

# LEGAL PROTECTION FOR WORKERS THROUGH SOCIAL SECURITY PROGRAM

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**Abstract.** The no. 11 2020 law on occupational copyright in section 82 verse 1 mentions that the rule of chapter 18 was changed to read as follows: a social security program includes (a) health insurance, (b) occupational safety, (c) retirement security, (e) a guarantee of death, (e) a guarantee of death, and (f) a bail of death, but in execution, it cannot be fully implemented by the giver of such social security. The study aims to know the form of legal protection for labor through a social security program by 2020's statute 11 on job copyright and knowing how the implementation of the social security program for labor. The study employed an empirical juridical method using primary and secondary data conducted with a random sampling technique. The data obtained is analyzed with qualitative data analysis. From this study came that legal protection contained rights and obligations. The government has published a 2020 statute of no. 11 to create legal protection for the workforce. But in development in the field, there is still a large amount of manpower that has not earned their right to social security, which means that governments have not been able to provide maximum protection to the workforce.

**Keywords:** legal protection; social security; labor force.

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## INTRODUCTION

Every citizen, both Indonesian citizen and foreign citizen, has the right to obtain protection. While the state is obliged to provide protection for every citizen. As stated in Article 27 paragraph (1) of the 1954 Constitution, it is explained that every citizen has the right to obtain legal protection. In addition to this article, in the preamble to the 1945 Constitution, it has also been stated that the state will protect the entire Indonesian nation and all of Indonesia's bloodshed. Where the sentence is stated in paragraph 4 of the opening of the 1945 Constitution. ([R. Indonesia](#), 2002)

According to Sahya Anggara, legal protection is an action taken to fulfill harmonization, balance, justice for legal subjects in obtaining their rights and carrying out the obligations imposed on them. In other words, legal protection is an effort to fulfill legal relations. ([Anggara](#), 2018)

According to Philipus M Hadjon, legal protection is the protection of dignity and worth, as well as the recognition of human rights possessed by legal subjects based on legal provisions from arbitrariness or any collection of rules or rules that can protect one thing from another. ([Philipus](#), 1987)

According to Muchsin, legal protection is an activity to protect individuals by harmonizing the relationship of values or rules that are manifested in attitudes and actions in creating order. Legal protection is something that protects legal subjects through applicable laws and regulations and enforced its implementation by providing a sanction if it is not implemented. ([Muchsin](#), 2003)

From the above description it can be concluded that legal protection is all efforts to fulfill the rights and obligations of legal subjects based on legal provisions. . According to Muhsin, legal protection can be divided into two, namely:

### 1. Preventive Legal Protection

Protection given to prevent before the occurrence of violations. This is contained in laws and regulations with the aim of preventing a violation from occurring and providing signs or limitations in carrying out an obligation.

### 2. Repressive

Repressive legal protection is the final protection in the form of sanctions given if a dispute has occurred or a violation has been committed.

Talking about legal protection, a worker also has the right to obtain protection. Labor law protection is all the fulfillment of rights and obligations between the government, employers, and employees or subordinates by copyright law ([Suwiryo](#), 2017). Legal protection for workers is a manifestation of efforts to promote public welfare.

Protection for workers themselves is contained in Article 1 letter d of Law No. 13 of 2003 concerning Manpower, it is explained that "*protection of workers is intended to guarantee the basic rights of workers/laborers and guarantee equal employment opportunities and treatment without discrimination on any basis to realize the welfare of workers/laborers and their families while taking into account the development of the progress of the business world.*" From the article above, it can strengthen the principle that workers have the right to protection ([Undang-undang](#)

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[No 13 Tahun 2003](#), 2006).

According to Bakers, overall worker/labor protection is a public legal norm that aims to regulate labor conditions in companies as well as all public legal norms that affect and threaten the safety, occupational health, and welfare of workers/workers in carrying out their work ([Kahfi](#), 2016).

