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IMPLEMENTATION OF ENVIRONMENTAL, SOCIAL, AND GOVERNANCE BY BPJS HEALTH THROUGH CORPORATE SOCIAL RESPONSIBILITY PROGRAM IN SUSTAINABLE DEVELOPMENT EFFORTS

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Abstract
Global Warming is a growing issue and has become the responsibility of global citizens including Indonesia. One of the efforts taken place is through the concept of sustainable development with the application of Environmental, Social, Governance (ESG). BPJS Kesehatan as a public legal entity that is a financial sector actor that organizes health social security, is expected to be able to encourage the implementation of sustainable development in Indonesia. Even though BPJS Kesehatan is not an industrial company that is engaged in profit or social security, BPJS Kesehatan as a financial sector actor is deemed necessary to support sustainable development. One of the many efforts that BPJS Kesehatan can make is through the Organization Social Responsibility (OSR) for environmental response.

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I. INTRODUCTION

Environmental, Social, Governance (ESG) is a concept that refers to a framework used as an instrument to evaluate the social and environmental impacts of a company. The topic and development of ESG-related concepts are increasingly discussed in Indonesia along with the high level of foreign investment and the development of national companies covering sectors such as mining, oil and gas, manufacturing, education, insurance, banking, fast food restaurants, health and the transportation and *startup* sectors *(Miqdad et al., 1032)*. So the application of ESG in financial investment strategies is becoming increasingly relevant in this modern era. In its implementation, it is undeniable that awareness of environmental issues such as climate change and ecosystem degradation, as well as social issues such as economic inequality and social justice, has increased significantly among global investors. Investors are now realizing that their investment decisions not only have an impact on financial returns, but also on society and the environment. Increasingly strict and balanced regulations in some countries are able to reinforce the need for sustainable business practices, forcing the integration of ESG factors by companies into their strategies to comply with existing regulations and manage risks more effectively (Rismanto, 2024).

The Health Social Security Agency (BPJS Kesehatan) is established as a public legal entity that is responsible to the President, as stipulated in Article 7 paragraph (of Social Security Agency (Law on Social Security Organizing Agency, Law Number 24 of 2011 on Social Security Organizing Agency, hereinafter referred to as UUBPJS, Article 7 Paragraph (2), 2011)2) of Law Number 24 2011 related to the Organizing . The Health Insurance Limited Company (PT Askes), which has been transformed into BPJS Kesehatan, has changed the institutional system that affects various aspects of its operations. BPJS Kesehatan, which has the function of organizing social health insurance, is no longer profit-oriented as it was during the PT Askes era.

The change of entity from a state-owned legal entity to a public legal entity established by law, BPJS Kesehatan still has a social response program or what is known as Organization Social Responsibility (OSR). BPJS Kesehatan's OSR can be analogous to the Corporate Social Responsibility (CSR) of business entities, whether private or state. The BPJS Kesehatan OSR program aims to ensure that BPJS Kesehatan not only organizes health insurance programs, but also has a direct impact on the surrounding environment.

Until now, BPJS Kesehatan continues to innovate to have a positive impact on the environment where BPJS Kesehatan is located. In its implementation, BPJS Kesehatan has realized the OSR program to the community, be it religious response, education response, natural disaster response, public facility response and so on. In its development, BPJS Kesehatan is currently developing an innovation, namely BPJS Kesehatan Tanggap Lingkungan Hidup, which is a form of BPJS Kesehatan's commitment to implementing the ESG sustainable development concept. BPJS Kesehatan believes that ESG is closely related to OSR. BPJS Kesehatan is of the view that if the company carries out social responsibility through OSR, in accordance with good governance, as a result the way to apply ESG will be even better. ESG and OSR are crucial because they do not only have a positive impact on the economy, but also have a big impact on social and environmental issues.

In its implementation, the ESG concept in Indonesia is in a relatively slow and uneven development stage, so the implementation of ESG has not been optimal (Muhammad Fachrizal Wahyu Darma Putra & Nurul Asfiah, 2024a). For this reason, BPJS Kesehatan as a public legal entity contributes to sustainable development through the ESG concept. If examined more deeply, basically BPJS Kesehatan is not a conventional industry actor, but in this case BPJS Kesehatan takes its role because BPJS Kesehatan collaborates with health facilities, namely clinics, hospitals, and health centers. On the other hand, the source of funding for the social security program that BPJS Kesehatan manages comes from the wage earner segment, in which there are also companies or industries. Seeing the existing facts, BPJS Kesehatan wants to contribute to ESG sustainable development through the BPJS Kesehatan OSR program that responds to the environment.

