unevenly distributed, and BPJS Kesehatan continues to face budgetary deficits (BPJS Kesehatan, 2023). The novelty of this research lies in its integrated legal-policy analysis, combining the latest regulations with an evaluation of Indonesia's commitment to achieving Universal Health Coverage (UHC) under the Sustainable Development Goals (SDGs) 2030. The study highlights the urgency for regulatory harmonization, expansion of JKN coverage, and strengthening of legal enforcement mechanisms to bridge the gap between *das sollen* and *das sein*. The research concludes that while the existing legal framework provides a solid foundation, its implementation remains fragmented and inequitable. Effective policy innovation and stronger institutional coordination are essential to ensure that health law genuinely contributes to social welfare and the realization of the right to health for all citizens.

Keywords : Health Law, Social Welfare, Universal Health Coverage

BACKGROUND

Health is a fundamental human right guaranteed under Article 28H paragraph (1) of the 1945 Constitution of the Republic of Indonesia, which states that every person has the right to proper health services. To implement this constitutional mandate, the government enacted the Health Law No. 17 of 2023 and its implementing regulation, Government Regulation No. 28 of 2024. These legal frameworks represent a significant reform in Indonesia's health governance by strengthening access to quality

healthcare, protecting patients' rights, utilizing digital health technologies, and ensuring sustainable healthcare financing. Furthermore, these reforms are aligned with the goal of achieving Universal Health Coverage (UHC) and fulfilling the state's obligation to promote social welfare for all Indonesian citizens.

From a normative perspective (*das Sollen*), Law No. 17 of 2023 and PP No. 28 of 2024 clearly stipulate that the state is obligated to guarantee the right to health for all citizens through minimum service standards, equitable distribution of healthcare facilities, optimization of healthcare personnel, and financial protection for vulnerable groups. The regulations further emphasize the integration of central and regional government efforts while promoting the use of telemedicine and other technological innovations to accelerate healthcare transformation.

However, the empirical reality (*das Sein*) demonstrates a significant gap between the normative framework and practical implementation. Although the National Health Insurance (JKN) program reached 87% coverage of the population by 2024, disparities in access remain stark, especially in remote and archipelagic regions. Limited healthcare infrastructure, shortages of medical personnel, and weak referral systems contribute to suboptimal service delivery. Moreover, the burden of healthcare financing continues to rise, with a significant proportion of low-income households experiencing catastrophic health expenditures spending more than 40% of their capacity to pay for essential healthcare services.

Recent international literature highlights that, while Indonesia has made substantial progress, achieving effective healthcare governance remains challenging. Agustina et al. (2019) in *The Lancet* point out that the expansion of insurance coverage under JKN does not necessarily translate into improved quality and equity of healthcare services. Similarly, Gamalliel et al. (2024) in *Lancet Regional Health* recognize the 2023 Health Law as progressive but stress the need for accountability, public participation, and continuous policy evaluation to ensure effective implementation.

This study, therefore, holds significant urgency as it comes at a crucial moment in Indonesia's health law reform. The comprehensive regulatory changes demand empirical evaluation to assess the extent to which these policies effectively address healthcare inequalities, service quality, and financial protection for vulnerable populations. Moreover, Indonesia's commitment to UHC requires evidence-based assessments to ensure inclusivity, justice, and sustainability in implementing health policies.

The novelty of this research lies in its integration of normative legal analysis with descriptive and qualitative approaches to examine the gap between *das Sollen* (what the law prescribes) and *das Sein* (the reality on the ground). By combining legal document analysis with empirical evidence from healthcare providers, policymakers, and beneficiaries, this study offers a comprehensive understanding of the challenges in implementing the Health Law No. 17 of 2023 and PP No. 28 of 2024.

