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Legal Protection of Workers' Social Security Rights in Employment Relationships: An Analysis of Supreme Court Decision No. 447 K/Pdt.Sus-PHI/2024

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Original Article

Abstract

Mandatory employment social security can fail precisely when uninsured workers or their families most need protection. This article examines employer liability for fishing vessel crew members who were not enrolled in Indonesia's employment social security system, focusing on Supreme Court Decision No. 447 K/Pdt.Sus-PHI/2024. Employing doctrinal legal research and statutory, case, and conceptual approaches, it analyzes the published disposition, BPJS Ketenagakerjaan's official account of the proceedings, applicable legislation, and legal scholarship. The Supreme Court denied BPJS Ketenagakerjaan's cassation petition while amending the lower court's operative order to require PT Sutioso Bersaudara to pay IDR 126,160,000 to the claimant. The findings distinguish the employer's enrollment obligation from contribution obligations, administrative penalties, narrowly defined criminal offenses, and the separate duty to satisfy a worker's substantive entitlement. They also show why the appropriate adjudicative forum depends on the legal relationship and relief sought, and why repealed fisheries regulations must be situated within their temporal context. The article proposes a four-dimensional framework examining the type of breach, responsible actor, legal consequence, and applicable forum and law. This framework clarifies the judgment's significance without presuming unverified judicial reasoning or actual payment of the award.

Keywords: *Employment Social Security, Fishing Vessel Crew, Employer Liability, Industrial Relations, Supreme Court Judgment.*

Abstrak

Penelitian ini menganalisis pertanggungjawaban hukum pemberi kerja terhadap awak kapal perikanan yang tidak didaftarkan dalam program jaminan sosial ketenagakerjaan berdasarkan Putusan Mahkamah Agung Nomor 447 K/Pdt.Sus-PHI/2024. Penelitian menggunakan metode hukum normatif dengan pendekatan perundang-undangan, kasus, dan konseptual. Mahkamah Agung menolak permohonan kasasi BPJS Ketenagakerjaan, tetapi memperbaiki amar putusan dengan membebankan kewajiban kepada PT Sutioso Bersaudara untuk membayar santunan sebesar Rp126.160.000,00 kepada penggugat. Analisis mengidentifikasi perbedaan antara kewajiban pendaftaran pekerja, pembayaran iuran, sanksi administratif, pertanggungjawaban pidana, dan pemenuhan hak substantif pekerja. Penelitian ini juga menegaskan bahwa kewenangan penyelesaian sengketa ditentukan berdasarkan hubungan hukum para pihak dan jenis tuntutan. Temuan penelitian menghasilkan kerangka pertanggungjawaban hukum empat dimensi, meliputi jenis pelanggaran, subjek yang bertanggung jawab, akibat hukum, serta forum penyelesaian dan hukum yang berlaku. Kerangka tersebut memperjelas perlindungan hak pekerja dan ahli waris tanpa melampaui fakta hukum yang terverifikasi.

Kata kunci: *Jaminan Sosial Ketenagakerjaan, Awak Kapal Perikanan, Pertanggungjawaban Pemberi Kerja, Hubungan Industrial, Putusan Mahkamah Agung*

1. INTRODUCTION

Employment social security is not a discretionary fringe benefit that employers may choose to offer. Article 28H(3) of the 1945 Constitution of the Republic of Indonesia recognizes social security as a constitutional right, while Articles 27(2) and 28D(2) reinforce the protection of decent work and livelihood.[1] Making that right effective in an employment relationship requires affirmative conduct by employers: enrolling eligible workers, supplying accurate participant information, and paying contributions as required by the applicable program. The distinction between a protected entitlement and the duties necessary to realize it must be established before an industrial accident or death occurs, rather than examined only after a family has suffered a loss.[2]

Indonesia's statutory framework rests principally on Law No. 40 of 2004 concerning the National Social Security System and Law No. 24 of 2011 concerning the Social Security Administering Bodies (the BPJS Law). Article 15 of the BPJS Law obliges employers to register themselves and their workers as participants in accordance with the statutory scheme and to supply complete and accurate information. That enrollment duty is legally distinct from Article 19, which governs the collection and remittance of contributions. The distinction is consequential: a failure to enroll, an inaccurate registration, and a failure to remit contributions need not trigger the same statutory elements, sanctions, or remedies. Treating them as interchangeable risks converting a regulatory breach into an unsupported allegation of criminal liability.[3]

The issue becomes particularly acute in the fishing industry. Fishing vessel crew members work in conditions characterized by occupational hazards, geographic isolation, and hierarchical operational control. If a crew member has not been enrolled and a compensable risk materializes, the legal inquiry extends beyond the amount of the promised benefit. It asks who bears the legal obligation, which rule gives rise to that obligation, and which court or administrative mechanism may grant relief to surviving family members. Labor-law scholarship has long located worker welfare and social protection within the framework of legally enforceable employment rights. Yet disputes involving the employer, a deceased crew member's heirs, and a public social security administrator require a more differentiated account of the relevant relationships.[4]

The dispute addressed here arose in Indonesian Supreme Court Decision No. 447 K/Pdt.Sus-PHI/2024, dated April 18, 2024. According to the Supreme Court's official

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1 Satria Hadi Wibowo and Juan Matheus, "Tinjauan Yuridis Pemberian Uang Pesangon Kepada Karyawan Yang Di-PHK Pasca Pengesahan Perppu Cipta Kerja," *NUSANTARA: Jurnal Ilmu Pengetahuan Sosial* 10, no. 5 (2023): 2560–65, https://doi.org/http://dx.doi.org/10.31604/jips.v10i5.2023.2560-2565.

