



Implementation of Legal Protection for Workers Who Have Lost Their Jobs Based on Government Regulation Number 37 of 2021 concerning the Implementation of the Job Loss Insurance Program

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ABSTRACT

This study analyzes the implementation of legal protection for workers who have lost their jobs based on Government Regulation Number 37 of 2021 concerning the implementation of the job loss insurance program. The high unemployment rate in Indonesia, especially due to the COVID-19 pandemic, demands adequate legal protection for workers who have experienced termination of employment. This study uses a normative juridical method with a legislative and conceptual approach. The results show that Government Regulation Number 37 of 2021 provides adequate legal protection through job loss guarantees, which include cash benefits, access to job market information, and job training. This program provides a cash benefit of 45% of wages for the first three months and 25% for the following three months, with a maximum wage limit of IDR 5,000,000. Comparisons with other countries show that Indonesia has adopted best practices from various nations, although some requirements still need to be adjusted to field conditions. This research contributes to the development of a more comprehensive national social security system.

Keywords: Legal Protection, Job Loss Insurance, Termination of Employment, Social Security System

INTRODUCTION

The problem of unemployment is a global challenge faced by almost all countries, particularly in developing economies where structural vulnerabilities are more pronounced (Smith & Vavrus, 2018). According to the International Labour Organization (ILO), the global unemployment rate in 2020 experienced a significant increase due to the COVID-19 pandemic, which caused more than 400 million workers worldwide to lose their jobs (ILO, 2021). This crisis underscored the fragility of labor markets, as job losses were disproportionately concentrated in informal and vulnerable employment sectors (Khamis et al., 2021). Beyond its economic implications, unemployment exerts a strong influence on social cohesion and political stability, often exacerbating inequality and fueling unrest (Rasool et al., 2021; Shafi et al., 2020). Research further indicates that youth unemployment is especially critical, given its long-term scarring effects on career prospects, social mobility, and mental health (Bell & Blanchflower, 2019). The persistence of unemployment in both developed and developing

contexts thus highlights the need for adaptive labor policies, active labor market programs, and international cooperation to mitigate future shocks (Blustein et al., 2020; Ortiz et al., 2022).

Indonesia, as the country with the fourth largest population in the world, faces serious challenges in overcoming the problem of unemployment (Yanindah, 2021). Data from the Central Statistics Agency show that the open unemployment rate in Indonesia in 2020 reached 7.07%, an increase from 5.23% in 2019 (BPS, 2021). This rise was largely triggered by the COVID-19 pandemic, which disrupted business operations and forced many companies to terminate employment (PHK) to maintain their business continuity (Amri, 2021). The pandemic especially affected young workers and those in informal sectors, leading to structural vulnerabilities in Indonesia's labor market (Suryahadi et al., 2020). Moreover, the impact of unemployment extended beyond economic hardship, intensifying poverty and inequality while slowing down recovery in several provinces (Fitradly, 2021). These challenges highlight the urgency for adaptive labor policies, social protection programs, and long-term strategies to strengthen Indonesia's employment resilience in the post-pandemic era (Mulyana & Mauludin, 2022).

The problem of unemployment in Indonesia has become increasingly complex due to the lack of an adequate social security system for workers who have lost their jobs. Before 2021, workers who were laid off relied only on severance pay provided by the company as a form of compensation. However, such severance pay is often insufficient to sustain the standard of living of workers and their families during the job search period, which can last months or even years.

The urgency of legal protection for workers who have lost their jobs is increasing along with increasingly uncertain labor market dynamics. The Industrial Revolution 4.0 and the development of digital technology have fundamentally changed the landscape of the world of work, where many types of conventional work are beginning to be replaced by automation and artificial intelligence. This condition demands an adaptive and comprehensive social protection system to protect workers from the risk of losing their jobs (Schwab, 2016).

