



Juridical Analysis of Proposed JKN Contribution-Arrears Waiver and Legal Certainty

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Abstract

Background: This study is motivated by the policy of eliminating or waiving contribution arrears under Indonesia's National Health Insurance (*Jaminan Kesehatan Nasional* [JKN]) program, which raises legal concerns regarding mandatory participation and legal certainty. Normatively, the payment of contributions constitutes a mandatory obligation that forms the foundation of the national social insurance system.

Objective: This research aims to analyze the legal basis of the contribution-arrears waiver policy and its implications for legal certainty and the principles of social justice.

Methods: This study employs normative legal research using statutory, conceptual, and case approaches.

Results: The findings indicate that contribution obligations have multilayered legal foundations and that contribution arrears are categorized as public receivables that do not expire solely as a result of changes in membership status. Although a waiver policy may function as an affirmative measure, it potentially risks weakening legal certainty, compliance discipline, and fiscal sustainability if it is not regulated proportionally.

Conclusion: It is concluded that any contribution-arrears waiver policy must be strictly limited, based on objective criteria, and supported by adequate legal authority.

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INTRODUCTION

Comparative experience in social health insurance systems shows that contribution compliance and arrears management are recurring financing challenges, particularly where informal-sector participation and ability to pay fluctuate. In Indonesia, this general problem becomes an issue of legal certainty because any waiver of JKN contribution arrears must be reconciled with mandatory participation, the statutory contribution framework, equality among participants, and the sustainability of the social security fund. The subject of this study is therefore treated as a proposed policy rather than as an already effective debt-forgiveness rule unless and until a binding legal instrument is enacted.

The concept of a welfare state places the state in a position of responsibility for ensuring the fulfillment of citizens' basic needs, including protection against social risks such as illness and health-related vulnerabilities. In this paradigm, the state not only functions to maintain order but

also actively provides social services to prevent inequality and ensure the quality of life of the community. The social security system was established as a concrete instrument to protect vulnerable groups and support sustainable development, with health regarded as a key prerequisite for national productivity (Pamungkas & Hariri, 2022). The right to health itself is part of the human rights recognized constitutionally under the 1945 Constitution of the Republic of Indonesia, particularly Article 28H paragraphs (1) and (3), which affirm that everyone has the right to obtain health services and social security. This constitutional norm entails the legal consequence that the state is obliged to provide an effective system for realizing these rights. Thus, the national health insurance policy has strong constitutional legitimacy and cannot be separated from the framework of social justice (Rasyid, 2026).

The state's obligation to ensure social security is emphasized in Article 34 paragraph (2) of the 1945 Constitution, which mandates the state to develop a social security system for all people. This mandate was subsequently translated into legislative policy through the establishment of a national social security system. Theoretically, this obligation is consistent with the principle of the state's social responsibility within a welfare state. The state must not completely relinquish health protection to market mechanisms. Social protection must be inclusive and reach all segments of society. Therefore, state intervention in the regulation of health financing is not only legally permissible but also constitutionally mandated. The constitutional mandate requires an organized and sustainable system. In this context, the National Health Insurance (*Jaminan Kesehatan Nasional* or JKN) is a concrete instrument for implementing the state's responsibilities (Kesuma et al., 2024).

As a follow-up to the constitutional mandate, the government enacted Law Number 40 of 2004 concerning the National Social Security System (*Sistem Jaminan Sosial Nasional* or SJSN). This law establishes the basic framework for the implementation of social security, including health insurance, work accident insurance, old-age security, pension security, and death security (Syofyan & Gusman, 2023). In its considerations, the law emphasizes that the national social security system is organized based on the principles of humanity and social justice. This regulatory framework demonstrates the state's commitment to building systematic social protection. The SJSN Law became the juridical foundation for the establishment of the JKN program. In addition, the administration of the program is carried out by the Social Security Administering Agency (*Badan Penyelenggara Jaminan Sosial* or BPJS) pursuant to Law Number 24 of 2011 concerning the Social Security Administering Agency. Thus, normatively, the JKN system has a clear legal basis (Putri et al., 2022).

In its implementation, the main goal of JKN is to provide comprehensive and affordable health protection for the entire population. To achieve this goal, the financing system is designed on the basis of contributions paid regularly by participants (Sitorus et al., 2023). Regulations governing contributions and membership are set forth in Presidential Regulation Number 82 of 2018 concerning Health Insurance. Contributions are an important instrument for maintaining the sustainability of health insurance funds. Without a disciplined contribution mechanism, the risk of a financing deficit will increase. Thus, the obligation to pay contributions is not merely an administrative formality but also a prerequisite for the sustainability of the social insurance system. Therefore, any policy concerning contributions must be carefully analyzed (Maulana et al., 2022).

JKN participants consist of several categories, namely Wage Recipient Workers, Non-Wage Recipient Workers, Non-Workers (*Bukan Penerima Upah* or BP), and Contribution Assistance Recipients (*Penerima Bantuan Iuran* or PBI). The PBI category consists of participants whose contributions are paid by the government for poor and economically disadvantaged individuals. Meanwhile, independent participants are required to pay contributions according to their selected membership class. This classification reflects differences in economic capacity within the system. However, despite differences among categories, participation in JKN remains universal. This demonstrates that the JKN system is designed to be inclusive while remaining contribution-based. Therefore, active participation is a key factor in the success of the program. In practice, however, not all participants are able to fulfill their contribution obligations consistently (Gulo, 2025).