2 Asri Wijayanti, *Hukum Ketenagakerjaan Pasca Reformasi* (Sinar Grafika, 2009).

3 Undang-Undang Nomor 40 Tahun 2004 Tentang Sistem Jaminan Sosial Nasional. (2004); Undang-Undang Nomor 24 Tahun 2011 Tentang Badan Penyelenggara Jaminan Sosial. (2011) Pasal 15, Pasal 17, Pasal 19, dan Pasal 55.

4 Adrian Sutedi, *Hukum Perburuhan* (Sinar Grafika, 2009).

judgment register, BPJS Ketenagakerjaan sought cassation against Agusni and PT Sutioso Bersaudara. The Court dismissed the cassation petition while amending the operative order issued by the Industrial Relations Court at the Tanjungkarang District Court in Decision No. 16/Pdt.Sus-PHI/2023/PN Tjk. In the amended order, PT Sutioso Bersaudara was found to have violated provisions concerning fishing vessel employment and was directed to pay IDR 126,160,000 in work accident and death benefits. The outcome must therefore be described accurately as a denial of cassation accompanied by an amendment of the operative order, not as the granting of BPJS Ketenagakerjaan's appeal.[5]

An additional official source helps identify the significance of that amendment. BPJS Ketenagakerjaan's 2024 integrated annual report describes the first-instance disposition as assigning IDR 10,000,000 to the employer and IDR 116,160,000 to BPJS Ketenagakerjaan. The Supreme Court's amended order placed the entire IDR 126,160,000 payment obligation on the employer. This contrast makes the allocation of liability, rather than the numerical amount alone, the central doctrinal question. Neither the published order nor the annual report, however, establishes the full reasoning adopted by the judicial panel or independently confirms that the claimant ultimately received the money. The distinction between an enforceable order and its execution remains crucial throughout this analysis.[6]

Existing scholarship has examined mandatory enrollment as a mechanism for protecting workers. Suhartoyo addresses the place of social security within Indonesia's labor protection system, while Nurcahyo analyzes employers' statutory duties and sanctions for noncompliance. These studies establish the normative foundation of social protection, but their general treatment does not resolve the narrower combination present here: an amended Supreme Court order, an award payable by the employer, and competing procedural routes associated with employment claims and BPJS administration. The present study builds on, rather than displaces, those analyses.[7]

Afdal and Zuraini focus on employers' compliance with the Old-Age Security program, whereas Firlizalsyah and Nugroho analyze sanctions imposed on employers that register only some employees. Both studies underscore the importance of distinguishing forms of noncompliance. Nevertheless, the Old-Age Security scheme,

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5 Putusan Nomor 447 K/Pdt.Sus-PHI/2024, 18 April 2024. Https://Putusan3.Mahkamahagung.Go.Id/Direktori/Putusan/Zaef4323e98b45848d1a313033313339.Html. (2024), https://putusan3.mahkamahagung.go.id/direktori/putusan/zaef4323e98b45848d1a313033313339.html bagian amar.

6 BPJS Ketenagakerjaan, *Laporan Tahunan Terintegrasi 2024* (BPJS Ketenagakerjaan, 2025), https://www.bpjsketenagakerjaan.go.id/assets/uploads/laporan_tahunan/BPJS_Ketenagakerjaan_IR_2024.pdf bagian catatan laporan keuangan mengenai perkara 16/Pdt.Sus-PHI/2023/PN Tjk. dan kasasi 447 K/Pdt.Sus-PHI/2024.

7 Suhartoyo, "Perlindungan Hukum Bagi Buruh Dalam Sistem Hukum Ketenagakerjaan Nasional.," *Administrative Law and Governance Journal* 2, no. 2 (2019): 326–36, https://doi.org/10.14710/alj.v2i2.326-336; Ngabidin Nurcahyo, "Perlindungan Hukum Tenaga Kerja Berdasarkan Peraturan Perundang-Undangan Di Indonesia.," *Jurnal Cakrawala Hukum* 12, no. 1 (2021): 69–78, https://doi.org/10.26905/idjch.v12i1.5781.

partial enrollment, and claims for Work Accident Security and Death Security benefits following a fishing vessel accident involve different qualifying events and potential legal consequences. Transferring findings from one program to another without examining those differences can obscure the source and limits of liability.[8]

Other scholarship emphasizes criminal enforcement. Indrawati and Simanjuntak, as well as Lestariyono, Sugiri, and Safa'at, examine criminal accountability for employer noncompliance in contexts distinct from the present dispute. Hitaningtyas, in turn, interrogates the criminal-law treatment of an employer's failure to include workers in social security schemes and the relationship between enrollment obligations and the remittance of contributions. This distinction is indispensable. An industrial relations cassation judgment cannot itself establish that the statutory elements of a separate criminal offense have been proved. Criminal-law studies offer a comparative doctrinal lens, not evidence that a criminal violation occurred in this particular case.[9]