Work protection for workers can be provided through social security. Labor social security is a form of protection provided to workers or their families against various labor market risks. Social security for workers provides benefits for workers and their families from unexpected things due to the risks or possibilities that arise in carrying out their work.

Workers in carrying out their work will be faced with various risks that are likely to occur, both the risk of disease caused by their work, the risk of work accidents, the risk of death, the risk of disability, the risk of losing their job and various other risks. Risk is a factor of uncertainty in an activity that we do both in work relationships and outside employment relationships. ([Purwoko](#), 2010)

Labor is the entire population that is considered to be able to work and able to work if there is no work request. Manpower or manpower is the working-age population, namely the population aged 15-64 years, both in the labor force and not in the labor force. The workforce can be equated with the (economically active population). In-Law no. 13 of 2003 concerning Manpower, explains that the workforce is everyone who can do work to produce goods or services, both to meet their own needs and those of the

community ([Undang-undang No 13 Tahun 2003](#), 2006).

Within implementation in the world of work, there are still many workers who have not received the social security they deserve as stipulated in the law. In-Law No. 11 of 2020 concerning Job Creation, social security for workers is contained in Chapter IV Part Three, Article 82 paragraph (1). The article states what social security workers should get. But in reality, there are still many workers who have not received their rights in full. The workers do receive social security, but not all forms of social security as contained in Law no. 11 of 2020 concerning Job Creation are obtained by workers. Social security is a right that should be obtained by workers ([Undang-undang No. 11 Tahun 2020](#), 2020).

From the description above, researchers are interested in taking the title "*Legal Protection for Workers Through the Social Security Program*" From the title, the focus of this research is on social security received by workers. In the title above, the focus in this research is what are the forms of social security programs received by workers based on Law no. 11 of 2020 concerning Job Creation and How is the implementation of the social security program for workers as a form of legal protection for workers.

The purpose of this research is to find out what forms of social security programs are received by workers based on Law no. 11 of 2020 concerning Job Creation and How to implement social security programs for workers as a form of legal protection for workers. In addition, the purpose of this research is to provide literature for students and also as material for input and criticism

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for parties involved in this research.

Within previous research entitled "*Protecting Workers Through the Social Security System: The Indonesian Experience*", in the last analysis, social security for workers is a form of protection for workers and their families from various labor market risks. The labor security scheme is the main mechanism of the workers' social protection system. However, social security did not run smoothly. Indonesia's workforce is very large, around 100 million people, and continues to grow at a rate of more than 2% per year. It is difficult for any company to reach and manage a large number of customers. Therefore, new steps are needed to build a comprehensive national social security and employment system. In this system, the government should play more of a role as supervisor and supervisor of social security. With the research entitled "*Legal Protection For Workers Through Social Security*" aims to strengthen the discussion of previous research. The bottom line is that social security for workers has not been implemented properly and there are still many workers who have not received employment social security.

## **METHODS**

The research method is a method used in collecting research data and comparing it with a predetermined standard size. ([Arikunto](#), 2002).

This type of research is empirical juridical research, namely legal research that reveals empirical facts taken from human behavior, both verbal behavior and

real behavior. Empirical research is used to observe the results of human behavior in the form of physical relics and archives.. ([Fajar](#), 2010). The approach method used in this research is the sociology of law approach, which is an approach that examines law in a social context. The desired result is to describe, connect, examine and also criticize the workings of law in society.

Sources of data used in this study are primary data and secondary data. Primary Data is data obtained directly from main sources in the field such as behavior/attitudes and responses of community members as seen from research. In this study, primary data was obtained from the results of a survey conducted past google form. ([Soekanto](#), 2007). Meanwhile, secondary data is data obtained from the results of literature studies conducted by researchers by viewing, reading, reviewing and linking data related to research. The secondary data needed in this research are books, scientific journals, scientific articles, laws and regulations, and other documents related to the research entitled "*Legal Protection for Workers through Social Security Programs*."