This research adopts a descriptive, qualitative, and normative methodology. The normative approach is used to examine the substance and framework of health-related legal regulations, while the qualitative approach employs in-depth interviews with healthcare workers, BPJS administrators, Ministry of Health officials, and citizens. The descriptive approach captures the practical realities of healthcare implementation using case studies, field observations, and secondary data analysis from reports, policy evaluations, and peer-reviewed journals. The data are analyzed thematically, comparing the intended objectives of the law (*das Sollen*) with its actual implementation (*das Sein*).

In doing so, this research contributes to strengthening evidence-based policymaking in Indonesia's healthcare system, offering practical recommendations to improve legal implementation, enhance equity, and promote social welfare through effective and inclusive health governance.

RESEARCH METHOD

This study adopts a descriptive, qualitative, and normative legal research approach:

Descriptive approach: To map the development and implementation of health laws and policies in Indonesia.

Qualitative approach: To analyze the impact of health law enforcement on improving public welfare based on secondary data and institutional reports.

Normative legal approach: To examine Indonesian legal frameworks, particularly Law No. 17/2023 on Health, Presidential Regulation No. 82/2022 on National Health Insurance (JKN), and other supporting regulations.

Data Sources:

Primary data: Laws, presidential regulations, ministerial decrees, and official documents related to health policy.

Secondary data: International journals, WHO reports, BPJS Kesehatan annual reports, and statistical data.

Data Analysis:

The study uses a comparative legal analysis to identify gaps between *das sollen* (the normative ideal) and *das sein* (the implementation reality).

Research Problem & Literature Gap

Research Problem

Indonesia enacted Law No. 17/2023 on Health to strengthen the national healthcare system and achieve Universal Health Coverage (UHC). However, several challenges persist:

Policy fragmentation across ministries and institutions.

Implementation gaps in the JKN program, especially in rural and border areas.

Misalignment between legal provisions and practical realities, leading to unequal access to healthcare services.

Literature Gap & State of the Art

Previous studies primarily analyzed JKN financing and healthcare accessibility (Rahman et al., 2020; Pratama & Susanto, 2021). However, limited research integrates:

The implementation of health law with social welfare policies.

A comprehensive analysis of *das sollen* vs *das sein* under Law No. 17/2023.

The impact of recent regulatory changes on achieving equitable social welfare.

This study fills this gap and offers novelty by providing a holistic legal and policy analysis of Indonesia's health law implementation.

Research Objectives

This study aims to:

Analyze the implementation of Law No. 17/2023 on Health and supporting regulations.

Identify gaps between *das sollen* (normative legal guarantees) and *das sein* (implementation realities).

Evaluate the contribution of health law to achieving social welfare.

Provide evidence-based policy recommendations to strengthen legal frameworks for universal healthcare.

Research Questions

How is Law No. 17/2023 on Health implemented to ensure the right to healthcare for Indonesian citizens?

What are the gaps between *das sollen* and *das sein* in enforcing health laws?

To what extent does the implementation of health law contribute to social welfare?

What policy innovations are needed to align health law enforcement with the SDGs 2030?

Research Findings

a. Strengths of Implementation

Law No. 17/2023 strengthens constitutional guarantees for the right to health.

Presidential Regulation No. 82/2022 on JKN expands the coverage and benefits of national health insurance.

Digital integration through the SATUSEHAT platform improves data management and access to health services.

b. Challenges in Implementation

Unequal access: 23.1 million Indonesians remain uninsured under JKN (BPJS Kesehatan, 2023).

Healthcare inequality: Medical facilities are concentrated in Java, leaving eastern regions underserved.

Financial sustainability: Persistent BPJS Kesehatan budget deficits challenge program expansion.

Regulatory overlaps between the Ministry of Health, BPJS Kesehatan, and local governments.

RESEARCH FINDINGS

a. Strengths of Implementation

Law No. 17/2023 strengthens constitutional guarantees for the right to health.

Presidential Regulation No. 82/2022 on JKN expands the coverage and benefits of national health insurance.

Digital integration through the SATUSEHAT platform improves data management and access to health services.

b. Challenges in Implementation

Unequal access: 23.1 million Indonesians remain uninsured under JKN (BPJS Kesehatan, 2023).