Studies by Lageranna, Mani, Wulaningsih and colleagues, and Yusuf and Thohari address further aspects of noncompliance: employers' exposure to direct benefit liability, contribution arrears, enrollment under the health insurance scheme, and failures to remit employment social security contributions. Their collective contribution is to reveal multiple pathways by which workers may lose effective access to protection. Yet they do not, considered together, fully explain the specific redistribution of benefit liability in this cassation disposition, the classification of the heir's claim, or the temporal status of fisheries legislation cited in the amended judgment. These unresolved issues define the precise scholarly space occupied by this article.[10]

Recent contributions also require chronological care. Sitinjak, Nababan, and Situmorang discuss employer responsibility for workers who were not enrolled, but

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[8] Windi Afdal and Zuraini, "Kepatuhan Hukum Perusahaan Pemberi Kerja Dalam Memenuhi Hak-Hak Tenaga Kerja Pada Program Jaminan Hari Tua (JHT) Jaminan Sosial Bidang Ketenagakerjaan.," *Tahkim* 18, no. 2 (2022): 344–60, https://doi.org/10.33477/thk.v18i2.2402; Farel Firlizalsyah and Arinto Nugroho, "Implementasi Penerapan Sanksi Oleh BPJS Ketenagakerjaan Cabang Surabaya Rungkut Terhadap Perusahaan Yang Mendaftarkan Sebagian Pekerjanya Ke BPJS Ketenagakerjaan.," *NOVUM: Jurnal Hukum* 9, no. 2 (2022): 11–20.

[9] Indrawati and Tumiar Rohana Simanjuntak, "Pertanggungjawaban Pidana Terhadap Perusahaan Yang Lalai Mendaftarkan Pekerjanya Sebagai Peserta BPJS Ketenagakerjaan.," *Jurnal Cakrawala Hukum* 10, no. 1 (2019): 50–57, https://doi.org/10.26905/idjch.v10i1.3180; Didik Lestariyono et al., "Penegakan Hukum Pidana Perusahaan Yang Tidak Memenuhi Kewajibannya Dalam Program Badan Penyelenggara Jaminan Sosial.," *Jurnal Cakrawala Hukum* 10, no. 2 (2019): 156–65, https://doi.org/10.26905/idjch.v10i2.3225; Ratih Dheviana Puru Hitaningtyas, "Penghapusan Sanksi Pidana Terkait Kewajiban Pemberi Kerja Untuk Mengikutsertakan Pekerjanya Dalam Program Jaminan Sosial.," *Jurnal Panorama Hukum* 2, no. 1 (2017): 21–32, https://doi.org/10.21067/jph.v2i1.1753.

[10] Akmal Lageranna, "Risiko Pemberi Kerja Atas Ketidakpatuhan Dalam Program Jaminan Sosial Ketenagakerjaan.," *Dharmasisya: Jurnal Program Magister Hukum FHUI* 1, no. 3 (2021), https://scholarhub.ui.ac.id/dharmasisya/vol1/iss3/3/; Nurfatimah Mani, "Perlindungan Hukum Bagi Pekerja Di Perusahaan Yang Tidak Membayar Iuran BPJS Ketenagakerjaan.," *Media Iuris* 2, no. 3 (2019): 373–92, https://doi.org/10.20473/mi.v2i3.14761; Trisna Wulaningsih et al., "Tanggungjawab Hukum Perusahaan Akibat Tidak Didaftarkannya Tenaga Kerja Sebagai Peserta Jaminan Sosial.," *JATISWARA* 39, no. 2 (2024): 244–54, https://doi.org/10.29303/jtsw.v39i2.709; Farizh Maulana Yusuf and Ahmad Ahsin Thohari, "Konsekuensi Hukum Terhadap Perusahaan Dan Tenaga Kerja Akibat Ketidakpatuhan Dalam Pembayaran Iuran BPJS Ketenagakerjaan.," *Jurnal USM Law Review* 7, no. 3 (2024): 1674–89, https://doi.org/10.26623/julr.v7i3.10653.

scholarship published after the April 2024 judgment cannot be attributed retrospectively to the Supreme Court's reasoning. More importantly, the amended operative order cites Minister of Marine Affairs and Fisheries Regulation No. 42/PERMEN-KP/2016. Official regulatory records indicate that this instrument had been repealed by Regulation No. 33 of 2021, while aspects of crew governance were later recast by Regulation No. 4 of 2026. These developments generate a temporal problem: the article must distinguish the rule recited in the judicial disposition from the rules in force at the time of the underlying facts and from the prospective framework governing future compliance.[11]

The research gap is thus not simply a lack of writing on employment social security. It is the absence, within the scholarship considered here, of an integrated account linking three questions in a single documented dispute: the employer's preventive duty to establish coverage; the allocation of an unpaid worker's benefits to the employer after the insured risk has materialized; and the correct identification of jurisdiction and temporally applicable sectoral law. The contribution offered is a four-dimensional accountability framework organized around the kind of violation, the responsible legal actor, the available remedy or sanction, and the appropriate forum and applicable law. It does not claim to have invented employer liability or social security protection as legal concepts.