Several previous studies have examined aspects of legal protection for workers in different contexts. Suhartoyo (2019), in his research on legal protection for workers in the national labor law system, emphasized the importance of harmonization between laws, regulations, and implementation in the field. Meanwhile, Thamrin (2019) analyzes the legal protection of Indonesian labor law from a human rights perspective, highlighting the gap between constitutional guarantees and the reality of worker protection.

Another relevant study was conducted by Hernawan (2016), which examined the existence of severance pay in termination of employment in companies that organize pension guarantee programs. The results of his research show that even though there is a pension guarantee program, severance pay remains a workers' right that cannot be ignored. However, these studies have not specifically analyzed the implementation of the job loss guarantee program as stipulated in Government Regulation Number 37 of 2021.

The novelty of this study lies in a comprehensive analysis of the implementation of Government Regulation Number 37 of 2021, which is the latest regulation in Indonesia's national social security system. This study not only examines the normative aspects of the regulation but also compares it with unemployment insurance systems in various countries to provide a global perspective on best practices in the protection of workers who lose their jobs.

Based on Article 28D paragraph (2) of the 1945 Constitution of the Republic of Indonesia, everyone has the right to work and receive fair and decent remuneration and treatment in employment relationships. This constitutional mandate provides a strong foundation for the state to provide an adequate social protection system for all citizens, including workers who have lost their jobs.

In the global context, Indonesia has committed to adopting international standards in the protection of workers, as reflected in the ratification of various ILO conventions. Although Indonesia has not ratified ILO Convention Number 102 of 1952 concerning Minimum Standards for Social Security, the principles contained in the convention have been adopted in the establishment of Government Regulation Number 37 of 2021.

The establishment of the job loss insurance program through Government Regulation Number 37 of 2021 is a progressive step by the government in completing the national social security system. This program is expected to provide a social safety net for workers who experience layoffs, as well as help stabilize the economy through an automatic stabilizer mechanism that can reduce the negative impact of economic recession.

Previous studies have explored aspects of legal protection for workers in the context of job loss. Suhartoyo (2019) emphasized the importance of harmonizing national labor laws with real-world implementation, while Thamrin (2019) analyzed Indonesian labor laws from a human rights perspective, highlighting the gap between constitutional guarantees and the reality of worker protection. Additionally, Hernawan (2016) examined the role of severance pay in employment termination, even in cases where pension guarantee programs exist. However, these studies did not specifically analyze the implementation of the job loss guarantee program introduced by Government Regulation Number 37 of 2021. This research fills this gap by offering a comprehensive analysis of this regulation, comparing it with international best practices to evaluate its effectiveness and provide recommendations for improvement.

The purpose of this study is to analyze the implementation of legal protection for workers who have lost their jobs based on Government Regulation Number 37 of 2021, as well as to compare the job loss insurance program in Indonesia with similar systems in other countries. This research is expected to contribute to the development of better employment policies and provide input for improving the implementation of the job loss insurance program in Indonesia.

The theoretical benefit of this study is that it provides an in-depth analysis of the concept of legal protection in the context of employment social security, which can serve as a reference for the development of employment law in Indonesia. Meanwhile, the practical benefit of this research is to provide an evaluation of the implementation of Government Regulation Number 37 of 2021, which can be used as a basis for future policy improvements.

The implications of this study include public policy aspects, where the results of the analysis can provide recommendations for improving the effectiveness of job loss insurance programs. In addition, this research also has socioeconomic implications, namely providing a better understanding of the importance of a comprehensive social protection system in maintaining the social and economic stability of the community.

METHOD

This study used a normative juridical method with statutory and conceptual approaches. The statutory approach involved analyzing Government Regulation Number 37 of 2021 concerning the implementation of the job loss insurance program, along with other relevant laws and regulations. The conceptual approach was applied to examine legal concepts related to worker protection and social security.

The legal materials consisted of primary materials—laws and regulations; secondary materials—books, scientific journals, and relevant articles; and tertiary materials—legal dictionaries and encyclopedias. Data collection was conducted through literature studies and electronic document searches.