Several previous studies have shown that compliance with the payment of JKN contributions is influenced by a combination of economic factors, perceptions of benefits, and service quality. Research by Mekarisce et al. (2022) concluded that personal and household financial conditions are dominant factors contributing to contribution arrears, particularly among informal-sector participants. Meanwhile, Dewi et al. (2023) found that low legal literacy concerning contribution obligations also contributes to non-compliance because participants do not understand the normative consequences of arrears. Research by Utami et al. (2024) also shows that the level of trust in the management of BPJS Kesehatan has a significant effect on payment compliance. Overall, these findings confirm that contribution arrears are not triggered solely by economic factors but also by aspects of legal awareness and trust in the administering institution.

Previous compliance studies explain why arrears occur, but they do not resolve whether the state or BPJS Kesehatan may legally extinguish outstanding contribution obligations, what legal regime governs such receivables, or how administrative discretion must be constrained by the principles of legal certainty and equal treatment. This doctrinal gap defines the contribution of the present study.

At the end of 2025, the government, through the Coordinating Minister for Community Empowerment, Abdul Muhaimin Iskandar, announced a proposal to waive JKN contribution arrears. This policy aims to ensure that underprivileged people continue to receive health protection. The government considers that arrears should not constitute a barrier to access to health services. The waiver is designed to enable eligible participants to return to active status without the burden of past contribution debts. In addition, participants who meet the relevant criteria will be transferred to the PBI scheme. This policy is positioned as an affirmative measure of social protection. The government emphasizes that health is the foundation of community empowerment. Thus, the policy has a strong social dimension (Akbar, 2026).

Support for the policy was also conveyed by a member of Commission IX of the House of Representatives of the Republic of Indonesia, Arzeti Bilbina. She assessed that the step to eliminate arrears is consistent with the constitutional mandate to guarantee the basic right to health. According to her, many people refrain from seeking treatment because their membership is inactive due to arrears. The policy is considered a form of state presence in protecting vulnerable groups. However, the House of Representatives also emphasized the importance of a measurable mechanism so as not to undermine the sustainability of the system. Education and assistance remain necessary to ensure that participants maintain discipline in paying contributions in the future. The statement demonstrates a balance between social empathy and fiscal prudence. This political support indicates the policy's legitimacy from a public-policy perspective (DPR RI, 2025).

While aimed at protecting vulnerable groups, contribution-arrears waiver policies raise fundamental juridical questions. Does the elimination of outstanding contribution obligations have an explicit legal basis in the applicable laws and regulations? What is the legal status of contribution arrears within the framework of state administration? To what extent can such a policy constitute a legitimate exercise of administrative discretion under certain circumstances? These questions are important because legal certainty is a fundamental principle in the implementation of the rule of law. In addition, the policy has the potential to create unequal treatment of participants who have consistently complied with their contribution obligations. Therefore, normative analysis is needed to assess the legitimacy of the policy. The tension between the principles of social justice and legal certainty is a central issue.

From the perspective of the social security system, the elimination of contribution arrears is also related to the sustainability of financing. Contributions are a principal source of funding for health services within the JKN system. If arrears are waived without a clear mechanism, the financial stability of the social security fund may be affected. On the other hand, a repressive approach toward delinquent participants may cause social exclusion. Therefore, a balance is needed between a legal approach and a humanitarian approach. The waiver policy lies at the intersection of these two interests. Evaluation of the policy must consider normative, administrative, and social aspects. Thus, in-depth research is academically necessary.

Until now, the literature on JKN has primarily discussed BPJS governance, contribution compliance, and financing deficits. There has been no specific and comprehensive study analyzing the juridical legitimacy of a policy to waive contribution arrears. This policy is relatively new and was proposed at the end of 2025. This condition indicates a research gap. Systematic legal analysis is therefore needed to provide normative certainty. Without scholarly analysis, such policies have the potential to be debated primarily as matters of political discretion. Therefore, this research has both academic and practical urgency in addressing the need to reconcile social protection with legal certainty.

Based on this background, this study aims to analyze the juridical basis of the policy of abolishing or waiving JKN contribution arrears and its implications for the principles of the national social security system. This research also seeks to evaluate the policy from the perspectives of legal certainty and social justice. Theoretically, this research is expected to enrich the study of social security law in Indonesia. Practically, the results of the research may serve as recommendations for policymakers so that affirmative measures remain within the applicable legal framework. Thus, waiver policies should not only be oriented toward social protection but should also ensure the sustainability of the system. This contribution is important for maintaining a balance between social protection and normative discipline. Ultimately, this research is expected to strengthen the legitimacy of the JKN system as an instrument of the welfare state.

METHOD

This study was doctrinal and analytical-prescriptive rather than empirical qualitative research. Primary legal materials were selected according to their authority and direct relevance to JKN financing, mandatory participation, contribution collection, public-law receivables, and governmental regulatory powers. The analysis proceeded through norm identification, examination of the hierarchy and synchronization of regulations, grammatical and systematic interpretation, assessment of compatibility with the principles of legal certainty and social justice, and formulation of a prescriptive recommendation. The research cutoff date separated *lex lata* from *lex ferenda*: enacted provisions were analyzed as positive law, while the contribution-arrears waiver was evaluated as a proposed policy unless supported by a formally enacted legal instrument.

This research was a normative legal or normative juridical study employing an analytical-prescriptive method that focused on the analysis of the norms and provisions of laws and regulations governing the national social security system, as well as the policy of eliminating or waiving arrears of National Health Insurance (JKN) contributions. The normative approach was chosen because the issues under study concerned the legal legitimacy, authority, and normative implications of a public policy (Wicaksono, 2026). This research positioned law as a system of norms that was analyzed through the construction of laws and regulations, legal principles, and doctrines developed within social security law and state administrative law. Thus, the focus of the research was not merely descriptive but also analytical and prescriptive, with the aim of assessing the compatibility of the policy with the principles of the rule of law and social justice.