Two research questions guide the discussion. First, how do Indonesian labor and social security laws construct employers' duties to secure coverage for fishing vessel crew members? Second, what can the amended disposition in Decision No. 447 K/Pdt.Sus-PHI/2024 establish concerning the employer's liability for benefits and the characterization of the adjudicative forum, once the applicable legislation and its temporal changes are accounted for? Answering these questions allows the study to separate administrative enforcement, potential criminal responsibility, and civil or employment-related payment obligations without suggesting that all three consequences were adjudicated in the same proceedings.

2. RESEARCH METHODOLOGY

This article adopts prescriptive doctrinal legal research. The statutory approach examines the hierarchy and interaction of provisions governing employment security,

[11] Tracy Abeliana Sitinjak et al., "Pertanggungjawaban Perusahaan Terhadap Pekerja Yang Tidak Didaftarkan Ke Dalam Program Jaminan Sosial Ditinjau Dari Undang-Undang Nomor 24 Tahun 2011 Tentang BPJS.," *Jurnal Ilmu Hukum, Humaniora Dan Politik* 6, no. 2 (2026), https://doi.org/10.38035/jihhp.v6i2.7788; Peraturan Menteri Kelautan Dan Perikanan Nomor 42/PERMEN-KP/2016 Tentang Perjanjian Kerja Laut Bagi Awak Kapal Perikanan (Dicabut).; Peraturan Menteri Kelautan Dan Perikanan Nomor 33 Tahun 2021 Tentang Log Book Penangkapan Ikan, Pemantauan Di Atas Kapal Penangkap Ikan Dan Kapal Pengangkut Ikan, Inspeksi, Pengujian, Dan Penandaan Kapal Perikanan, Serta Tata Kelola Pengawakan Kapal Perikanan (Ketentuan Tertentu Dicabut). (2021); Peraturan Menteri Kelautan Dan Perikanan Nomor 4 Tahun 2026 Tentang Tata Kelola Pengawakan Kapal Perikanan, Pendidikan Dan Pelatihan, Ujian, Dan Sertifikasi Awak Kapal Perikanan. (2026).

employers' registration duties, protections for fishing vessel crew members, and the resolution of industrial relations disputes. The case approach examines the parties, the published Supreme Court disposition, and the account of the first-instance ruling available from an official BPJS document. A conceptual approach differentiates enrollment duties, obligations to remit contributions, the responsibility to pay substantive benefits, administrative sanctions, and potential criminal liability. These inquiries are based exclusively on legal texts and documentary sources; no interviews, field observations, surveys, or empirical sampling were conducted.

Primary legal materials comprise the 1945 Constitution, the National Social Security System Law, the BPJS Law, labor legislation and relevant amendments, the Industrial Relations Dispute Settlement Law, regulations on Work Accident Security and Death Security, administrative sanctions, fisheries employment rules, and the operative disposition of Supreme Court Decision No. 447 K/Pdt.Sus-PHI/2024 available in the Court's register. Secondary legal materials comprise five academic books and fourteen journal articles identified through publisher websites, DOI records, and academic catalogs in the preceding editorial review. BPJS Ketenagakerjaan's annual report is treated as a supporting official document rather than counted as an academic publication or substituted for a judicial record.

The legal analysis proceeds through four operations. First, statutory obligations and consequences are separated according to the elements of the relevant provisions. Second, the first-instance allocation reported by BPJS is compared with the Supreme Court's published operative order. Third, the relationships among employer, worker or heir, and social security administrator are mapped against the relief requested to identify potentially appropriate dispute-resolution mechanisms. Fourth, fisheries and employment security regulations are placed in chronological order to avoid retroactive application. The conclusions are drawn through doctrinal synthesis of established legal materials and the information confirmed in the judicial disposition, not through inferences about undisclosed testimony or case facts.

The study has an evidentiary limitation. The Supreme Court registry confirms the judgment's identity, date, parties, and operative disposition; the official BPJS report provides a contemporaneous account of the allocation made at first instance. The full text of the Supreme Court's judicial reasons was not independently examined in the underlying editorial review. Accordingly, statements about jurisdictional classification and the rationale for redistributing liability are identified as the author's doctrinal interpretation of available materials, not presented as quotations or definitive summaries of the panel's complete ratio decidendi. The article likewise does not claim to determine whether the benefit award was executed.[12]

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[12] *Putusan Nomor 447 K/Pdt.Sus-PHI/2024, 18 April 2024. https://putusan3.mahkamahagung.go.id/direktori/putusan/zaef4323e98b45848d1a313033313339.html.*; BPJS Ketenagakerjaan, *Laporan Tahunan Terintegrasi 2024*.

