

## Implementation of Legal Sanctions for Perpetrators of BPJS Employment Contribution Embezzlement

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### ARTICLE INFO

*Keywords:* Legal Sanctions, Embezzlement, BPJS Employment Contributions, Article 374 Penal Code, Article 55 BPJS Law

*Received :* 20, Oktober

*Revised :* 25, November

*Accepted:* 30, December

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### ABSTRACT

This study examines the enforcement of legal sanctions against perpetrators of BPJS Employment contribution embezzlement, which undermines workers' rights and the stability of the social security system. The research employs normative juridical methods with a legislative approach, supported by secondary data from court decisions, books, and regulations. Findings indicate that the embezzlement of BPJS Employment contributions, regulated under Articles 374 and 64 of the Indonesian Penal Code, clearly constitutes a legal violation. Legal sanctions under Article 55 of Law Number 24 of 2011 prescribe a maximum penalty of 8 years imprisonment or a fine of IDR 1 billion. However, enforcement faces challenges, such as weak supervision and low legal awareness among offenders. This study recommends improving supervision mechanisms, imposing stricter sanctions, and providing legal education to employers.

## **INTRODUCTION**

BPJS Employment is a state institution tasked with administering social security programs for workers. The existence of BPJS is regulated by Law No. 24 of 2011 and aims to provide protection to workers against social risks such as workplace accidents, death, and old age. However, in practice, the implementation of this social security program faces various challenges, one of which is the embezzlement of BPJS Employment contributions by those responsible for depositing the funds. This phenomenon poses a serious threat to the social protection of workers in Indonesia.

The embezzlement of BPJS contributions not only creates injustice for workers who are supposed to benefit from the social security program but also damages the credibility of BPJS as a public institution. When contributions that have been paid by workers and employers are not deposited as they should be, workers' rights to social protection are put at risk. This has widespread impacts, not only for individual workers but also for their families who depend on the benefits from BPJS. (Salim, 2020)

The crime of embezzling BPJS Employment contributions reflects a systemic issue in the management of social security in Indonesia. This practice often occurs due to a lack of effective oversight, low legal awareness among employers, and weak law enforcement. In some cases, employers intentionally withhold BPJS contributions for their own financial benefit, without considering the impact on the workforce. Therefore, a comprehensive approach is needed to address this issue.

From a legal perspective, the embezzlement of BPJS contributions falls under the category of embezzlement crimes regulated in the Indonesian Criminal Code (KUHP). Perpetrators of embezzlement can be charged under Article 374 of the KUHP, which addresses embezzlement committed by someone entrusted with managing another person's property. In addition, Law No. 24 of 2011 on BPJS also regulates criminal sanctions for employers who fail to deposit BPJS contributions. However, the implementation of the law in cases of embezzlement often faces obstacles, such as slow legal processes and insufficient evidence.

The importance of social security as a fundamental right of workers has been recognized in various national and international legal instruments. The 1945 Constitution of the Republic of Indonesia, Article 28H, paragraph (3), guarantees every person's right to social security. Additionally, the Universal Declaration of Human Rights (UDHR) also states that every person has the right to social protection to ensure a decent life. However, the realization of this right is often hindered by various problems, including the embezzlement of BPJS contributions.

One of the main factors contributing to the embezzlement of BPJS contributions is the low level of employer compliance with regulations. Many

employers do not understand their obligation to deposit BPJS contributions on time. In some cases, this non-compliance is caused by insufficient legal education and the lack of strict sanctions. Therefore, improving education and law enforcement should be prioritized in efforts to prevent the embezzlement of BPJS contributions.

Moreover, the oversight system for BPJS contribution payments still has many weaknesses. Manual oversight is often ineffective in detecting violations, leaving a gap for irresponsible parties to commit embezzlement. The use of digital technology to monitor contributions in real-time can be a solution to address this weakness. With a more transparent and accountable system, the potential for embezzlement can be minimized.

Embezzling BPJS contributions not only affects individual workers but also the financial stability of BPJS as an institution. When contributions are not deposited, the funds available to finance social security programs are reduced. This can disrupt the implementation of programs, such as paying benefits to BPJS participants. Therefore, ensuring employer compliance in depositing contributions is an essential step to ensure the sustainability of the social security program.