This study uses a sampling technique in the form of Random Sampling. Random Sampling technique is a sampling method by giving equal opportunities to each population. This study uses samples from various elements of society who are workers in various fields of work. The data obtained in the study were analyzed using qualitative data analysis. Qualitative data analysis, related to data in the form of sentences generated from the object of

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research. Qualitative data analysis is a data analysis technique that emphasizes data analysis more on aspects of in-depth understanding of a problem than looking at problems for generalist research.

## RESULTS AND DISCUSSION

Labor is any person who can do work to produce goods or services, both to meet the needs of themselves and the community. Workers have the right to protection. Social security is a form of protection provided to workers.

### **Forms of Social Security for Workers Based on Law no. 11 of 2020 concerning Job**

Creation Social security for workers is very important and beneficial for workers and their families. Social security is one form of legal protection for workers as outlined in statutory regulation. Labor social security is an employee's right and obligation of the company, so the essence of the JAMSOSTEK program is to provide certainty for the continuity of family income as a substitute for part or all of the lost income.

According to Imam Soepomo ([Abdullah](#), 2018), social security is a payment received by the worker if the worker outside of his fault does not do his job, thus guaranteeing income security if the worker loses his wages for reasons other than his will.

In article 1 of Law no. 40 of 2004 concerning the National Social Security System, describes social security as a form of protection to ensure that all people can meet the needs of a decent life. The national guarantee system is one of the

governance arrangements for the implementation of social security programs by several social security agencies ([Nomor](#), 40 C.E.).

From the description above, it can be concluded that social security is the right of workers to get guarantees for all the risks faced as a form of protection for workers. Social security should be obtained by every worker. Social security for workers is an ongoing program, to fulfill the basic needs of a decent life for workers.

In the implementation of the social security program, social security for workers is carried out by PT. JAMSOSTEK but after the enactment of Law no. 24 of 2011 concerning the Social Security Administering Body, then the social security provider is carried out by PT. BPJS. For the social security of workers, the implementation is also carried out by PT. BPJS, but more specifically implemented by PT. BPJS of Employment. ([Undang-Undang No.24 Tahun 2011](#), 24 C.E.)

In-Law No.11 of 2020 concerning Job Creation ([Undang Undang No.11 Tahun 2020](#), 2020), social security for workers is contained in CHAPTER IV Third Part Article 82 paragraph (1) states that the provisions of article 18 are amended so that it reads as follows:

Types of social security programs include:

- a. Health
  - b. insurance, work accident
  - c. insurance, old age
  - d. insurance, pension
  - e. insurance, death
  - f. guarantee, job loss guarantee, the type of social security program above is a right that should be received by workers regularly. full. Not only part of one type
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of social security program received by workers.

#### 1. Health Insurance

Health insurance is health protection for workers so that workers receive health and maintenance benefits and protection in basic health needs provided to every worker. Providing health insurance for workers is the employer's obligation. The form of health insurance provided to workers includes efforts to improve, prevent, cure, and restore health by the national health system.

Health insurance benefits are individual services in the form of health services that include preventive, promotive, curative, and rehabilitative services, including drugs and medical consumables. The benefits of this health insurance can be accessed in all health facilities, both government-owned and privately owned in collaboration with the Social Security Administering Body.

Health insurance participants are participants who are not recipients of contribution assistance (not PBI) and recipients of contribution assistance (PBI). Included in participants who are not recipients of contribution assistance are workers who are wage recipients, non-wage workers (independent/individual), and non-employees. Meanwhile, the participants who receive contribution assistance are the poor and the underprivileged. In this case, the workers are included in the category of participants who are not recipients of contribution assistance who are included in the wage earners.

The amount of health insurance for

workers is determined based on a percentage of wages to a certain extent, which is gradually borne by the workforce and the employer. The amount of health insurance contributions paid by workers is 5% of the salary or wages received per month, with detailed provisions: 4% is paid by the employer and 1% is paid by the worker.