3. RESEARCH RESULT AND DISCUSSION

3.1. Mandatory Enrollment and the Preventive Function of Employment Social Security for Fishing Vessel Crew

Employment social security connects public-law duties imposed on employers with individual entitlements arising in the employment relationship. Although BPJS Ketenagakerjaan administers statutory programs, the obligation to create coverage through appropriate enrollment ordinarily rests on the employer within the applicable participant category. Registration should therefore not be dismissed as a procedural formality. It establishes the worker's institutional access to risk-pooling and benefit mechanisms that are designed to operate when occupational injury, death, or another covered event occurs. The failure to register affects both compliance with public law and the practical realization of a private claimant's protected interest.[13]

Husni and Wijayanti explain that employment relationships generate reciprocal rights and duties, yet statutory minimum labor protections are not entirely disposable by private agreement. Fishing vessel employment adds a sector-specific dimension through the seafarer's employment agreement and the distinctive hazards of work at sea. The relevant analysis must therefore consider both the general national social security framework and specialized fisheries rules. It would be inadequate to treat a crew member as an ordinary office employee for all regulatory purposes, just as it would be mistaken to consider sectoral rules a complete substitute for the protections conferred by national legislation.[14]

Sutedi's account of labor protection locates social security within workers' welfare, while Asyhadie explains the legal foundations of employment social protection. Because these texts were written during different stages of policy development, their principal contribution to this article is conceptual. They illuminate the continuity of an enforceable protective purpose, but do not determine the wording of later regulations or the outcome of a 2024 dispute. Distinguishing theoretical continuity from changes in positive law is especially necessary where a statutory program has undergone substantial administrative reform.[15]

Government Regulation No. 44 of 2015 establishes rules concerning participation, contributions, benefits, reporting, and dispute resolution for the Work Accident Security (Jaminan Kecelakaan Kerja, JKK) and Death Security (Jaminan Kematian, JKM) programs. The regulation was amended by Government Regulation No. 82 of

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[13] Undang-Undang Nomor 24 Tahun 2011 Tentang Badan Penyelenggara Jaminan Sosial.; Undang-Undang Nomor 40 Tahun 2004 Tentang Sistem Jaminan Sosial Nasional.

[14] Lalu Husni, *Pengantar Hukum Ketenagakerjaan Edisi Revisi* (Rajagrafindo Persada, 2020); Wijayanti, *Hukum Ketenagakerjaan Pasca Reformasi*.

[15] Sutedi, *Hukum Perburuhan*; Zaeni Asyhadie, *Aspek-Aspek Hukum Jaminan Sosial Tenaga Kerja Di Indonesia* (Rajawali Pers, 2008).

2019 and again by Government Regulation No. 49 of 2023. Evaluating the amount, eligibility conditions, or procedure for a particular benefit therefore requires more than reading the 2015 regulation in isolation. The date of the insured event, the worker's participant status, and the procedural posture of the claim determine which provisions and amendments require close examination. It would be methodologically unsound to select the newest text automatically for every historical dispute.[16]

Minister of Manpower Regulation No. 5 of 2021, as amended by Regulation No. 1 of 2025, further addresses the operational administration of JKK, JKM, and Old-Age Security (JHT). The 2025 amendments illustrate that program administration can evolve after an appellate disposition has been issued. They are relevant when describing the law at the time of writing and the compliance obligations of present-day employers. They cannot, merely by their later adoption, prove that an employer breached those same procedures at an earlier date. Legal analysis must thus specify whether a rule is invoked as the historical basis for a claim or as a prospective compliance standard.[17]

Firlizalsyah and Nugroho document the problem of employers enrolling only a portion of their workforce, while Sitinjak and colleagues consider liability when workers are not enrolled at all. Their findings support a typology rather than a unitary category of 'noncompliance.' A worker who was never registered, one enrolled under incomplete or incorrect data, and one whose contributions are overdue may occupy different legal positions. The present Supreme Court disposition identifies the failure to provide the relevant coverage for fishing vessel crew members; it should not be rewritten as a dispute solely about a delayed contribution payment. Such precision matters for both the choice of statutory provision and the remedial conclusion.[18]

Sector-specific fisheries regulation introduces a further chronological qualification. The Supreme Court's operative order expressly invokes Article 30(1), (2), and (5) of Minister of Marine Affairs and Fisheries Regulation No. 42/PERMEN-KP/2016. The ministry's official regulatory database, however, records that the 2016 instrument was repealed by Regulation No. 33 of 2021. Subsequently, Regulation No. 4 of 2026 displaced parts of the crew-governance provisions of the 2021 framework. These facts do not independently establish that the final and binding judgment is invalid: that conclusion would require the chronology of the underlying conduct and a detailed review of the Court's legal reasoning. They do establish that the rule mentioned

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16 Peraturan Pemerintah Nomor 44 Tahun 2015 Tentang Penyelenggaraan Program Jaminan Kecelakaan Kerja Dan Jaminan Kematian. (2015) sebagaimana diubah dengan PP Nomor 82 Tahun 2019 dan PP Nomor 49 Tahun 2023.

17 Peraturan Menteri Ketenagakerjaan Nomor 5 Tahun 2021 Tentang Tata Cara Penyelenggaraan Program Jaminan Kecelakaan Kerja, Jaminan Kematian, Dan Jaminan Hari Tua. (2021) sebagaimana diubah dengan Peraturan Menteri Ketenagakerjaan Nomor 1 Tahun 2025.