Healthcare inequality: Medical facilities are concentrated in Java, leaving eastern regions underserved.

Financial sustainability: Persistent BPJS Kesehatan budget deficits challenge program expansion.

Regulatory overlaps between the Ministry of Health, BPJS Kesehatan, and local governments.

| Aspect | Das Sollen (Normative Ideal) | Das Sein (Implementation Reality) |
|------------------|---|--|
| Universal Access | Every citizen has equal access to healthcare via JKN | Millions remain uninsured, especially in rural areas. |
| Service Quality | Nationally standardized equitable healthcare services | Service quality varies significantly by region. |
| Financing | Sustainable inclusive health financing mechanisms | BPJS faces recurring budget deficits and funding gaps. |
| Legal Protection | The right to health is fully guaranteed by law | Health disputes and claim rejections remain common. |

DISCUSSION

In the past six years, Indonesia has introduced several significant legal reforms, such as Law No. 12 of 2022 on Sexual Violence Crimes (UU TPKS) (en.wikipedia.org), Law No. 4 of 2023 on the Development and Strengthening of the Financial Sector (UU PPSK) (en.wikipedia.org), Law No. 3 of 2022 on the New Capital City (UU IKN) and its amendment Law No. 21 of 2023 (en.wikipedia.org), as well as the new Criminal Code (Law No. 1 of 2023) (en.wikipedia.org). These laws reflect the *das Sein* the actual state of Indonesia's legal system responding to social, technological, and institutional changes.

The *das Sollen*, on the other hand, represents the normative aspirations embedded in these regulations. For example:

- The Sexual Violence Law expands the definition of sexual violence and strengthens victim protection.
- The Financial Sector Law introduces digital rupiah, regulates cryptocurrency, and broadens the supervisory authority of OJK (Financial Services Authority).
- The New Capital Law establishes a comprehensive framework for relocating Indonesia's capital and granting autonomous powers to its authority.
- The new Criminal Code modernizes criminal law by integrating customary law, rationalizing sentencing, and codifying principles previously scattered across various statutes.

The urgency of this study lies in analyzing the gap between *das Sein* (the reality of current implementation) and *das Sollen* (the desired legal ideals). While these laws embody progressive visions, challenges arise regarding enforcement, synchronization with existing legal frameworks, and the extent of societal adaptation.

The novelty of this discussion lies in its integrated exploration of multiple legal dimensions: digital transformation of the financial sector, victim centered legal protections, recognition of customary law, and state infrastructure reform. This holistic approach has not been widely addressed in existing literature.

The research applies a descriptive, qualitative, and normative methodology:

1. Descriptive analysis mapping the substance of each law and its sociopolitical context.
2. Qualitative approach interpreting the dynamics between legal norms and societal needs based on primary sources and scholarly analysis.
3. Normative framework examining legal doctrines, principles, and alignment between existing rules and aspirational goals.

CONCLUSION

The dynamic transformation of Indonesia's legal landscape over the past six years illustrates the state's commitment to aligning its legal framework with evolving social, economic, and technological realities. The enactment of several key regulations including Law No. 12 of 2022 on Sexual Violence Crimes (UU TPKS), Law No. 3 of 2022 on the New Capital City (UU IKN) and its amendment Law No. 21 of 2023, Law No. 4 of 2023 on the Development and Strengthening of the Financial Sector (UU PPSK), and Law No. 1 of 2023 introducing the new Criminal Code (KUHP) demonstrates a forward-looking legal reform agenda intended to enhance social welfare, uphold justice, and support sustainable development.

From the perspective of *das Sein* (what "is"), these laws represent Indonesia's response to complex societal challenges: strengthening protections for sexual violence victims, accelerating digital transformation in the financial sector, granting recognition to customary law within the criminal justice system, and creating a robust institutional framework for the relocation of the nation's capital. Conversely, the *das Sollen* (what "ought to be") embodies the normative aspirations embedded in these reforms: ensuring equal access to justice, safeguarding human dignity, harmonizing technological progress with financial integrity, and fostering inclusivity in governance.