The study employed a statute approach, a conceptual approach, and a policy-analysis approach. The statute approach examined the 1945 Constitution of the Republic of Indonesia, the SJSN Law, the BPJS Law, Presidential Regulation No. 82 of 2018 concerning Health Insurance and its applicable amendments, and other binding instruments relevant to JKN contribution obligations. The conceptual approach evaluated the principles of legal certainty, social justice, equality, and sustainability of social security financing. The policy-analysis approach was used solely to assess the announced arrears-waiver proposal as *lex ferenda*; no court decision was treated as a case-study object.

The sources of legal materials in this study consisted of primary and secondary legal materials. Primary legal materials included laws and regulations and official policies related to JKN, as well as policies concerning the waiver of contribution arrears. Secondary legal materials included books, scientific journal articles, previous research findings, and publications relevant to the topics of contribution compliance and BPJS governance. The technique for collecting legal materials was literature review, while the materials were analyzed qualitatively using systematic

and grammatical interpretation of applicable legal norms. The results of the analysis were then used to formulate legal arguments concerning the legitimacy and implications of the policy of eliminating or waiving contribution arrears within the national social security system.

RESULTS AND DISCUSSION

Results

The legal assessment must begin by distinguishing the existing contribution obligation from the proposed waiver mechanism. Under *lex lata*, participant obligations and BPJS Kesehatan's authority to collect contributions derive from the statutory JKN framework and its implementing regulations. A waiver cannot be inferred solely from political support or administrative convenience; it requires a legally competent basis that identifies the authority to extinguish the receivable, the participants eligible for the waiver, the treatment of previously compliant participants, the accounting consequences, and safeguards for JKN financing. Political endorsement may support policy legitimacy, but it does not substitute for legal validity.

Scientific Findings

The regulation of contribution obligations in the National Social Security System is rooted in the normative framework established by Law Number 40 of 2004 concerning the National Social Security System (SJSN Law). Article 1 defines social security as a form of social protection intended to ensure the fulfillment of basic needs for a decent life, making contributions an important financing instrument for achieving this objective. Article 2 establishes the principles of humanity, benefit, and social justice, while Article 4 sets out the principles governing the implementation of the system, including mutual cooperation, non-profit management, transparency, prudence, accountability, portability, mandatory participation, and the management of social security funds as trust funds for the benefit of participants. As argued by Alhumaira & Samrenaldy (2026), the obligation to pay contributions is not merely an administrative obligation but also a manifestation of social solidarity institutionalized in legal norms. This normative structure suggests that contribution-based financing constitutes a fundamental foundation of the national social security system.

Article 4 of the SJSN Law expressly establishes, among other principles, mandatory participation, non-profit management, and the management of social security funds as trust funds whose results are used entirely for the development of social security programs and the interests of participants. The principle of mandatory participation means that there is no room for voluntary choice regarding participation in the national social security system. This norm places contribution obligations as a logical consequence of mandatory participation. The funds collected constitute trust funds and therefore possess a public-law character and must be managed accountably. Yusuf & Thohari (2024) also emphasized that contributions cannot be understood as private commercial transactions but rather as socially protected contributions governed by law. Therefore, any deviation from contribution-payment obligations may have a direct impact on the stability of the collective fund.

The normative obligation to pay contributions is affirmed in Article 17 of the SJSN Law, which provides that each participant is required to pay contributions based on a specified percentage of wages or a specified nominal amount. Employers are required to collect and remit contributions periodically, while the government pays contributions for poor and economically disadvantaged persons. This norm demonstrates the division of financing responsibilities among participants, employers, and the state. The regulation also delegates the determination of contribution amounts to implementing regulations, allowing the amounts to be adjusted periodically in accordance with prevailing socioeconomic conditions. Thus, contribution obligations may be adjusted in amount while remaining legally binding. Systematically, this provision provides the legal basis for establishing contribution-payment schemes through implementing regulations (Mekarisce et al., 2022).

Further arrangements concerning the types of programs and the character of membership are regulated in Articles 18, 20, and 21 of the SJSN Law. Article 20 emphasizes that health insurance participants are persons who have paid contributions or whose contributions are paid by the government. This provision establishes a legal connection between participation and the

fulfillment of contribution obligations. Article 21 provides transitional protection for workers who experience termination of employment for a specified period and establishes government financing where participants are unable to pay. This provision demonstrates the state's role as a guarantor for vulnerable participants without eliminating the underlying principle of contribution obligations. The scheme therefore emphasizes the relationship between contributions and the sustainability of entitlement to benefits (Prayitno, 2023).

The provisions concerning the amount of health insurance contributions are further regulated in Article 27 of the SJSN Law, which distinguishes the contribution mechanisms applicable to wage-earning participants, non-wage-earning participants, and contribution-assistance recipients. This norm provides a strong legal basis for a differentiated contribution structure based on participant categories. Article 28 regulates additional contributions for family members exceeding the prescribed number, thereby establishing a relationship between expanded coverage and additional financial contributions. Even in other social security programs, such as old-age security (Articles 36–38), pension benefits (Articles 40–42), and death benefits (Articles 44–46), the principle that participants are persons whose contributions are paid remains consistently reflected. Systemically, therefore, the various branches of social security are structured around contribution obligations as an element of entitlement. Consequently, contribution arrears possess a legal dimension that cannot be treated as a simple private debt.

The institutional strengthening of contribution obligations is subsequently regulated in Law Number 24 of 2011 concerning the Social Security Administering Agency (BPJS Law). Article 1 establishes BPJS as a public legal entity responsible for administering social security programs. Article 10 assigns BPJS, among other functions, the task of collecting contributions from participants and employers, receiving contribution assistance from the government, and managing social security funds for the benefit of participants. In addition, Article 11 grants BPJS the authority to collect contribution payments. These provisions demonstrate that contribution collection is not merely an administrative discretion but a statutory authority. Thus, contribution arrears constitute receivables recorded by the public institution responsible for administering the program.