18 Firlizalsyah and Nugroho, "Implementasi Penerapan Sanksi Oleh BPJS Ketenagakerjaan Cabang Surabaya Rungkut Terhadap Perusahaan Yang Mendaftarkan Sebagian Pekerjanya Ke BPJS Ketenagakerjaan."; Sitinjak et al., "Pertanggungjawaban Perusahaan Terhadap Pekerja Yang Tidak Didaftarkan Ke Dalam Program Jaminan Sosial Ditinjau Dari Undang-Undang Nomor 24 Tahun 2011 Tentang BPJS."

in the operative order cannot simply be cited as current positive law without explaining its repeal and the governing transitional context.[19]

Ramli's work on occupational health and safety management underscores a related but distinct employer obligation. Workplace safety systems seek to reduce the probability and severity of occupational accidents; social insurance enrollment makes protective benefits accessible when a covered risk occurs. One preventive mechanism cannot replace the other. Even rigorous safety procedures would not excuse an employer's mandatory social security registration duties, and formal enrollment would not eliminate occupational safety obligations. Treating these functions as complementary avoids confusing accident prevention with financial protection after an accident.[20]

The first principal finding is that enrollment operates as an institutional prerequisite for the preventive protection contemplated by employment social security legislation. Its legal assessment cannot stop with the absence of a participant number. A structured inquiry must establish the underlying employment relationship, the type of benefit claimed, the party charged with registration, the date of the relevant risk, and the special law applicable to the work performed. These inquiries provide the necessary foundation for reading the amended cassation disposition without generalizing a single employer's obligations to every BPJS program or every category of noncompliance.

3.2. Benefit Liability, Sanctions, and Jurisdiction in the Cassation Judgment

Supreme Court Decision No. 447 K/Pdt.Sus-PHI/2024 presents an identifiable change in the allocation of benefit liability. According to BPJS Ketenagakerjaan's official report, the Industrial Relations Court allocated IDR 10,000,000 to PT Sutioso Bersaudara and IDR 116,160,000 to BPJS Ketenagakerjaan. The Supreme Court denied BPJS Ketenagakerjaan's cassation application but amended the operative order to require the employer to pay IDR 126,160,000. What can be established from those materials is a change in the person legally directed to make payment. The documents do not, without additional evidence, prove that the amount has been disbursed to the claimant or explain every premise underlying the judges' reasoning.[21]

This redistribution highlights three legal relationships that must be analytically separated. The first is the employment relationship between the worker and the employer, from which statutory employment entitlements and associated duties arise.

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[19] Peraturan Menteri Kelautan Dan Perikanan Nomor 42/PERMEN-KP/2016 Tentang Perjanjian Kerja Laut Bagi Awak Kapal Perikanan (Dicabut).; Peraturan Menteri Kelautan Dan Perikanan Nomor 33 Tahun 2021 Tentang Log Book Penangkapan Ikan, Pemantauan Di Atas Kapal Penangkap Ikan Dan Kapal Pengangkut Ikan, Inspeksi, Pengujian, Dan Penandaan Kapal Perikanan, Serta Tata Kelola Pengawakan Kapal Perikanan (Ketentuan Tertentu Dicabut).

[20] Soehatman Ramli, *Sistem Manajemen Keselamatan Dan Kesehatan Kerja OHSAS 18001* (Dian Rakyat, 2010).

[21] BPJS Ketenagakerjaan, *Laporan Tahunan Terintegrasi 2024*; *Putusan Nomor 447 K/Pdt.Sus-PHI/2024, 18 April 2024. https://putusan3.mahkamahagung.go.id/direktori/putusan/zaef4323e98b45848d1a313033313339.html.*

The second is the institutional relationship between the employer and BPJS Ketenagakerjaan concerning enrollment, reporting, and contributions. The third is the benefits relationship between an eligible participant or beneficiary and the statutory administrator. A single dispute may place these relationships in the same procedural narrative, but that does not establish that all claims share the same cause of action, defendant, or adjudicative forum. Identifying the source of each asserted obligation must precede conclusions about liability.

Lageranna describes circumstances in which an employer's failure to register employees may expose that employer to a direct obligation to provide the relevant benefit when a covered risk materializes. This offers a useful conceptual explanation for the amended order. The description of such a payment as 'substitutive liability,' however, should be used cautiously. In this case, a court directed a particular employer to pay a specified sum to a particular claimant. The ruling does not by itself create a universal principle under which every employer's registration breach automatically extinguishes BPJS's statutory functions across all programs. Each proposed extension depends on the governing benefit rules, the relevant employment relationship, and the precise relief adjudicated.[22]

The first category of legal consequences is administrative enforcement. Article 17 of the BPJS Law links breaches of the registration obligations specified in Article 15 to administrative measures, including written warnings, fines, and the possible restriction of certain public services. Government Regulation No. 86 of 2013 regulates the imposition of these measures, including successive stages and cooperation with competent agencies. Their immediate regulatory purpose is to secure compliance. A judicial order to pay an heir's benefit does not automatically replace the procedure for administrative sanctions, and the imposition of an administrative fine does not itself compensate a beneficiary for a lost social security payment. The two mechanisms pursue distinct objectives and require separate legal justification.[23]

The second category criminal liability requires a narrower construction. Article 55 of the BPJS Law refers to violations of the contribution-related obligations in Article 19(1) or (2). It would therefore be an unjustified interpretive leap to conclude that every employer that failed to register an employee necessarily committed the offense defined by Article 55. Hitaningtyas addresses the boundary between enrollment duties and criminal enforcement; Indrawati and Simanjuntak examine corporate criminal accountability in another setting. Their scholarship is used here to clarify the elements of potential criminal responsibility, not to claim that those elements were proved against

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[22] Lageranna, "Risiko Pemberi Kerja Atas Ketidakpatuhan Dalam Program Jaminan Sosial Ketenagakerjaan."