Legal materials were analyzed using grammatical, systematic, and teleological interpretation methods. Grammatical interpretation was used to understand the meanings of words in the laws and regulations, systematic interpretation to examine the relationship between articles within the legal system, and teleological interpretation to clarify the purpose and intent behind the formation of these regulations.

RESULTS AND DISCUSSION

Normative Framework for Legal Protection in Government Regulation Number 37 of 2021

An analysis of the normative structure of Government Regulation Number 37 of 2021 shows that this regulation has a systematic and comprehensive legal protection framework. This regulation consists of 50 articles divided into 8 chapters, which regulate in detail ranging from general provisions, membership, contributions, benefits, funding sources, supervision, dispute resolution, to administrative sanctions.

In general provisions, Article 1 number 1 defines job loss insurance as "social security provided to workers/laborers who experience termination of employment in the form of cash benefits, access to job market information and job training." This definition provides clear limits on the scope of protection provided, while affirming that the program is not only passive in providing financial compensation, but also actively helping workers to return to productivity through access to information and training.

Table 1. Membership Structure of the Job Loss Guarantee Program

Business Categories	Minimum Program Obligations	JKP Status
Big Venture	JKN, JKK, JHT, JP, JKM	Mandatory
Medium Business	JKN, JKK, JHT, JP, JKM	Mandatory
Small Business	JKN, JKK, JHT, JKM	Mandatory
Micro	JKN, JKK, JHT, JKM	Excluded

Based on Table 1, the scope of participation in the JKP program is limited to workers in small, medium, and large businesses, while workers in micro enterprises are exempt from the obligation to participate in this program. This exception reflects the consideration of the relatively limited financial capabilities of micro entrepreneurs, but on the other hand creates a protection gap for workers in the micro business sector who are more vulnerable to the risk of losing their jobs.

The requirements for participation in the JKP program show a selective and careful approach. Article 4 paragraph (2) stipulates that participants must be under 54 years old at the time of registration, with the consideration that at that age the worker still has a realistic chance of getting a new job. This age restriction is in line with the practice in various countries that implement unemployment insurance.

Table 2. JKP Benefit Eligibility Requirements

Requirement	Conditions	Purpose
Contribution Period	Minimum 12 months in the last 24 months	Ensuring adequate contributions
Consecutive Contributions	6 months before layoffs	Prevent adverse selection
Claim Time	Maximum 3 months after layoff	Encourage fast submissions
Employment Status	Willing and able to work	Ensuring job search commitments

Table 2 shows that the eligibility requirements are designed with the principles of contribution and abuse prevention. A minimum of 12 months of contribution period in the last 24 months ensures that the beneficiary has made an adequate contribution to the program. Meanwhile, the requirement for 6 consecutive months of contributions aims to prevent adverse selection, which is the tendency of workers to only pay contributions when facing the risk of losing their jobs.

The contribution system in the JKP program uses an innovative approach by not adding to the financial burden for employers and workers. Article 11 stipulates a total contribution of 0.46% of monthly wages, consisting of 0.22% borne by the central government and 0.24% derived from the recomposition of contributions for the work accident insurance program (0.14%) and death insurance (0.10%). This financing scheme reflects the government's commitment to develop the social security system without burdening the business world.

Table 3. JKP Program Benefit Structure

Types of Benefits	Era	Quantity/Description
Cash Phase I	Months 1-3	45% of wages (max. IDR 2,250,000)
Cash Phase II	Months 4-6	25% of wages (max. IDR 1,250,000)
Access to Job Market Information	During the useful life	Job information and guidance services
Job Training	As needed	Competency-based training

The benefit design in Table 3 adopts the principle of degressive benefit, where the amount of benefit decreases over time. This approach aims to provide incentives for beneficiaries to actively seek employment and not rely on the program in the long term. The combination of passive benefits (cash) and active benefits (job market information and training) shows the adoption of the concept of active labor market policies that have proven effective in various countries.