The problem of embezzling BPJS contributions also reflects a lack of social responsibility among employers. Many companies are more focused on financial profits than ensuring the welfare of their workers. In fact, compliance with the social security system is not only a legal obligation but also a moral responsibility towards the workforce. Therefore, promoting a workplace culture that emphasizes integrity and social responsibility is essential.

Government support in strengthening regulations and oversight mechanisms is also crucial. The government must ensure that the regulations governing the payment of BPJS contributions are consistently applied. In addition, sanctions for embezzlers should be enforced strictly to create a deterrent effect. Effective law enforcement not only protects workers' rights but also enhances public trust in Indonesia's legal system.

Education for workers about their rights as BPJS participants is equally important. Many workers are unaware that they can monitor the status of their contributions. With proper education, workers can become more proactive in protecting their rights. BPJS can provide a platform that allows workers to check the status of their contributions independently.

Globally, many countries have successfully managed social security systems through strict oversight and advanced technology. Indonesia can learn from the experiences of these countries to improve the effectiveness of the BPJS system. By adopting best practices from other countries, it is hoped that the embezzlement of contributions can be minimized, and workers' rights can be better protected.

Therefore, a coordinated effort from all parties is required to address the issue of BPJS contribution embezzlement. The government, BPJS, employers, and workers must work together to create a better system. With the right steps, contribution embezzlement can be prevented, and Indonesia's social security system can function as intended.

This research aims to analyze the application of legal sanctions for perpetrators of BPJS Employment contribution embezzlement and evaluate the effectiveness of the existing oversight mechanisms. Through this research, it is expected that practical solutions will be found to strengthen Indonesia's social security system and better protect workers' rights.

## **LITERATURE REVIEW**

BPJS Employment is a public legal entity established under Law No. 24 of 2011. Its purpose is to provide social protection for workers in the form of social security. As a state institution, BPJS Employment is obligated to protect workers' rights from social risks such as workplace accidents, death, and old age. However, the implementation of this program often faces various obstacles, one of which is the embezzlement of contributions by those responsible for depositing the funds. This phenomenon is of serious concern because it harms the workforce, disrupts the sustainability of the social security program, and creates imbalances in the implementation of labor protection.

In criminal law terms, the embezzlement of BPJS Employment contributions can be classified as a crime of embezzlement as regulated in Article 374 of the Indonesian Criminal Code (KUHP). This article states that embezzlement occurs when someone entrusted with something deliberately acts unlawfully to possess it. In this case, BPJS contributions that should be deposited are used for the personal benefit of the perpetrator. This act is often done repeatedly, meeting the elements of continuous acts as regulated in Article 64 of the KUHP. (Nugraha, 2022)

This criminal act of embezzlement has significant consequences. For workers, embezzlement means losing their right to adequate social protection. This not only impacts individual workers but also their families who may rely on BPJS benefits. Additionally, embezzlement undermines the credibility of BPJS Employment as an institution, thus reducing public trust in the social security system.

Law No. 24 of 2011 on BPJS also stipulates criminal sanctions for embezzlers. Article 55 of this law imposes a maximum prison sentence of 8 years or a fine of up to IDR 1 billion for employers who fail to deposit BPJS contributions. These sanctions aim to provide a deterrent effect and encourage employers to fulfill their obligations. However, the implementation of these sanctions still faces various challenges, including insufficient oversight and a lack of legal knowledge among employers. (Setiawan, 2020)

Previous studies have extensively discussed this phenomenon. For instance, research by Heriansyah Pratama Nugraha analyzing decision No. 699/Pid.B/2016/PN.STB revealed that the judge sentenced the embezzler to 2 years in prison. However, this penalty was deemed too light given the damage caused. Another study by Didik Miraharja also highlighted the importance of strengthening oversight of employers to prevent BPJS contribution embezzlement.

One important aspect to consider is the causes of BPJS contribution embezzlement. Internal factors such as weak mentality of perpetrators and inadequate workplace supervision often trigger the problem. Moreover, external factors such as weak law enforcement and lack of education for employers also contribute. Therefore, solutions to address this issue must be holistic, involving various parties, including the government, BPJS, and society.