Article 14 of the BPJS Law emphasizes that everyone is required to participate in social security programs. This provision reinforces the principle of mandatory participation established in the SJSN Law. Furthermore, Article 19 regulates the allocation of contribution-payment obligations among employers, workers, independent participants, and the government. The delegation to presidential regulation under Article 19(5) demonstrates the hierarchical structure of norm formation. The obligation to pay contributions under this framework is imperative rather than optional. Accordingly, from the perspective of administrative law, the relationship between participants and BPJS is a public-law relationship arising from statutory provisions.

The technical arrangements concerning contribution amounts are further established in Presidential Regulation Number 82 of 2018 concerning Health Insurance, as last amended by Presidential Regulation Number 59 of 2024 concerning the Third Amendment to Presidential Regulation Number 82 of 2018 concerning Health Insurance. The Presidential Regulation classifies participants into Contribution Assistance Recipients (PBI) and non-PBI participants and establishes contribution-payment obligations according to membership categories, namely Wage-Earning Participants (PPU), Non-Wage-Earning Participants (PBPU), and Non-Worker Participants (BP). For PPU participants, the contribution is set at 5% of wages, with the prescribed portion divided between workers and employers, while contributions for PBPU and BP participants are determined according to the applicable provisions. Contributions for PBI participants are paid by the government; the applicable contribution amount is Rp42,000 per person per month. This arrangement demonstrates the concretization of measurable and enforceable contribution obligations. With applicable wage thresholds and other prescribed parameters, the regulatory framework provides a relatively high degree of legal certainty.

The legal consequences of contribution arrears are also regulated in Article 42 and Article 43 of the Presidential Regulation on Health Insurance. Under the current framework, participants whose contributions are not paid may have their coverage temporarily suspended. To reactivate their membership status, participants must pay the outstanding contributions, subject to a

maximum of 24 months, as well as the contribution for the month in which the temporary suspension is terminated. In addition, within 45 days after their membership status becomes active again, participants may be subject to a service fine for advanced inpatient care. Under the current provision, the fine is 5% of the cost of the health service received, subject to the applicable regulatory limits. BPJS Kesehatan is also required to record and calculate contribution arrears as receivables for a maximum of 24 months. These provisions demonstrate that arrears have direct legal consequences for the enjoyment of health insurance coverage and establish a legal correlation between contribution obligations and the activation of benefits.

Based on the overall normative construction, it can be concluded that contribution obligations within the JKN system have a layered and integrated legal basis. The SJSN Law establishes the fundamental principles and obligations, the BPJS Law strengthens the institutional framework and collection authority, while the Presidential Regulation establishes operational details and consequences of nonpayment. The principle of mandatory participation makes contributions a constitutive element of the system. The consequences of arrears are not merely administrative but may affect the exercise of health insurance coverage. Therefore, from a juridical perspective, contribution obligations constitute imperative norms that form a backbone of the sustainability of the National Health Insurance System.

Scientific Discussion

Contribution obligations within the National Health Insurance (JKN) system must conceptually be understood as imperative public-law norms. This character can be seen in the normative construction of Law Number 40 of 2004 concerning the National Social Security System and Law Number 24 of 2011 concerning the Social Security Administering Agency, neither of which provides participants with discretion to choose whether to fulfill their contribution obligations. Benita & Ardiansyah (2024) explain that the norm is coercive (*dwingend recht*) because the obligation to pay contributions arises directly from mandatory participation status. From the perspective of state administrative law, the relationship between participants and BPJS is not a private contractual relationship but a public-law relationship arising from statutory provisions. Thus, contributions are not merely voluntary payments but legal obligations that carry juridical consequences when not fulfilled.

The imperative character of this obligation is strengthened by the principles of mandatory participation and mutual cooperation in the social security system. The principle of mutual cooperation reflects social solidarity, whereby the financing of health services is collectively supported by participants. This means that the sustainability of the system depends substantially on consistent compliance with contribution-payment obligations. In a social insurance scheme, the right to health insurance benefits is not entirely detached from the fulfillment of the conditions established by law and regulation. This concept reflects a reciprocity principle between rights and obligations. Therefore, the temporary suspension of coverage for participants in arrears is not necessarily a violation of rights but may constitute a legal consequence of the design of a contribution-based social insurance system (Putri et al., 2022).

In addition, contribution arrears have a significant dimension from the perspective of public finance law. When contributions are established as legal obligations and BPJS is granted statutory authority to collect them, arrears constitute receivables of a public institution. Such receivables cannot simply be treated as ordinary private debts because they concern trust funds managed for the collective benefit of participants. The elimination or reduction of public receivables must, in principle, have a clear legal basis and comply with the principles of legality and legal certainty. If contribution obligations are positioned as imperative norms and constitute a foundation of the financing system, any policy that may reduce or extinguish arrears must be rigorously assessed within the framework of normative consistency (Jauza & Rahmadani, 2024).

Based on this analysis, contribution obligations in JKN can be understood as having a central and constitutive position in the existence of the national health insurance system. Contributions are not merely technical financing instruments but also a principal support for distributive justice and social solidarity. The legal construction that establishes mandatory participation and regulates the consequences of arrears demonstrates that the system is designed to ensure financing certainty and sustainability. In this context, an important juridical question

arises when the state introduces a policy for the elimination or waiver of contribution arrears: Is such a policy consistent with the principle of mandatory participation, the principle of justice, and the normative structure established within the national social security system? This question forms the focus of the analysis in the next section.