The supervision mechanism in the JKP program relies on the Manpower Supervisor in the ministry that handles government affairs in the field of manpower and the provincial manpower office. Article 44 gives the authority to the supervisor to conduct an audit of the employer's compliance in including workers in the JKP program. However, there are no specific provisions regarding the frequency of inspections or clear standard operating procedures.

Table 4. Types and Gradations of Administrative Sanctions

Types of Violations	Phase I Sanctions	Phase II Sanctions
Not registering employees	Written reprimands	Not receiving certain public services
Not paying dues	Obligation to pay direct benefits	Public service sanctions
Report incorrect data	Written reprimands	Additional remedial obligations and sanctions

The sanction system in Table 4 shows a multi-level approach starting from mild administrative sanctions to heavier sanctions in the form of restrictions on access to public services. However, there are no criminal sanctions regulated in this regulation, so the effectiveness of law enforcement still depends on the effectiveness of administrative sanctions and entrepreneur awareness.

Dispute resolution in the JKP program follows a multi-level settlement pattern as stipulated in Articles 45-47. The first stage is deliberation between the disputing parties, followed by mediation if the deliberation does not reach an agreement, and finally through the district court if mediation also fails. This mechanism is in line with the principle of alternative dispute resolution which prioritizes out-of-court resolution.

The innovation aspect in the JKP program lies in the integration of employment information systems to provide access services to job market information. Article 26 mandates the use of employment information systems to provide job market information services and job guidance to beneficiaries. This shows efforts to utilize information technology in increasing the effectiveness of programs.

The provisions regarding the portability of benefits are regulated in Article 5, which allows workers who have an employment relationship with more than one employer to choose one of the companies as their membership base. This provision provides flexibility for workers who have multiple employment, although it has not regulated in detail the mechanism for the accumulation of contributions from various sources of employment.

The JKP program also regulates special provisions for fixed-time work agreement (PKWT) workers in Article 20 paragraph (3), which states that JKP benefits can only be provided if the termination of employment occurs before the end of the agreement period. This provision poses problems for PKWT workers whose contracts are not extended, because technically they do not experience layoffs but do not receive protection from the JKP program.

The Effectiveness of Legal Protection in the JKP Program

The implementation of legal protection through the JKP program must be evaluated from the perspective of the legal protection theory developed by Philipus M. Hadjon, which distinguishes between preventive and repressive legal protection. The JKP program is basically a form of preventive legal protection that aims to prevent poverty and social degradation due to job loss. However, the effectiveness of this protection is highly dependent on the accessibility and adequacy of the benefits provided.

From the accessibility aspect, the JKP program still faces several structural obstacles that limit the coverage coverage. The requirement for a minimum contribution period of 12 months in the last 24 months can be a barrier for workers with unstable work patterns, such as seasonal workers or workers with short-term contracts. BPJS Employment data shows that

around 30% of formal workers have an intermittent membership pattern, making it difficult to meet the requirements for the set contribution period.

The adequacy of the benefits of the JKP program also needs to be evaluated using the adequacy ratio standard developed by the ILO. The benefit of 45% of wages in the first three months is still below the ILO standard that recommends a minimum of 50% of the average wage. However, this level of benefit is still better than no protection at all, and is in line with the government's fiscal capabilities in the early stages of program implementation.

Analysis of the sustainability aspects of the JKP program shows that the actuarial design of the program has considered the balance between benefits and contributions in the long term. The use of the contribution recomposition scheme from the JKK and JKM programs reflects an innovative approach in optimizing available resources without increasing the financial burden for stakeholders. However, long-term sustainability still depends on the level of participation and compliance of entrepreneurs in this program.

The aspect of coordination between institutions is a critical factor in the implementation of the JKP program. Coordination between BPJS Employment as the organizer, the Ministry of Manpower as a regulator, and the Manpower Office as the implementer in the regions still needs to be strengthened. Disharmony in implementation can lead to service fragmentation and reduce the effectiveness of the protection provided.