#### 2. Work Accident Insurance Work

accident insurance is a guarantee obtained by workers for all risks of accidents that occur while carrying out work. Work accident insurance (JKK) is a benefit in the form of cash and/or health services provided when a worker has a work accident or illness caused by the work environment.

Work accidents are accidents that occur as a result of an employment relationship, including diseases that arise due to an employment relationship, as well as accidents that occur on the way from home to work and on the way home from work to home with the usual route or reasonable to pass. A case can be said to be a work accident if there is a somewhat forced element, namely injury to the body due to an event or occurrence (such as falling, being hit, hit, and so on).

The scope of work accident insurance includes

- a. accidents at work
- b. Diseases due to work Work
- c. trips back and forth (routine or reasonable route to go from home to work and vice versa)
- d. Work trips or assignments and or services (non-routine)

Participants in the accident social

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security program Work can be carried out by wage earners who work for non-government or state wage providers, and non-wage recipients can also participate.

Participants who receive wages consist of:

- a. Workers in companies
- b. Workers in individuals
- c. Foreign workers who work in Indonesia for at least 6 months of work.

Meanwhile, non-wage recipients consist of:

- a. Employers.
- b. Workers outside of employment or independent workers.
- c. Workers who do not include workers outside of employment or self-employed who do not receive wages.

The amount of the work accident insurance program contributions for wage recipients is grouped into 5 groups. The division of the group is based on the level of risk that may occur in the work environment. The groupings include:

- a. Very low-risk level: 0.24% of monthly wages
- b. Low-risk level: 0.54% of monthly wages
- c. Medium risk level: 0.89% of monthly wages
- d. High-risk level: 1.27% of monthly wages
- e. Very high level of risk: 1.74% of monthly wages.

While the amount of work accident insurance contributions for participants who are not wage recipients, the amount of the contribution is 1% of wages.

### 3. Old AgeOld

Security insurance is a social security program that protects workers and their families who have reached old age and have stopped working as well as workers

who have been terminated. Old age insurance or JHT is a cash benefit that is paid at once when the participant enters retirement age, dies, or has an accident at work.

Old-age insurance is a provision for workers when they enter an employment relationship, experience permanent total disability, dies, and participants stop working or are affected by the termination of employment (PHK). Old age insurance is an important component for a worker because basically, old-age insurance is a basic pension component. In addition, old age insurance is a saving that is prepared for life in old age. Old age insurance is also one way to prepare for the risks that will occur in old age.

The benefits of this old-age insurance program are enormous for workers. The amount of old-age benefits received is in the form of cash paid if the participant is 56 years old, dies, or has a permanent total disability in the amount of the accumulated value of all contributions that have been deposited plus the results of the development recorded in the participant's account. Participants in the old-age insurance program consist of participants who are wage recipients who work for non-state official wage providers and non-wage recipients.

What is meant by wage recipient participants who work for employers other than state officials include:

- a. Workers in companies
- b. Workers on individuals
- c. Foreigners who work in Indonesia for at least 6 months.

Meanwhile, participants who are not wage earners include:

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- a. Employer
- b. Workers outside of employment relationship or independent workers
- c. Workers who are not included as workers outside of employment relationships or independent workers who do not receive wages.

The amount of contributions paid by participants is determined by the size of the wages received. The burden of old-age insurance contributions is fully borne by the employer and the workforce, with a larger composition of the burden borne by the employer. The amount of old-age security contributions for wage recipients who work for non-state official wage providers is 5.7% of the wages received, provided that 2% is borne by the workers and 3.7% is borne by the employer. Meanwhile, the amount of contributions paid by non-wage participants is 2% of wages.

#### 4. Pension

insurance This pension insurance program is very important for a workforce to have. Age is something that cannot be avoided and cannot be repeated. The older the age of a worker, the lower productivity, agility, and agility in completing work. When the age has entered old age, the company or agency will replace it with younger workers with better work productivity by breaking the employment relationship with workers who have entered old age. To overcome the risks above, pension insurance is very helpful for workers in their old age.