[23] Undang-Undang Nomor 24 Tahun 2011 Tentang Badan Penyelenggara Jaminan Sosial. Pasal 15 dan Pasal 17; PP Nomor 86 Tahun 2013, Pasal 5–9.

PT Sutioso Bersaudara. The litigation under review was an industrial relations proceeding, not a criminal trial.[24]

The third category is the obligation to satisfy a claimant's substantive entitlement. An order requiring an employer to pay IDR 126,160,000 to a worker's heir has a different recipient and remedial purpose from an administrative penalty or criminal punishment. The distinction is not semantic: it affects the legal basis, the parties, the burden of proof, and the manner in which the order may be enforced. The Supreme Court's amended disposition should accordingly be characterized as an order for benefit payment in the industrial relations dispute, not as a criminal conviction for a registration offense. Equating the two would distort both the judgment and Indonesia's differentiated legal enforcement regimes.[25]

Mani studies contribution arrears and workers' access to benefits, while Yusuf and Thohari examine legal consequences associated with nonpayment of contributions. Their work demonstrates that the loss or delay of a benefit can arise through mechanisms different from complete non-enrollment. Consequently, the present case cannot support a broad proposition that BPJS Ketenagakerjaan is invariably free of payment obligations whenever an employer breaches a registration or contribution rule. Any such conclusion requires a program-specific evaluation of participation status, contribution history, the insured event, and the administrator's duties. The comparative literature is most useful when it prevents the collapsing of distinct forms of breach into a single liability rule.[26]

Wulaningsih, Huda, and Adriano examine employer obligations in relation to health insurance participation. Their analysis reinforces the mandatory character of statutory coverage but concerns a benefit scheme that cannot be assumed to operate identically to JKK and JKM. Similarly, Laksono and Muryanto examine misconduct involving social security contributions—an enforcement setting that requires its own factual and legal predicates. The doctrinal value of these comparisons lies in distinguishing their scope. Accumulating examples of employer noncompliance without specifying the underlying program would weaken, rather than strengthen, an explanation of the cassation judgment.[27]

Adjudicative jurisdiction supplies a fourth essential distinction. Law No. 2 of 2004 empowers the Industrial Relations Court to hear disputes falling within its statutory jurisdiction. Article 58 of Government Regulation No. 44 of 2015, by contrast,

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[24] Undang-Undang Nomor 24 Tahun 2011 Tentang Badan Penyelenggara Jaminan Sosial. Pasal 19 dan Pasal 55.

[25] *Putusan Nomor 447 K/Pdt.Sus-PHI/2024, 18 April 2024. https://putusan3.mahkamahagung.go.id/direktori/putusan/zaef4323e98b45848d1a313033313339.html.*

[26] Mani, "Perlindungan Hukum Bagi Pekerja Di Perusahaan Yang Tidak Membayar Iuran BPJS Ketenagakerjaan."; Yusuf and Thohari, "Konsekuensi Hukum Terhadap Perusahaan Dan Tenaga Kerja Akibat Ketidakpatuhan Dalam Pembayaran Iuran BPJS Ketenagakerjaan."

[27] Wulaningsih et al., "Tanggungjawab Hukum Perusahaan Akibat Tidak Didaftarkannya Tenaga Kerja Sebagai Peserta Jaminan Sosial."

establishes a procedure for certain disputes arising from the administration of JKK, progressing through deliberation, a complaints channel, mediation, and potentially proceedings before a district court. The explanation of Article 58 expressly distinguishes these administrative-benefit disputes from disputes over normative employment rights provided for in labor legislation. Accordingly, the presence of BPJS as a named party does not, standing alone, resolve subject-matter jurisdiction. The legal relationship, alleged violation, and particular remedy sought must be examined before identifying the competent forum.[28]

The present proceedings combined an heir's claim for employment-related protection with the institutional presence of BPJS Ketenagakerjaan. The first-instance allocation described in the BPJS report assigned amounts to two defendants; the cassation disposition directed payment solely to the employer. Conceptually, a claim against an employer for an employment entitlement must be distinguished from a claim concerning the administration of benefits by BPJS. Nevertheless, the available documentary materials do not support a definitive account of the Supreme Court panel's full jurisdictional reasoning. The distinction developed here is the author's normative analysis, not an assertion that every element of the Court's ratio decidendi has been checked against an authenticated, complete copy of the judgment.[29]