Socio-Economic Impact of the JKP Program

The JKP program has the potential for significant socio-economic impacts, both at the micro (individual and family) and macro (national economy) levels. At the micro level, this program can function as an income smoothing mechanism that helps workers and their families maintain consumption levels during the period of unemployment. Empirical research in various countries shows that unemployment insurance can reduce poverty rates by 15-20% among families who have lost their jobs.

The macroeconomic impact of the JKP program can be analyzed through its function as an automatic stabilizer. When the economy experiences a recession and the unemployment rate increases, the payment of JKP benefits will automatically increase, thus helping to maintain aggregate demand and reduce the impact of the recession. Econometric simulations show that every 1% increase in the unemployment rate can generate a fiscal stimulus of 0.1-0.2% of GDP through the JKP program.

The distributional impact aspect of the JKP program needs special attention, considering that this program only covers formal workers who generally have a relatively higher income level than informal workers. This can create a paradox where relatively more prosperous groups of workers receive better protection than more vulnerable groups. The government needs to consider mechanisms to extend the scope of the program to informal workers through special schemes.

The impact on labor market dynamics also needs to be carefully analyzed. The JKP program can affect the job search behavior and reservation wages of unemployed workers. On the one hand, this program can provide enough time for workers to find a job that matches their qualifications (job matching), but on the other hand it can cause moral hazard in the form of reduced search effort if the level of benefits is too high or the duration is too long.

Comparison with International Best Practices

Comparative analysis with unemployment insurance systems in various countries shows that Indonesia's JKP program adopts a hybrid model that combines elements of the Bismarckian (contribution-based) and Beveridgean (needs-based) systems. The system is similar to the model applied in South Korea and Japan, which also uses a phased approach in the development of unemployment insurance.

Countries that successfully implement unemployment insurance generally have the characteristics of common success factors which include: (1) an efficient and integrated administrative system; (2) strong coordination between passive and active labor market policies; (3) robust monitoring and evaluation mechanisms; (4) sustainable political commitment; and (5) support from tripartite stakeholders (government, employers, and workers).

Lessons learned from Germany's experience show the importance of integrating unemployment insurance with a comprehensive active labor market policy system. The Hartz reforms program in Germany has succeeded in reducing the long-term unemployment rate through a combination of unemployment benefits with job placement services, training programs, and employment subsidies. Indonesia can adopt a similar approach through the development of active labor market policy components in the JKP program.

The experience of Scandinavian countries such as Denmark and Sweden shows that the flexicurity model can be an attractive alternative for Indonesia. This model combines labor market flexibility (ease of layoffs), comprehensive social security (adequate unemployment benefits), and active labor market policy (retraining and job placement). However, the implementation of this model requires a high level of institutional capacity and fiscal space.

The case study of Thailand, which started unemployment insurance in 2004, provides relevant lessons for Indonesia, given the similarities in economic structure and labor market. Thailand has managed to achieve a coverage ratio of 60% of the total formal workforce within 10 years through a gradual expansion approach and continuous improvement in delivery mechanisms.

Policy Challenges and Recommendations

The implementation of the JKP program faces several fundamental challenges that require strategic handling. The first challenge is the coverage gap, where most of Indonesia's workforce (about 60%) works in the informal sector and is not covered by this program. The government needs to develop complementary schemes for informal workers, such as unconditional cash transfers or public works programs.

The second challenge is administrative capacity, especially in areas that have limited human resources and information technology infrastructure. The implementation of the JKP program requires an integrated information system between BPJS Ketenagakerjaan, the Manpower Office, and other related agencies. Capacity building and infrastructure development are important prerequisites for the success of the program.

The third challenge is compliance enforcement, considering that the available sanctions are still limited to administrative sanctions. The government needs to consider strengthening the supervision system and implementing more effective sanctions to increase the level of

compliance of entrepreneurs. The use of big data technology and artificial intelligence can help increase the effectiveness of supervision.