Pension security is social security that aims to maintain a decent standard of living for participants and/or their heirs by providing income after the participant

enters retirement age with permanent total disability, or dies. Through the pension insurance program, beneficiaries are expected to be able to meet the basic needs of a decent living such as their income if the worker reaches retirement age, experiences total disability, or dies before reaching retirement age.

This pension guarantee provides benefits in the form of a sum of money paid to participants who enter retirement age or experience total disability or to the heirs of participants who pass away. The pension benefits can be in the form of:

- a. Old age
- b. pension, disability
- c. pension, widow or widower
- d. pension, child
- e. pension, parent pension.

Participants who can participate in the pension insurance program are wage workers who work for state-administered employers and wage-earners who work for non-state-administered employers. The amount of contributions from the pension guarantee is 3% of the wages received with a composition of 1% borne by the workers and 2% borne by the employer.

#### 5. Death guarantee Death

insurance (JKM) is a cash benefit given to heirs when the participant dies not due to a work accident. Through the death insurance program, each beneficiary is expected to be able to meet proper daily needs if the worker dies not due to a work accident and not due to an occupational disease while still actively working.

From the existence of a death guarantee, it provides benefits for the heirs. The benefits obtained by the heirs from the death insurance program are:

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- a. Getting a funeral fee of Rp. 4,000,000.00
  - b. 24 months of financial assistance worth 4.8 million which is given at the same time
  - c. The heirs get 36 million in cash
  - d. One child from the heirs will get a scholarship worth 12 million
  - e. Received a lump sum of 16.2 million.

Participants in the death social security program can be participants who are wage recipients who work for non-government or state wage providers, and non-wage recipients can also participate.

Participants who receive wages consist of:

- a. Workers in companies
- b. Workers in individuals
- c. Foreign workers who work in Indonesia for at least 6 months of work.

Meanwhile, non-wage recipients consist of:

- a. Employers.
- b. Workers outside of employment or independent workers.
- c. Workers who do not include workers outside of employment or self-employed who do not receive wages.

Social security contributions for wage-earning workers are 0.3% of the monthly wages received by workers which are entirely paid by the employer or company. For participants who are not wage earners, the amount of the death insurance contribution that must be paid every month is Rp. 6,800.00.

#### 6. Job loss guarantee.

In law no. 11 of 2020 concerning job creation, article 82 revises article 18 of law no. 40 of 2004 concerning National Social Security, where article 18 mentions the types of social security programs, in article

18 only mentions 5 types of social security programs. However, after the revision of Law No. 40 of 2004 concerning National Social Security, the types of national insurance programs have increased to 6 types. The addition is a job loss guarantee.

Job loss insurance is a worker's right that is obtained by workers who have been terminated. According to government regulation number 37 of 2021, a Job Loss Guarantee (JKP) is a guarantee given to workers/laborers who experience termination of employment in the form of cash benefits, access to job market information, and job training.

Participants of job loss insurance are workers/laborers who receive wages in business entities that have been or have just been included in the social security program by the company. This job loss guarantee is provided to maintain a decent life when the worker/laborer loses his job. As during the current covid-19 pandemic, many workers have lost their jobs due to layoffs as a result of the Covid-19 pandemic. With the job loss guarantee program, workers who lose their jobs can still survive while waiting to find work.

The existence of a job loss guarantee will certainly provide benefits for workers. Job loss guarantee benefits are provided to participants who experience termination of employment, both for work relations based on work agreements for an indefinite time or work agreements for a certain time. Benefits received from the job loss insurance program include:

- a. Cash;
- b. Access to labor market information; and
- c. job training.

All social security programs provided

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by the government are administered by the Social Security Administering Body (BPJS). The health insurance program is implemented by BPJS Kesehatan, while the work accident insurance, death insurance, old-age insurance, pension insurance, and job loss insurance are provided by BPJS Employment.