Discussion

Analysis of the Policy on the Elimination or Waiver of JKN Contribution Arrears

The regulation of the obligation to pay contribution arrears in the National Health Insurance system continues to refer to Presidential Regulation Number 59 of 2024 concerning the Third Amendment to Presidential Regulation Number 82 of 2018 concerning Health Insurance. Article 20(2) expressly states that a change in membership status does not eliminate the participant's obligation to settle contribution arrears that have previously arisen. Furthermore, Article 20(3) provides that the obligation to settle such arrears must be fulfilled no later than six months after the membership status changes. This normative construction demonstrates that delinquency is treated as a legal obligation that remains attached to the participant. A change in membership category does not, by itself, extinguish previously incurred financial obligations. Thus, under the prevailing legal framework, the JKN system does not recognize a general waiver in the sense of permanent elimination of contribution obligations merely because membership status changes. The norm reflects the consistency of mandatory participation as a foundation of the social insurance system. This point provides an analytical basis for assessing the proposed waiver policy.

In the development of public policy during 2025–2026, the government proposed issuing a new regulation specifically addressing the elimination or waiver of contribution arrears. Coordinating Minister for Community Empowerment Abdul Muhaimin Iskandar stated that the arrears-elimination program would be implemented to expand access to health protection for underprivileged groups. The statement was reported by Kompas as part of the government's affirmative measures to strengthen social protection (Janati & Akbar, 2026). On the other hand, President Director of BPJS Kesehatan Ali Ghufron Mukti stated that a draft regulation had been submitted and was awaiting the determination process (Pratiwi, 2026). This information indicates that the proposed waiver policy is contemplated in the form of a *regeling*, rather than merely as an internal administrative policy or *beleidsregel*. The choice of a regulatory instrument is important because the policy concerns normative legitimacy and general binding force. Thus, the proposed waiver is intended to obtain a formal legal basis within the hierarchy of laws and regulations (Kesuma et al., 2024).

Substantively, the proposed waiver policy is not a single scheme but encompasses several possible approaches. Available information indicates that there are two principal models under consideration. First, the total elimination of arrears for participants who transfer to the Contribution Assistance Recipient (PBI) category. Under this model, previously accumulated contribution debts would be written off after participants are verified as belonging to an economically disadvantaged group. Second, the limitation of the obligation to pay arrears to a maximum of the most recent 24 months for participants who do not meet the PBI criteria. The second scheme would not eliminate all accumulated debt but would limit the amount required to be repaid. Accordingly, the policy combines a full write-off approach with a limited relaxation of repayment obligations. Normatively, this pattern can be understood as a form of restructuring of payment obligations. This differentiation demonstrates that the proposed waiver is not intended to operate uniformly across all participant categories.

The empirical dimension also demonstrates the urgency of the policy. Pratiwi (2026) noted that potential receivables subject to write-off could reach approximately IDR 14 trillion from 23 million participants. Meanwhile, Haa (2026) reported that uncollected contributions could reach IDR 26.7 trillion, involving tens of millions of participants with inactive status. These data illustrate the significant administrative and financial burden associated with managing health insurance funds. The high level of receivables reflects a gap between the normative obligation to pay and the actual financial capacity of participants. This condition provides a factual background for considering waiver as a corrective instrument. Descriptively, the policy is

positioned not only as an administrative measure but also as a strategy for reactivating membership. Thus, its justification is based not only on normative considerations but also on empirical realities.

In addition, the scope of the proposed waiver policy is not universal but selectively directed toward specific groups. Based on data reported by Kompas in 2026, beneficiaries must be registered in the National Socioeconomic Single Data (DTSEN) and classified as economically disadvantaged. Participants in the Non-Wage-Earning Participant and Non-Worker categories are among the principal target groups. Verification is carried out through an administrative mechanism involving local governments. This approach demonstrates a policy foundation based on social welfare data. The proposed waiver is therefore positioned as a targeted affirmative policy rather than a general policy applicable to all participants. This selectivity also confirms differentiation in legal treatment based on socioeconomic conditions (Janati & Akbar, 2026). Thus, the scope of the policy is determined by objective parameters established by the government.

President Director of BPJS Kesehatan Ali Ghufron Mukti also stated that an automatic waiver would be provided to participants in deciles one through four, while participants outside these categories would be required to apply in advance. This mechanism demonstrates a procedural distinction between economically disadvantaged and other groups. The policy also contemplates the elimination of arrears for deceased participants and adjustments concerning duplicate membership. Such administrative flexibility remains subject to criteria established by the government. This means that executive discretion is not unlimited or without parameters. Accordingly, policy implementation must remain within clear normative boundaries. This is important for maintaining legal certainty in implementation (Haa, 2026).

In addition to juridical and administrative aspects, waiver policies also have significant fiscal implications. Haa (2026) reported the Minister of Health's statement regarding the potential annual deficit of BPJS Kesehatan in the range of Rp20–30 trillion. On the other hand, Kompas reported discussions concerning an increase in contributions, which triggered public debate. This situation demonstrates a tension between relaxing contribution obligations and maintaining the sustainability of the financing system. A write-off of arrears may reduce recorded receivables, but it may also affect the institution's financial position and cash-flow projections. Within the framework of public financial governance, such a policy must therefore be carefully measured. The fiscal dimension is consequently an integral component of assessing the proposed waiver policy. This aspect confirms that contribution arrears cannot be separated from the broader sustainability of the social security system (Akbar, 2026).

Overall, a waiver policy would alter the construction of the legal relationship between participants and the social security administrator. Under the existing Presidential Regulation on Health Insurance, a change in membership status does not extinguish contribution arrears. A new policy, however, would create a legal basis for eliminating or limiting arrears based on specified social criteria. This shift reflects a tension between legal certainty and considerations of social justice. The state seeks to balance the principle of solidarity with the economic reality faced by some participants. From a public-policy perspective, waiver may be understood as a corrective instrument addressing the rigidity or practical limitations of existing enforcement mechanisms. However, its implementation must remain within the hierarchy of laws and regulations. Thus, the policy has intertwined juridical, administrative, and fiscal dimensions within the JKN framework.