Policy recommendations to improve the effectiveness of the JKP program include: (1) adjusting eligibility requirements to improve accessibility; (2) the development of special schemes for informal workers and PKWT; (3) strengthening the active labor market policy system; (4) improving coordination between institutions; (5) the development of a comprehensive monitoring and evaluation system; and (6) massive socialization to all stakeholders.

In the long term, the JKP program can be the foundation for the development of universal unemployment insurance that covers the entire Indonesian workforce. This is in line with the vision of a universal social security system contained in Law Number 40 of 2004 concerning the National Social Security System. The achievement of universality requires a gradual approach that begins with the strengthening of programs for formal workers, then gradual expansion to other groups of workers.

Legal and Institutional Aspects in the Implementation of the JKP Program

From the perspective of legal theory, the implementation of the JKP program faces challenges in harmonizing between various levels of laws and regulations. As a government regulation, Government Regulation Number 37 of 2021 must be in line with the laws that are above it, especially Law Number 13 of 2003 concerning Manpower and Law Number 11 of 2020 concerning Job Creation. However, in practice, there are several provisions that need to be harmonized, especially related to the definition of termination of employment for PKWT workers.

The institutional aspect shows that there is a fragmentation of authority between various institutions involved in the implementation of the JKP program. BPJS Ketenagakerjaan as the organizing body has authority in the administration of membership and benefit payments, while supervision is carried out by the Ministry of Manpower and the Manpower Office. This fragmentation can cause coordination failure and reduce program effectiveness.

The judicial review mechanism for decisions taken in the implementation of the JKP program has not been explicitly regulated. This can create legal uncertainty for program participants, especially in the case of claim denial or eligibility-related disputes. The government needs to consider the establishment of a quasi-judicial body mechanism that specifically handles disputes over social security programs.

The constitutional compliance aspect of the JKP program needs to be evaluated in the context of Article 28H paragraph (3) of the 1945 Constitution which guarantees the right to social security. The JKP program is in line with the constitutional mandate, but it still needs to be strengthened in terms of universality and adequacy in accordance with human rights principles.

Sustainability and Future Development

The long-term sustainability of the JKP program depends on several critical factors, including fiscal sustainability, political sustainability, and social acceptance. From the fiscal aspect, this program is relatively sustainable because it uses a contribution recomposition

scheme that does not add new burdens. However, if coverage is extended to informal workers, significant additional fiscal space will be required.

The political sustainability of the JKP program is highly dependent on continuous support from the government and other stakeholders. The experience of various countries shows that social security programs can be targeted for austerity measures when governments face fiscal pressures. Therefore, it is important to build a broad-based political coalition that supports this program.

Social acceptance of the JKP program still needs to be improved through intensive socialization and public education. Many employers and workers do not understand the benefits of this program, so the participation rate is still low. Effective public communication campaigns can help increase awareness and acceptance of the program.

The future development of the JKP program can adopt several technological innovations to improve efficiency and effectiveness. The use of artificial intelligence for job matching, blockchain for transaction transparency, and mobile applications for easy access can be game changers in program implementation. Digital transformation can also help reduce administrative costs and improve user experience.

Integration with other social programs, such as the Family Hope Program (PKH), Pre-Employment Cards, and other social assistance, can create synergy and reduce fragmentation in the social protection system. An integrated social protection approach can increase the effectiveness of interventions and reduce the administrative burden for beneficiaries.

CONCLUSION

The implementation of Government Regulation Number 37 of 2021 regarding the Job Loss Insurance Program represents a progressive advance in legal protection for workers who have lost their jobs, offering cash benefits, job market access, and training opportunities. Despite adopting best practices seen in international unemployment insurance systems, the program faces challenges such as strict eligibility requirements, limited coverage mostly confined to formal sector workers, and suboptimal law enforcement. To enhance its effectiveness, future efforts should focus on relaxing eligibility criteria, extending coverage to informal sector workers, and strengthening active labor market policies. Future research could examine the impact of these adjustments on program accessibility and outcomes, particularly among informal workers, to guide ongoing policy refinement and ensure the program's role as a key pillar in Indonesia's national social security system.

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