Referring to the description above, things that are interesting to study include: first, how is the regulation of sustainable development through ESG in Indonesia? Second, how can the BPJS Kesehatan OSR program contribute to the implementation of sustainable development in Indonesia through the concept of ESG? Third, how is the application of ESG in sustainable development schemes in Indonesia and various countries?

This research is intended to determine the environmental norms in Indonesian legislation and analyze their influence on the implementation of sustainable development through the concept of Environmental, Social and Governance (ESG). On the other hand, this research is also intended to find out how a public legal entity that focuses on the implementation of health social security can implement the concept of Environmental, Social and Governance (ESG) through Organization Social Responsibility (OSR).

II. RESEARCH METHODS

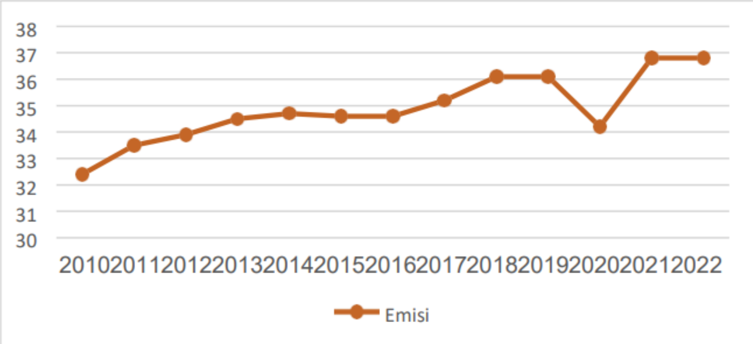
The discussion of the above problems is carried out with a normative legal research method through a comparative approach along with a conceptual approach. The term comparative law can be interpreted as a study conducted in a systematic / structured manner related to part of the tradition and legal rules according to a comparison of two or more legal systems and their applications, in order to find elements of difference and similarity from the object of comparison (Ibrahim, 2006). While the conceptual approach is an approach to legal research that uses the point of view of analyzing the resolution of a problem in legal research through looking at the legal concepts that underlie it, or by looking at the values contained in the regulation through linking the regulation with the concepts used (Marzuki, 2011).

This research was conducted through documentary study by reviewing and studying various literatures and laws and regulations related to sustainable development and Environmental, Social and Governance (ESG).

III. RESEARCH RESULTS AND DISCUSSION

The phenomenon of Global Warming is a phenomenon that continues to be a byword from year to year. This issue is not the property or responsibility of a country alone, but has become a global issue so that its handling has become a shared or global responsibility. In its development, every country including Indonesia, especially environmentalists and environmental law, is increasingly focused on discussing efforts to deal with global warming. The increasingly obvious impacts of global warming such as temperature changes, extreme weather, threats to biodiversity and rising sea levels, are clear evidence that global warming is happening and must be addressed immediately (Ratna et al., 2023).

When viewed from the graph of the increase in global carbon emissions, it is noted that it has increased from year to year (2010-2022), as for the data on the increase in carbon emissions as follows:



Increase in global carbon emissions in 2010-2022

Source : (Katadata Databox, 2023)

The concept of Environmental, Social, and Governance is a non-financial parameter that includes several aspects including social, environmental, and corporate governance (Roestanto et al., 2022). The Indonesia Stock Exchange (IDX) as well as the Indonesian Securities Guarantee Clearing Corporation (KPEI), supported by the Financial Services Authority, launched an Environmental, Social, and Governance (ESG) platform. This platform was launched as a form of effort as well as support for the government's efforts to achieve sustainable development goals (SDGs) through sustainable capital market development, in accordance with the financial practices contained in the Sustainable Finance Map Phase II from 2021 to 2025 (Ningwati et al., 2022). Social and environmental issues require companies to not only focus on seeking profit. But also think about the side effects of their business operations on the environment. Government regulations through the OJK institution, which have been formed and established since 2019, have required issuers to continue providing sustainability reports for the community (Risma Septiana & Puspawati, 2022). Companies that apply ESG are seen to have a positive impact and will provide a good image in the eyes of the public and investors in terms of the Company applying the ESG concept and pouring it into a sustainability report.

Through the integration of environmental, social, and corporate governance aspects, it is hoped that the company will be able to act as a positive agent of change in society. With the implementation of various programs and policies, including efforts in climate change mitigation, support for sustainable tourism, community participation in project development, and active involvement in complying with applicable regulations, companies can create significant positive impacts, improve the quality of life of local communities, and strengthen their position in achieving overall sustainable development goals (Muhammad Fachrizal Wahyu Darma Putra & Nurul Asfiah, 2024b).