Scientific Discussion

The policy of waiving National Health Insurance (JKN) contribution arrears raises fundamental normative issues when examined against the principle of mandatory participation as a foundation of the national social security system. Under the existing framework, the obligation to pay contributions is a direct consequence of mandatory social insurance participation based on mutual cooperation (Benita & Ardiansyah, 2024). This norm is reflected in Presidential Regulation Number 59 of 2024, under which changes in membership status do not eliminate the obligation to settle contribution arrears. This means that financial obligations remain legally attached even when participants change categories. If a new policy subsequently creates a mechanism for eliminating these obligations, tension arises between imperative norms and corrective affirmative policies. As argued by Luthfi (2024), from the perspective of state

administrative law, an obligation established by law cannot simply be set aside on the basis of social considerations without a valid and proportionate legal basis. This creates a tension between legal certainty and the objective of social protection mandated by the welfare state.

These tensions become more complex when analyzed within the framework of legal-function theory. Law not only performs a regulatory function but can also serve as an instrument of social engineering (Purwanda et al., 2024). In the context of waiver, the state seeks to use law as a corrective instrument to address failures in participation associated with structural poverty (Akbar, 2026). However, such a change in orientation requires systemic consistency to avoid normative inconsistency. If liability norms can be eliminated through particular policies, the stability and predictability of the system may be compromised. Contribution obligations that were previously regarded as binding may become perceived as relative and dependent on periodic policy decisions. Such conditions could erode public confidence in the binding character of legal norms. Therefore, juridical analysis must consider the balance between policy flexibility and normative stability (Budiarsih & Andhi, 2025).

From the perspective of justice theory, waiver policies may be justified through a distributive-justice approach, which permits different treatment of groups that are factually situated in unequal conditions. The welfare state requires affirmative intervention to ensure that vulnerable groups retain access to basic rights, including health services. In situations of extreme poverty, contribution obligations may become structural obstacles to the fulfillment of the right to health (Agung & Jatmiko, 2023). However, from the perspective of procedural justice, questions arise concerning fairness to participants who have consistently and voluntarily complied with their contribution obligations. When the state eliminates the obligations of some participants, a potential imbalance may arise in perceptions of horizontal justice. In addition, the risk of moral hazard is a serious concern if similar policies become a precedent that may be repeated. Therefore, the moral legitimacy of the policy must be accompanied by objective, transparent, and verifiable selection criteria (Pamungkas & Hariri, 2022).

Another aspect that is no less important is public financial management. Normatively, contribution arrears constitute receivables recorded in the accounts of the administering institution and relate to trust funds managed for the benefit of participants. From the perspective of state financial law, any write-off of receivables must have a clear legal basis and be implemented through accountable procedures (Jauza & Rahmadani, 2024). The principle of legality requires that government actions remain within the authority granted by laws and regulations. The principle of *lex superior derogat legi inferiori* is crucial in ensuring that a waiver policy does not conflict with higher-level norms governing contribution obligations. If the legal basis for the authority is insufficient, the policy may give rise to legal disputes or judicial review. Thus, regulatory harmonization is a principal prerequisite for the sustainability of the policy (Karmila et al., 2026).

From the perspective of administrative governance, implementation of a waiver policy must also consider the principles of accountability and transparency. Determining eligible groups, such as participants classified as economically disadvantaged or falling within specified decile categories, requires valid, current, and data-driven verification. If the verification process is not conducted rigorously, the policy may be misdirected and create new forms of inequality. In addition, differentiation in legal treatment requires rational and proportionate justification so as not to violate the principle of equality before the law. The state must demonstrate that differences in treatment have an objective and accountable basis. In this context, waiver is not merely an economic policy but an administrative measure that must comply with the principles of good governance. Without adequate oversight, the policy may create legitimacy problems (Syofyan & Gusman, 2023).

From a social and fiscal policy perspective, waiver may be understood as a reintegration strategy designed to reactivate millions of participants who have become inactive because of contribution arrears. This measure has the potential to expand the scope of health protection and strengthen the inclusiveness of the JKN system. However, a social insurance system depends not only on solidarity but also on actuarial balance and financing discipline. The elimination of substantial receivables may affect the financial stability of the administering institution if it is not

accompanied by adequate state fiscal support. Therefore, the waiver policy should be positioned as an extraordinary, limited, and measurable measure. Its legitimacy ultimately depends on normative consistency, accuracy of targeting, and guarantees of the system's long-term financial sustainability. With this balance, waiver can be understood as a corrective instrument within the framework of a state based on the rule of law as well as a welfare state (Sinaga & Hidayat, 2024).

Legal Implications and Policy Recommendations

Based on the foregoing discussion, the policy of waiving National Health Insurance (JKN) contribution arrears presents complex and multidimensional legal implications. The policy is essentially designed to eliminate part or all of the contribution arrears of certain participants who are considered economically disadvantaged. Under the applicable legal framework, the obligation to pay contributions constitutes an inherent legal obligation and is not extinguished merely because of a change in membership status, as affirmed in Presidential Regulation Number 59 of 2024. These provisions reflect the imperative nature of the social insurance system, which is based on contribution obligations. Under a waiver policy, an approach that originally emphasized full enforcement of contribution obligations would shift toward selective relaxation. This shift demonstrates an adaptation of policy to the socioeconomic conditions of the population. Conceptually, the change is not merely administrative but also affects the legal relationship between the state and participants. Therefore, from its inception, the policy carries significant normative consequences.