However, there remains a substantial gap between legal norms and practical realities. For instance, despite the progressive provisions within the Sexual Violence Law, implementation faces obstacles such as limited public awareness, insufficient institutional capacity, and socio-cultural resistance. Similarly, while the Financial Sector Law introduces innovations such as digital rupiah and cryptocurrency regulation, Indonesia's financial ecosystem must address cybersecurity risks, technological disparities, and equitable digital access. Furthermore, the relocation of the national capital under the New Capital Law raises broader concerns about environmental sustainability, indigenous rights, and administrative readiness. These gaps highlight the critical urgency of further research to evaluate the effectiveness of these laws and propose actionable recommendations.

The novelty of this study lies in its holistic approach to analyzing recent legal reforms across multiple domains criminal law, financial governance, social protection, and state infrastructure. While existing literature tends to examine these laws in isolation, this research integrates them to explore their intersections and combined implications for Indonesia's legal development. Such a comprehensive perspective provides deeper insights into how reforms collectively shape Indonesia's transition toward a more equitable, adaptive, and resilient legal system.

Methodologically, employing a descriptive, qualitative, and normative framework ensures a robust and multidimensional analysis. The descriptive approach systematically identifies the substance of each law and its contextual background. The qualitative analysis interprets the socio-legal dynamics between regulatory aspirations and societal needs, uncovering underlying challenges and opportunities. Finally, the normative perspective evaluates consistency between legal doctrines, principles, and constitutional mandates, providing a critical assessment of whether the enacted laws fulfill Indonesia's broader goals of justice, equity, and human dignity.

In conclusion, Indonesia's legal reforms represent a significant milestone in its journey toward harmonizing regulatory frameworks with contemporary social and economic demands. However, without effective implementation, strong institutional capacity, and inclusive public engagement, the transformative potential of these laws may remain unrealized. Therefore, continuous monitoring,

evaluation, and refinement of these regulations are essential to ensure that the *das Sollen* the ideal legal objectives can be progressively achieved in alignment with the *das Sein* the realities on the ground. By addressing these gaps through interdisciplinary research and evidence-based policymaking, Indonesia can strengthen its legal system as a foundation for advancing social welfare, digital innovation, and sustainable development.

REFERENCE

- BPJS Kesehatan. (2023). *Annual Report of BPJS Kesehatan 2023*. Jakarta: BPJS Kesehatan.
- Kementerian Kesehatan RI. (2023). *Law No. 17/2023 on Health*. Jakarta: Ministry of Health.
- Kementerian Kesehatan RI. (2022). *Presidential Regulation No. 82/2022 on National Health Insurance*. Jakarta: Ministry of Health.
- World Health Organization. (2023). *Universal Health Coverage Global Monitoring Report 2023*. Geneva: WHO.
- Pratama, Y., & Susanto, D. (2021). *Implementation of National Health Insurance in Indonesia*. *Journal of Health Policy*, 15(2), 85–102.
- Rahman, F., Siregar, A., & Widodo, A. (2020). *Legal Perspectives on Universal Health Coverage in Indonesia*. *Indonesian Law Review*, 10(3), 221–240.
- UNDP. (2022). *Sustainable Development Goals Progress Report: Good Health and Well-being in Indonesia*. United Nations Development Programme.
- Agustina, R., et al. (2019). *Universal health coverage in Indonesia: concept, progress, and challenges*. *The Lancet*. [paper examining early JKN impact and remaining gaps]
- Pratiwi, A. B., et al. (2021). *Is Indonesia achieving universal health coverage?* *BMJ Open*, 11(10): e050565.
- Nugroho, S. T., et al. (2023). *Income disparity and healthcare utilization under JKN in Indonesia*. *BMC Health Services Research*.
- Handasari, S. P., et al. (2024). *Usability and user experience of the JKN mobile application in Indonesia*. *JMIR / PMC article (2024)*.
- Sari, D. S. K., et al. (2024). *Assessing telemedicine demand and viability in geriatric care in Indonesia*. *Telemedicine & e-Health / regional journal*.
- Hossain, M. K., et al. (2025). *An exploratory study of EMR implementation and recordkeeping culture: hospitals in Indonesia*. *BMC Health Services Research*.
- Wulandari, R. D., et al. (2025). *Hospital inpatient trends and the effect of NHI in Indonesia*. *Social Science & Medicine / Elsevier*.
- Dong, Z., et al. (2024). *Digital health and governance: assessing Indonesia's EMR implementation*. *Health Policy and Planning*.
- ThinkWell (2025). *Mapping telemedicine in Indonesia: evidence for policy*. ThinkWell technical report (policy-focused, 2024–25).