### Implementation of the Social Security Program for Workers as a Form of Legal Protection for Workers.

Social security is a right obtained by workers and must be provided by employers. However, in its implementation, there are still many workers who have not received their rights as workers. Based on the data collected from the results of the research through the google form, it can be seen that there are still many workers who have not received the social security program. From this research, it is known that there are 61.1% of workers do not have BPJS employment.



**Figure.1** BPJS Employment recipient

From the data above, obtained from respondents, it is known that there are still many workers who have not been registered as members of BPJS Ketenagakerjaan. according to data from BPS, the number of Indonesians who work is 128.45 million, but according to data from BPJS Ketenagakerjaan, there are 50.69 million registered members. The data clearly shows that there are still very many

workers who have not been registered as members of BPJS Ketenagakerjaan. If there are still many workers who have not been registered as members of BPJS Employment, it can be concluded that there are still many workers who have not received social security properly.



**Figure. 2** Health insurance recipient

From the data above, it can be seen that as many as 83.3% of the workforce have received health insurance. Health insurance is not included in BPJS Employment, this is because health insurance is the authority and responsibility of BPJS Health. Even though it is managed by BPJS Kesehatan, health insurance is still included in one of the social security programs for workers, and employers are required to provide health insurance to workers.



**Figure.3** Work Accident Insurance Recipient

The data above explains that there are still workers who do not get work accident insurance. It is undeniable that every worker in carrying out their work will be faced with various risks. The existence of a work accident guarantee will provide guarantees to workers for the various risks

they face in carrying out their work.



**Figure.4** Old age guarantee recipient

The diagram above shows that some workers have received old-age insurance. Nearly 44.4% of workers have already received their rights in the form of old-age insurance. However, there are still many workers who have not received old-age insurance.



**Figure.5** Pension insurance recipient

The pension insurance program has not been implemented properly, it is shown from the respondent's data above. There are still 66.7% of workers who have not received pension insurance. This explains that the rights of workers to receive pension insurance have not been fulfilled properly.



**Figure.6** Death Beneficiary

The diagram above shows that some workers have received death insurance. Around 44.4% of workers have received their rights in the form of death insurance. However, there are still many workers who have not received death insurance.



**Figure.7** Job loss guarantee recipient

Job loss insurance is a social security program that is arguably new. Job loss insurance is new social security added to the labor social security program after the revision of Law no. 40 of 2004 on national social security. The new job loss guarantee is set in 2020 after the enactment of Law no. 11 of 2020 concerning Job Creation.

The data above shows that as many as 88.9% of workers have not received only a job loss guarantee. there are still many employers who have not registered their workers in the social security program and have lost their jobs. The large number of workers who have not received job loss guarantees can still be said to be a natural thing, where this social security program can be said to be new. but the job loss guarantee is a right for workers that must be given, then the employer must also provide this right.

Based on the data obtained above, there are still approximately 52% of workers who have not received social security as stated in the Act. The figure of 52% is not a small number, meaning that there are only about 48% of the workforce who get their rights in full.

**CONCLUSIONS**

Social security is a form of legal protection provided to workers. The social security program for workers is stated in Article 82 of Law no. 11 of 2020 concerning

Job Creation. The social security program for workers as contained in Law no. 11 of 2020 concerning Job Creation including (1) Health Insurance; (2) Work Accident Insurance; (3) Old Age Security; (4) Pension Guarantee; (5) Death Insurance; and (6) Job Loss Guarantee. The social security program is a worker's right that must be provided by the employer to the worker. In its implementation, there are still many workers who have not received these rights. Around 52% of the workforce has not received social security as stated in Law No. 11 of 2020 concerning Job Creation. Social security is the right of workers, in its implementation, there are still many employers who have not provided social security programs as they should be given to workers. Employers must register workers in the social security program. For workers who have not received social security, they should ask the employer and ask for the provision of social security. In addition, the government in this case as the organizer of the social security program through BPJS Employment provides socialization and supervision to employers to provide social security to workers as appropriate.

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