In practice, embezzling BPJS contributions often occurs in companies with weak financial management systems. A lack of transparency and accountability in fund management often creates an opportunity for certain individuals to embezzle. Therefore, strengthening the internal oversight system of companies is crucial to prevent this criminal act.

BPJS Employment also plays a vital role in increasing employer compliance. Educational and socialization programs on the obligation to pay BPJS contributions must continue. Furthermore, BPJS needs to improve its reporting and monitoring mechanisms to detect potential violations early. This way, embezzlement of contributions can be minimized, and workers' rights can be better protected.

On the other hand, the government's role in enforcing the law is crucial. The government needs to ensure that the criminal sanctions stipulated in Law No. 24 of 2011 are consistently applied. Furthermore, strengthening cooperation between BPJS, the police, and the prosecutor's office is necessary to expedite law enforcement against embezzlers.

In efforts to prevent BPJS contribution embezzlement, technological approaches can also provide a solution. The use of digital systems to monitor contribution payments can increase transparency and accountability. Additionally, technology can simplify the reporting and monitoring process, making it easier to detect violations early.

Workers' roles are also crucial in maintaining the integrity of the BPJS system. Workers must be proactive in ensuring that their BPJS contributions are deposited by their employers. They should also understand their rights as BPJS participants and report any violations. This awareness can help strengthen Indonesia's social security system.

Globally, transparent and accountable social security management has become a standard in many countries. Indonesia needs to learn from these countries to enhance the effectiveness of its social security programs. By adopting best practices from other nations, BPJS Employment can become a more trusted institution and provide maximum benefits to all participants.

This literature review shows that the embezzlement of BPJS Employment contributions is not just a legal issue but also a systemic problem that requires a comprehensive approach. A combination of strengthened regulations, education, oversight, and technology is key to addressing this issue. With these steps, it is hoped that contribution embezzlement can be minimized, and workers' rights can be well protected.

## **RESEARCH METHOD**

This study employs a normative juridical approach to analyze the application of legal sanctions against perpetrators of BPJS Employment contribution embezzlement. This approach focuses on examining legislation and legal principles relevant to the issue being studied. This method allows the research to understand how written laws, particularly provisions governing criminal sanctions, are applied in the context of BPJS contribution embezzlement.

The data sources in this study include primary and secondary data. Primary data consists of legislation, such as Law No. 24 of 2011 concerning BPJS and provisions in the Indonesian Criminal Code (KUHP), specifically Articles 374 and 64. Meanwhile, secondary data includes legal literature, scholarly journals, articles, books, and official reports relevant to the research topic. Data collection is carried out by identifying legal sources that support the analysis.

Data collection is conducted through library research. This includes reviewing regulations, books, scholarly articles, and other documents relevant to the issue of BPJS contribution embezzlement. This method is used to identify legal foundations, legal principles, and relevant theories to analyze the legal sanctions applicable to perpetrators of embezzlement.

Data analysis is carried out qualitatively. This approach is used to process the collected data, interpret it, and identify patterns or themes relevant to the research problem. Qualitative analysis enables the study to delve deeper into the effectiveness of legal implementation and the challenges encountered in its application. The findings are presented descriptively to provide a systematic and in-depth overview.

This study adopts a descriptive-analytical approach, aiming to provide a comprehensive overview of the phenomenon of BPJS contribution embezzlement. The descriptive approach is used to explain how existing legal provisions are designed to prevent embezzlement and the challenges arising in

their implementation. This research also seeks to explore solutions to enhance the effectiveness of related legal enforcement.

The main focus of this study is criminal law as an instrument for social protection and justice enforcement. In this context, the analysis aims to understand how laws are designed to protect workers disadvantaged by BPJS contribution embezzlement. The research also discusses the role of criminal law in promoting employer compliance with the obligation to pay BPJS contributions (Kasmanto Rinaldi et al., 2023).

The validity of the data in this study is ensured by utilizing various credible and relevant legal sources. The research also employs a comparative approach to existing legal theories to identify the strengths and weaknesses of the applicable regulations. This is done to ensure that the analysis reflects not only the legal rules but also how those rules can be effectively implemented.