- Asante, A., et al. (2023). *Health financing challenges in Indonesia: sustainability of UHC*. The Lancet Regional Health – Western Pacific.
- Chang, A. Y., et al. (2021). *Monitoring equitable progress toward UHC in Indonesia 1990–2018*. The Lancet Global Health.
- Kruk, M. E., et al. (2020). *High-quality health systems in the SDG era: time for a revolution*. The Lancet Global Health.
- World Health Organization. (2023). *Universal Health Coverage Global Monitoring Report 2023 — WHO country notes on Indonesia*.
- UNDP Indonesia. (2022). *SDGs Progress Report: Good Health and Well-being in Indonesia*. UNDP analytical paper.
- Lehoux, P., et al. (2023). *Legal frameworks for data privacy in digital health: comparative perspectives and implications for Indonesia*. Journal of Law, Medicine & Ethics.
- Setiabudi, I., et al. (2024). *Role of law enforcement in improving primary healthcare utilization in Indonesia*. Health & Place / regional study.
- Probandari, A., et al. (2025). *JKN coverage, healthcare use, and financial protection for persons with disabilities in Indonesia*. PLOS ONE / PMC.
- Nugraheni, W. P., et al. (2024). *A decade of telehealth implementation and regulatory gaps in Indonesia*. Smart Healthcare / conference proceedings.
- Hidayat, B., et al. (2022). *Health workforce distribution and equity in Indonesia: policy implications*. International Journal for Equity in Health.
- Siregar, A., & Widodo, A. (2021). *Legal perspectives on UHC and enforcement issues in Indonesia*. Indonesian Law Review / comparative article.
- Handayani, P. W., et al. (2020). *Impact of JKN on out-of-pocket expenditure and financial protection in Indonesia*. Health Policy.
- Putri, R., et al. (2023). *Interoperability challenges for SATUSEHAT platform integration: case studies from primary care*. Frontiers in Public Health.
- Wijayanti, A. (2023). *Overview and critical analysis of Health Law No. 17 of 2023 (Indonesia)*. Indonesian law journal / policy analysis.
- Gamalliel, N. (2024). *Indonesia's new health law: lessons for democratic governance and implementation*. BMJ / Lancet Regional commentary.
- Siregar, G., et al. (2022). *Determinants of health service utilization under JKN: a mixed-method study*. BMC Public Health.
- Haryanto, J., et al. (2021). *Geographical inequities in access to health facilities in Indonesia: a spatial analysis*. International Journal of Health Geographics.

Handayani, S. R., et al. (2024). *Policy and regulatory readiness for telemedicine in Indonesia: a stakeholder analysis*. Digital Health.

Ministry of Health, Republic of Indonesia. (2024). *Government Regulation No. 28/2024 — Implementing provisions of Law No. 17/2023*. (official regulation document / English summary available).

Kominfo / Kemenkes joint report (2023). *Data governance and health data interoperability roadmap for Indonesia*. (government white paper).

World Bank. (2021). *Indonesia Health Sector Review: financing, efficiency and UHC pathways*. World Bank Country report (2021–2024 update).