Susanti analyzes enforcement of contribution arrears involving prosecutorial assistance, whereas Lestariyono, Sugiri, and Safa'at examine criminal enforcement against noncompliant companies in their respective research contexts. These publications establish that additional pathways for enforcement may exist. They do not prove that prosecutors participated in the dispute involving PT Sutioso Bersaudara, nor that criminal proceedings were brought against that company. Maintaining this separation between comparative scholarship and verified case facts is necessary for responsible doctrinal argumentation and protects the article against unsupported allegations about the conduct of particular institutions.[30]

The foregoing analysis supports a four-dimensional assessment framework. The first dimension is the nature of the breach: total failure to enroll, partial enrollment, inaccurate participant information, or nonpayment of contributions. The second is the legally responsible actor: the employer within an employment relationship, BPJS as statutory administrator, or another party identified by law. The third is the consequence sought or imposed: administrative compliance measures, potential criminal

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[28] Undang-Undang Nomor 2 Tahun 2004 Tentang Penyelesaian Perselisihan Hubungan Industrial. (2004); Peraturan Pemerintah Nomor 44 Tahun 2015 Tentang Penyelenggaraan Program Jaminan Kecelakaan Kerja Dan Jaminan Kematian. Pasal 58 beserta penjelasannya.

[29] *Putusan Nomor 447 K/Pdt.Sus-PHI/2024, 18 April 2024. https://putusan3.mahkamahagung.go.id/direktori/putusan/zaef4323e98b45848d1a313033313339.html.*

[30] Ipon Susanti, "Efektivitas Penegakan Hukum Terhadap Perusahaan Yang Mengabaikan Tunggakan Iuran BPJS Ketenagakerjaan (Studi Kasus Pada BPJS Ketenagakerjaan Jakarta Pusat Dan Kejaksaan Negeri Jakarta Pusat).," *Syntax Idea* 6, no. 8 (2024): 3625–41, https://doi.org/10.46799/syntax-idea.v6i8.4276.

responsibility subject to the elements of Articles 19 and 55 of the BPJS Law, or an obligation to pay a demonstrated substantive benefit. The fourth combines procedural and temporal questions: whether the claim belongs in industrial relations adjudication or a dedicated BPJS dispute mechanism, and which version of the applicable regulation governs the relevant conduct or event. The framework's principal contribution is to prevent sanctions, remedies, jurisdiction, and regulatory transitions from being conflated.

For prospective compliance in the fisheries sector, the legal framework must also reflect Minister of Marine Affairs and Fisheries Regulation No. 4 of 2026, addressing fishing vessel crew governance, together with Minister of Manpower Regulation No. 1 of 2025 on the operation of JKK, JKM, and JHT. Those instruments are relevant to describing current compliance obligations and future dispute prevention. They should not be used retroactively to supply an absent factual element or to attribute a new obligation to conduct predating their entry into force. Separating the law governing past events from the law presently in force is particularly important when a judgment's operative order refers to a rule that the regulator subsequently lists as repealed.[31]

The second principal finding is therefore narrower and more defensible than the proposition that employers always replace BPJS as benefit payers. The authenticated registry establishes that this employer was directed to make this specified payment in this case. The doctrinal significance is that an employer's failure to secure statutory coverage cannot simply be treated as a reason for an heir to lose the protected employment entitlement. Generalizing from this result, however, requires checking program rules, the worker's status, the chronology of events, and the claim's legal basis. The study cannot make an empirical finding about the effectiveness of enforcement or actual receipt of the award without evidence of payment.

4. CONCLUSION

Under Indonesian employment and social security law, employers' duties to enroll fishing vessel crew members are legal obligations integral to the protection of workers' rights. Enrollment and the collection or remittance of contributions must be treated as distinct statutory requirements, with legal consequences determined by the provisions governing each breach. The Work Accident Security and Death Security framework, including amendments to Government Regulation No. 44 of 2015, must be considered alongside the fisheries rules applicable at the relevant time rather than through an ahistorical reliance on superseded regulations.

The officially recorded disposition in Supreme Court Decision No. 447 K/Pdt.Sus-PHI/2024 denied BPJS Ketenagakerjaan's cassation petition but amended

[31] Peraturan Menteri Kelautan Dan Perikanan Nomor 4 Tahun 2026 Tentang Tata Kelola Pengawakan Kapal Perikanan, Pendidikan Dan Pelatihan, Ujian, Dan Sertifikasi Awak Kapal Perikanan.

the lower court's order to require PT Sutioso Bersaudara to pay IDR 126,160,000 to the claimant. That order illustrates how an employer's payment responsibility may be judicially imposed when an employment-related social security entitlement is disputed. It is not a criminal conviction, does not establish that the amount was actually paid, and should not be read as eliminating BPJS's statutory responsibilities in every case. Jurisdiction likewise depends on whether the dispute concerns normative employment rights or the administration of a particular social security benefit.

The article's scholarly contribution is a four-dimensional framework distinguishing the type of breach, responsible actor, legal consequence, and applicable forum and law over time. Applied to the present dispute, this framework helps identify the limits of the published judgment and prevents repealed fisheries legislation from being represented as unqualified current law. The analysis remains deliberately constrained: without an independent examination of the complete judicial reasoning or execution records, it makes no further claims about the panel's detailed rationale or the practical recovery of the awarded benefits.

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