## **RESULTS AND DISCUSSION**

The embezzlement of BPJS Employment contributions is a serious issue that threatens the sustainability of the social security system in Indonesia. BPJS Employment is designed to provide protection for workers against social risks such as workplace accidents, retirement, and death. However, the implementation of this program faces significant challenges due to embezzlement practices by those responsible for depositing the contributions. This phenomenon not only harms workers but also disrupts the stability of the national social security system.

One of the main causes of BPJS contribution embezzlement is weak oversight of employers. Many companies are not fully transparent in managing contribution funds, creating opportunities for individuals or groups to commit violations. The absence of effective monitoring mechanisms allows such actions to persist without early detection. Therefore, strengthening oversight is an urgent need to prevent further losses. (NURKHOLIS, n.d.)

In addition to oversight issues, the low legal awareness among employers also contributes to the problem. Many employers do not understand the importance of paying BPJS contributions as part of their legal and social responsibilities. In some cases, they even consider embezzlement as a way to reduce operational costs. This highlights the need for more intensive legal education for employers to increase their compliance with applicable regulations. (Nugraha, 2022).

The impacts of BPJS contribution embezzlement are extensive. For workers, it means losing access to the social security benefits they are entitled to. For example, workers who experience workplace accidents may not receive compensation or medical care because their contributions were not deposited.

This impact also extends to the families of workers who lose the social protection they should have received.

From an institutional perspective, contribution embezzlement damages the credibility of BPJS Employment. When workers and the public lose trust in the system, their participation in the social security program may decline. This negatively affects BPJS's financial sustainability, as the system relies on contributions from both employers and workers. Therefore, preventing embezzlement is a crucial step to maintaining the integrity of the social security system. (Miraharja, 2022)

BPJS contribution embezzlement also has serious legal implications. According to the prevailing legal provisions, such actions fall under the category of criminal embezzlement as stipulated in the Criminal Code (KUHP). Perpetrators may face criminal sanctions, including imprisonment and fines, depending on the severity of the offense. However, in practice, the enforcement of these sanctions often encounters obstacles, such as slow legal processes and insufficient evidence to prosecute offenders.

One solution to address BPJS contribution embezzlement is to improve reporting and monitoring mechanisms. BPJS can adopt digital technology to monitor contribution payments in real time. This system enables early detection of delays or discrepancies in payments, allowing preventive measures to be taken immediately. Furthermore, transparency in the payment system should be enhanced to reduce opportunities for misuse.

Legal education for employers is also essential to raise their awareness of the obligation to pay BPJS contributions. Training programs and public outreach can serve as effective tools for conveying this information. BPJS can collaborate with employer associations and the government to organize such programs, which are expected to improve employer compliance with the regulations.

Providing incentives for compliant employers can also be an effective strategy. For example, employers who pay contributions on time could be awarded recognition or certain financial incentives. This strategy could encourage more companies to comply with the rules and contribute to the sustainability of the BPJS program. (Utami & Sunarsi, 2020)

On the other hand, law enforcement must be strengthened to deter perpetrators of embezzlement. The government and BPJS need to collaborate with law enforcement authorities to ensure that cases of embezzlement are handled quickly and fairly. Strong legal enforcement is also crucial to demonstrate the government's commitment to protecting workers' rights.

From a policy perspective, revising existing laws or regulations can be considered to strengthen sanctions and monitoring mechanisms. For instance,

the government could impose heavier fines on employers who fail to deposit contributions, making such violations less appealing.

Cultural factors cannot be overlooked either. In many cases, embezzlement occurs due to a lack of a culture of legal compliance among employers. Therefore, fostering a workplace culture that emphasizes integrity and social responsibility is essential. BPJS and the government can promote these values through public campaigns aimed at changing societal attitudes about the importance of social security.

Additionally, empowering workers to monitor their contribution status can also be a solution. BPJS can provide an online platform that allows workers to check whether their contributions have been paid by their employers. In this way, workers can proactively protect their rights and report any violations they discover.

Globally, many countries have successfully addressed similar issues by implementing stricter monitoring systems and advanced technologies. Indonesia can learn from the experiences of these countries to improve the effectiveness of its BPJS system. By adopting best practices from other nations, it is hoped that contribution embezzlement can be minimized, and workers' rights can be better protected.