In the short term, the waiver policy has the potential to rapidly increase the number of active participants. Many participants become inactive not because they have voluntarily withdrawn from the system but because they are burdened by outstanding contributions that they cannot afford to pay. By eliminating or limiting such obligations, administrative barriers to reactivation can be reduced. The result may be renewed access to health services for persons who were previously prevented from accessing coverage because of financial constraints. An increase in the number of active participants can also expand the scope of social protection within a relatively short period. From the perspective of public services, this policy demonstrates the state's response to the urgent needs of vulnerable communities. Administratively, reducing uncollectible or difficult-to-collect receivables may also facilitate the management of membership data. Thus, the practical impact of the policy is potentially significant for the operation of the JKN system (Prayitno, 2023).

However, these short-term implications are inseparable from fiscal consequences. The elimination of arrears reduces the value of receivables recorded in the accounts as potential receipts. Although some receivables may already be difficult to collect, a write-off still affects the financial statements of the administering institution. This impact may affect cash-flow calculations and projections concerning the balance of social security funds. In a social insurance system, financing continuity depends substantially on the stability of contribution revenues. If revenue decreases while claims and benefit expenditures continue, pressure on social security funds may increase (Sinaga & Hidayat, 2024). Therefore, the waiver policy should be accompanied by prudent fiscal-management strategies. Without careful planning, its fiscal effects may create additional problems in the medium term.

From a long-term perspective, the policy may affect the mandatory character of the JKN system. The principle of mandatory participation is intended to ensure system sustainability through broad participation across all segments of society. If contribution obligations can be eliminated through a particular policy, there is a possibility that participants will perceive such obligations as negotiable under certain circumstances. Over time, such changes in perception may affect the culture of collective compliance. A system built on mandatory contribution obligations may experience weakened payment discipline if exceptions are not clearly circumscribed. Such an impact may not be immediately apparent but can accumulate over time. Therefore, these long-term structural implications require serious consideration (Benita & Ardiansyah, 2024).

Waiver policies also have implications concerning the possibility of establishing a policy precedent. Although the Indonesian legal system does not formally adhere to a doctrine of binding judicial precedent comparable to that found in common-law systems, repeated government

policies can shape public expectations (Sinaga & Hidayat, 2024). If a waiver is implemented once without an explicit statement of its exceptional and extraordinary nature, the public may regard it as a policy that can be repeated. Such expectations may influence participants' decisions concerning whether and when to pay contributions. Some participants may choose to defer payment in anticipation of a similar policy in the future. This behavioral pattern may create a risk of moral hazard within the social security system. In the long run, a tendency to postpone obligations could weaken the integrity of the financing system. Therefore, the implications of policy precedent should be understood in terms of their potential effects on participant behavior.

In terms of participant compliance, the policy may have two contrasting effects. For economically disadvantaged groups, the elimination of arrears may strengthen perceptions of justice and increase trust in the state. This trust may encourage more stable participation in the future. However, for participants who have consistently paid their contributions on time, the policy may generate a perception of unfairness. They may perceive that compliance does not receive equivalent recognition or protection. Such perceptions could affect their attitude toward contribution obligations in the future. Accordingly, the policy may produce different effects across participant groups. This dynamic demonstrates that the implications for contribution discipline are not uniform (Karmila et al., 2026).

The scientific findings also demonstrate differentiation in legal treatment among participant groups. Economically disadvantaged groups or those falling within specified decile categories may receive full or partial elimination of arrears, while other groups may remain required to settle their arrears within specified limits. Theoretically, such differentiation can be justified on the basis of distributive justice, which recognizes differences in socioeconomic circumstances. However, differences in treatment must be supported by clear, objective, and measurable criteria. Without transparent parameters, the policy may be perceived as inconsistent or discriminatory. Therefore, the determination of eligible categories must be based on reliable and accountable data. Clarity of eligibility criteria is essential to maintaining policy legitimacy (Mekarisce et al., 2022).

In addition, implementation of the waiver policy requires strong administrative governance. The process of verifying and validating participant data is a determining factor in ensuring accurate targeting. If oversight mechanisms are weak, there is a risk of erroneous eligibility determinations or misuse of the policy. Targeting errors may affect not only program effectiveness but also the fiscal burden on the state. Conversely, transparency in implementation can increase public trust in the administering institutions. Therefore, information systems and interagency coordination need to be strengthened. Consistent supervision is also necessary to prevent irregularities. This governance dimension is an important factor in the successful implementation of a waiver policy (Utami et al., 2024).

From the perspective of state administrative law, the waiver policy also raises questions concerning the limits of government discretion. The elimination of obligations that were previously established as imperative requires a clear source of authority within the hierarchy of laws and regulations. If the policy is not formulated with sufficient legal precision, it may be perceived as an expansion of executive authority lacking a strong legal foundation. This could create grounds for judicial challenge. The principle of legality requires every government action to have a clear legal basis and to comply with higher-level norms. Therefore, policy formulation must be accompanied by careful regulatory harmonization. The adequacy and accuracy of the legal basis will determine the strength and sustainability of the policy (Alhumaira & Samrenaldy, 2026).

Overall, the scientific findings suggest that waiver policies have multidimensional and interconnected implications. Such policies may expand access to health protection and generate significant social benefits in the short term. On the other hand, they also present risks to fiscal stability, legal certainty, and system discipline in the long term. This complexity demonstrates that waiver is not merely a technical measure but a strategic policy that affects the foundations of the JKN system. Therefore, comprehensive and continuous evaluation is necessary. The policy must be carefully designed and implemented so that social-protection objectives can be achieved without compromising legal certainty. With an appropriate balance, waiver can be positioned as

a proportionate corrective instrument within the national social security system.