ESG covers various aspects that affect the long-term sustainability of a company's operations and corporate social responsibility, including environmental impacts, social welfare, and good governance. The following is an explanation of the ESG components:

a. *Environmental*

   The environmental aspect of ESG refers to business operations affecting ecosystems and natural resources that include management of environmental impacts, use of emissions, energy, waste, as well as conservation of natural resources. It is expected that through a sustainable approach, the company seeks to not only minimize its ecological footprint, but also protect biodiversity and valuable natural resources.

b. Social

   The social aspect of ESG relates to how a company interacts with its employees, communities, and society at large, covering human rights, labor welfare, community engagement, and the social impact of the company's operations, which can be interpreted to mean that the company must have a good impact on human resources and the environment. Through strong social ties, companies are able to foster more positive relationships with stakeholders.

c. Governance

   Governance in the ESG framework refers to the way a company is managed, regulated, and supervised which includes various aspects that affect how a company makes decisions and carries out its operations. In the case of corporate activities carried out by financial service actors, there are several legal instruments in implementing this ESG concept, namely OJK Regulation No. 51 of 2017 related to the Application of Sustainable Finance for Financial Services Institutions, Issuers, and Public Companies to the Application of ESG in Indonesia, Law No. 32 of 2009 related to Environmental Protection and Management to the Application of ESG in Indonesia and Law No. 40 of 2007 related to Limited Liability Companies to the Application of ESG in Indonesia. Good governance is an important foundation for the long-term success of a company. Through transparent, ethical and effective governance practices, companies can ensure that their operations are run efficiently and in good compliance, and are able to create added value for all parties, especially stakeholders (Miqdad et al., 1032).

Mas Achmad Santosa believes that the state's commitment in placing environmental protection in its constitution can be classified in several levels as follows (Santosa, 2009):

1. Highest Commitment, by including elements of the right for nature accompanied by subjective rights along with the duty of the state in the environmental management sector along with the direction of sustainable development patterns specifically packaged in the environmental charter.
2. High commitment, through recognition of subjective rights accompanied by the duty of the state in the environmental management sector along with the direction of sustainable development patterns specifically packaged in the environmental charter.

3. Adequate Commitment, through recognition of subjective rights complemented by the duty of the state in the environmental management sector in specific articles.
4. The Medium Commitment, through the recognition of subjective rights, does not provide specific recognition of the duty of the state in the environmental management sector, nor does it place the direction of sustainable development patterns in specific articles.
5. Low Commitment, does not recognize subjective rights along with the duty of the state and the direction of sustainable development patterns.

In general, the approach used to formulate recognition and protection of the environment is an approach based on the fulfillment of human rights. Recognition and protection of the environment through the placement of the right to a healthy environment in the constitution does not necessarily make a country free from cases and even environmental disasters.

In the development of law in Indonesia, OJK Regulation No. 51/POJK/2017 regarding the Implementation of Sustainable Finance for Financial Institutions, Issuers, and Public Companies has been established, the financial industry is required to adopt sustainable financial practices which are expected to boost economic growth, create social justice, improve environmental quality, as well as sustainable economic growth (Aini & Anggraini, 2024). The government's dedication to sustainable development is realized in the form of regulations so that the financial sector in Indonesia as a whole helps achieve sustainable development goals. Referring to the preamble to the formation of the regulation, that this provision was formed as an effort to realize sustainable development that is able to maintain economic stability, so that a national economic system is needed that prioritizes the harmony of economic, social and environmental aspects. On the other hand, this policy is also formed in order to drive a national economy that continues to prioritize harmony between economic, social and environmental aspects, so it is deemed necessary to form a policy that is expected to be a source of funding in an adequate amount (Financial Services Authority Regulation Regarding Implementation of Sustainable Finance for Financial Services Institutions, Issuers, and Public Companies, OJK Regulation Number 51/POJK.03/2017, LN Year 2017 Number 169, 2017).

On the other hand, another crucial thing that stakeholders must consider is the ESG controversy. Companies that are manifestly irresponsible towards social responsibility and perpetuate social and environmental controversies include dealing with the reactions of investors (Amalia & Kusuma, 2023).

OJK Regulation No. 51/2017 on the Implementation of Sustainable Finance for Financial Services Institutions, Issuers, and Public Companies requires financial institutions, issuers, and public companies to disclose ESG information in a complete and coherent manner. This disclosure is important to ensure transparency and accountability in the company's operations, as well as to fulfill stakeholder information needs relevant to ESG. This is stated in Article 10 of POJK No. 51/2017 which states that companies are obliged to carry out the preparation of Sustainability Reports, the implementation of which began in 2019. The implementation is expected to be able to create a comprehensive sustainable finance ecosystem, in all lines of development activities (Kartika et al., 2023).