## CONCLUSION

The embezzlement of BPJS Employment contributions is a major challenge to Indonesia's social security system. This issue not only reflects non-compliance with the law but also highlights weaknesses in oversight and regulatory enforcement. Perpetrators of embezzlement harm many parties, especially workers who lose their rights to social protection. Furthermore, the credibility of BPJS Employment as the institution responsible for managing social security is at stake when such embezzlement continues to occur.

To address this issue, a comprehensive approach is urgently needed. The government, BPJS, and society must collaborate to strengthen oversight, enforce legal sanctions, and provide education to employers and workers. These efforts aim to create a system that is more transparent, accountable, and fair. These measures should also be supported by digital technology to facilitate oversight and reporting processes, enabling early detection of potential violations.

Oversight is a critical aspect that must be enhanced to minimize opportunities for embezzlement. BPJS Employment needs to develop stricter, technology-based monitoring systems. Such systems should be capable of monitoring contribution payments in real-time and providing early warnings in cases of delays or discrepancies. This would allow violations to be prevented before causing more significant impacts.

Legal education for employers is equally important. Many employers still do not understand their obligations to the social security system. Intensive and continuous education programs can help raise awareness about the importance of paying BPJS contributions on time. This education should also include explanations of the legal consequences for those who violate the rules.

Law enforcement must be a priority to create a deterrent effect on perpetrators of embezzlement. Criminal sanctions stipulated in Law No. 24 of 2011 must be implemented firmly and consistently. The government and BPJS must ensure that the legal process is transparent and fair so that no loopholes allow perpetrators to evade responsibility. Strong law enforcement is also crucial to demonstrating the government's commitment to protecting workers' rights.

Additionally, promoting a workplace culture that emphasizes integrity and social responsibility is necessary among employers. This culture can be developed through public campaigns aimed at changing the mindset about the importance of social security. With a culture that supports legal compliance, it is hoped that embezzlement can be significantly reduced.

Workers also play an essential role in maintaining the integrity of the BPJS system. Workers should be more proactive in ensuring that their contributions are deposited by their employers. BPJS can provide an online platform that allows workers to monitor their contribution status. In this way, workers can immediately report violations so that corrective actions can be taken promptly.

From a policy perspective, the government needs to consider revising existing laws or regulations to strengthen the social security system. These revisions could include increasing sanctions for embezzlers and providing more detailed regulations on oversight and reporting mechanisms. Stronger policies will provide a solid legal foundation for addressing cases of embezzlement.

Technology can also be an effective tool in preventing embezzlement. Digital contribution payment systems can increase transparency and accountability. This technology can also facilitate coordination among BPJS, employers, and workers, enabling all parties to monitor contribution statuses more efficiently.

Indonesia can learn from other countries that have successfully managed their social security systems. International experiences show that strong oversight, consistent legal enforcement, and active participation from all parties are key to maintaining the integrity of social security systems. By adopting these best practices, Indonesia can strengthen BPJS Employment as a reliable and trustworthy institution.

Commitment from all stakeholders is the key to successfully addressing the issue of BPJS contribution embezzlement. The government, BPJS, employers, and workers must support each other in creating a better system. With strong

synergy, embezzlement can be prevented, and workers' rights can be optimally protected.

This study also reveals that BPJS contribution embezzlement is not merely a legal issue but also reflects broader social and economic challenges. Therefore, the solutions applied must be holistic, encompassing legal, social, economic, and technological aspects. With this approach, it is hoped that embezzlement can be minimized, and Indonesia's social security system can function as intended.

In the long term, improving the social security system will have a positive impact on society as a whole. Workers will feel more secure and protected, while employers will benefit from a more productive workforce. Ultimately, this will contribute to more sustainable economic growth.

In conclusion, the embezzlement of BPJS Employment contributions is a complex problem that requires serious attention from all stakeholders. By strengthening oversight, enhancing legal education, enforcing criminal sanctions, and adopting technology, Indonesia's social security system can become more transparent, accountable, and just. Only through these measures can workers' rights be truly protected.

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