Scientific Discussion

The policy of waiving National Health Insurance (JKN) contribution arrears can be understood as a potential policy precedent in Indonesian administrative-law practice. The Indonesian legal system does not recognize binding precedent in the same manner as common-law systems. Nevertheless, government policies that are implemented and subsequently repeated in particular circumstances may establish patterns of administrative action that shape public expectations. In the context of JKN, the waiver of contribution arrears could be perceived as a new pattern in the management of contribution obligations. If the policy is not expressly characterized as an extraordinary and temporary measure, there is a risk that waiver will be perceived as a regular mechanism. Such a perception may alter the way participants understand their contribution-payment obligations. Therefore, it is important to expressly position the policy as an exception rather than as an ordinary norm within the social security system.

From the perspective of legal certainty, the existence of a waiver policy requires clear and measurable limits. Legal certainty requires norms to be stable, predictable, and consistently applicable to legal subjects. The obligation to pay contributions is fundamentally an imperative norm that binds participants. If that obligation can be eliminated for a particular period without strict limitations, its binding character may become relative. This condition may create uncertainty as to whether contributions constitute an absolute legal obligation or an obligation that may be modified through discretionary policy. To avoid such ambiguity, the formulation of a waiver policy should include clear eligibility criteria, a defined temporal scope, and an explicit statement that the policy constitutes a special and exceptional measure ([Prasja et al., 2023](#)).

The next question concerns the position of waiver arrangements within the hierarchy of laws and regulations. JKN contribution obligations derive from statutory norms governing the national social security system. Accordingly, changes affecting the substance of those obligations should possess a commensurate level of legal legitimacy. If waiver is regarded as a substantive alteration of contribution-payment obligations, its legal basis should ideally be strengthened at the statutory level. This is important to maintain consistency with the principle of *lex superior derogat legi inferiori*, under which a lower-level regulation may not conflict with a higher-level regulation. Clarity regarding the legal basis will strengthen policy legitimacy while minimizing the potential for future legal disputes ([Sinaga & Hidayat, 2024](#)).

Within the framework of policy reformulation, waiver should be designed as a legally grounded policy applicable only under objective and clearly defined conditions. One approach would be to restrict its application to exceptional circumstances, such as economic crises or other measurable social conditions. In this way, waiver would not become a routine policy but rather a corrective instrument used selectively. Such restrictions would also help maintain the stability of a social insurance system that requires discipline in contribution payments. Flexibility may still be provided, but it should not come at the expense of the normative structure established by the applicable regulations ([Alhumaira & Samrenaldy, 2026](#)).

From the fiscal perspective, the elimination or reduction of arrears must be accompanied by a clear financing mechanism. If the state decides to eliminate the contribution obligations of economically disadvantaged groups, the resulting fiscal burden must be addressed through an appropriate subsidy or other lawful financing mechanism. Transparent and measurable budgetary support is an important requirement for maintaining the balance of JKN financing. Without adequate fiscal planning, affirmative policies may place additional pressure on system sustainability. Therefore, any decision to implement a waiver should be accompanied by actuarial analysis and an assessment of its long-term financial consequences ([Budiarsih & Andhi, 2025](#)).

Based on the foregoing discussion, the legitimacy of a waiver policy depends substantially on its ability to balance social justice and legal certainty. The state has a constitutional obligation to ensure access to health services for all citizens, particularly vulnerable groups. However, these obligations must be implemented within a clear, consistent, and accountable legal framework. With appropriate formulation, waiver can be positioned as a legitimate, proportionate, and measurable corrective instrument. Conversely, without strict limitations, the policy risks

weakening system discipline and obscuring the mandatory nature of the JKN program as a national social insurance scheme.

CONCLUSION

Under prevailing law (*lex lata*), JKN contribution obligations remain governed by the statutory social-security framework and cannot be treated as extinguished merely because a contribution-arrears waiver policy has been announced. The proposed waiver (*lex ferenda*) may be justified by social-protection objectives, but its legal legitimacy requires an express and competent regulatory basis, clear eligibility criteria for arrears to be waived, safeguards for equal treatment, a lawful mechanism for writing off receivables, and measures to protect the financial sustainability of JKN. The central contribution of this study is therefore to distinguish political support for the proposal from its legal validity and to frame legal certainty, social justice, and fiscal sustainability as simultaneous conditions for any future implementation.

Based on the results and discussion, it can be concluded that contribution obligations within the National Health Insurance System have a strong and layered juridical basis, beginning with the National Social Security System Law and the BPJS Law and extending to their implementing regulations. These obligations are imperative and constitute an essential element of a social insurance system based on mandatory participation and mutual cooperation. From a juridical perspective, contribution arrears constitute receivables of the administering public institution and are not automatically extinguished by a change in membership status. A waiver policy would represent a shift from the full enforcement of contribution obligations toward selective relaxation based on considerations of social justice. Although such a policy has the potential to expand access to health protection, it also poses risks to legal certainty, compliance discipline, and fiscal stability if it is not formulated in a proportionate, targeted, and limited manner.

Accordingly, the government should ensure that any waiver policy has a clear legal basis, objective and transparent eligibility criteria, and adequate fiscal support so as not to undermine the sustainability of the system. In addition, further evaluation and research are needed concerning the policy's effects on participant compliance and the financial condition of BPJS Kesehatan in order to maintain an appropriate balance between social justice and legal certainty within the national health insurance system.

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AUTHOR CONTRIBUTION STATEMENT

Erna Kurniawati, Dimas Arryo Radytyo, Dinda Indrawati, Elianoor Niveda, and Rudy M. Ramdan contributed to the preparation and development of this manuscript. All authors participated in reviewing the relevant legal materials, discussing the interpretation of the findings, critically reviewing the manuscript, and approving the final version for publication. All authors agree to be accountable for the integrity and accuracy of the published work.

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