With the enactment of OJK Regulation Number 51/POJK.03/2017 related to the Implementation of Sustainable Finance for Financial Services Institutions, Issuers, and Public Companies, is evidence that the Indonesian government has facilitated and will ensure the implementation of sustainable finance through sustainability reports. Through the application of this sustainable report, it is hoped that it can maintain economic stability and inclusiveness, through the formation of synergies from various aspects, ranging from social, economic, and environmental.

The importance of government support in the form of regulations governing ESG, is to create a sustainable business environment. This collaboration allows companies to participate in the policy-making process, providing input on best practices in environmental, social sustainability, along with corporate governance. In addition, companies must comply with all applicable environmental, social and governance regulations, including national and international regulations related to environmental protection, human rights, cooperation with local communities, and transparent financial and non-financial reporting. By partnering with the government in policy development and regulatory compliance, companies can play a more active role in encouraging sustainable business practices, helping to fulfill their responsibilities to society and the environment, and creating a stable business environment for all stakeholders (Puspitasari & Salehudin, 2022).

As described above, BPJS Kesehatan is a public legal entity that does not operate a conventional industry like other companies, so the application of ESG in BPJS Kesehatan will have differences with other companies or industries, which obviously have emissions from the operation of companies or industries that need to be monitored or controlled. Companies require the allocation of financial resources when carrying out corporate social responsibility, one of which is obtained through investment. Investors pay more attention to the company's sustainable practices, conducting an assessment of the company's feasibility, risk factors such as the company's liquidity level, the amount of return provided, along with the inflation rate. This is the point of difference with BPJS Kesehatan, which is BPJS Kesehatan sourced from state finances along with contributions from Health Insurance Participants. In other words, BPJS Kesehatan does not seek investment from investors and does not also pursue profit or profit. This difference presents the concept of BPJS Kesehatan's environmental responsibility, namely through the BPJS Health OSR mechanism for environmental response. In this case, of course, BPJS Kesehatan needs to establish regulations related to the technical implementation of ESG through OSR BPJS Kesehatan. The regulation is expected to be able to regulate the implementation of OSR in BPJS Kesehatan which encourages the implementation of ESG in the BPJS Kesehatan environment.

BPJS Kesehatan as a public legal entity has governance which is regulated in Presidential Regulation Number 25 of 2020 related to the Governance of the Social Security Organizing Agency. In the Presidential Regulation, it is stipulated that BPJS Kesehatan must carry out good governance based on the principles of BPJS Kesehatan governance principles consisting of openness, accountability, responsibility, independence, equality, predictability, participation, and dynamic (Presidential Regulation on the Governance of the Social Security Organizing Agency, Presidential Regulation Number 25 of 2020 concerning the Governance of the Social Security Organizing Agency (State Gazette of the Republic of Indonesia of 2020 Number 38), 2020). Then further, this Presidential Regulation also opens space for BPJS Kesehatan to form a BPJS Kesehatan Board of Directors Regulation which regulates the Guidelines for Governance of the Health Social Security Organizing Agency. In the Board of Directors Regulation, it is stipulated that one form of BPJS Kesehatan's responsibility principle is through social responsibility to the community and the environment, as a result of being able to maintain business sustainability in the long term through planning and proper implementation. Based on this provision, BPJS Kesehatan is expected to carry out good governance by adhering to the principles of governance, one of which is the principle of responsibility. BPJS Kesehatan is expected to be able to have an impact on the environment where BPJS Kesehatan is located, including in the implementation of sustainable development with the ESG concept.

The following is the application of ESG in various countries in the form of regulations that are expected to have a positive impact on sustainable development:

1. Malaysia

   ESG in Malaysia is more than just compliance, it opens up opportunities for companies and can support economic growth in sectors that are important to companies in the country. The touch on these aspects shows how important ESG considerations in guiding companies in Malaysia towards not only profitability, but also making them stewards in the progress of society (Suhardjo et al., 2024). In Malaysia, publicly listed companies have to adapt to stricter regulations imposed by the Securities Commission Malaysia and Bursa Malaysia which have a leading role in ensuring ESG compliance. These authoritative bodies set ESG-related guidelines for Public Listed Companies (PLCs) that help push sustainability reporting to new heights. Since ESG reporting became mandatory for companies in 2016, companies in Malaysia have the flexibility to use the reporting framework of their choice. In the Laws of Malaysia, the Environmental Quality Act 1974 plays a key role in ensuring that companies including those in the mining sector must operate with consideration of broad environmental impacts. The Environmental Quality Act 1974 sets out various regulations and procedures to protect the environment from damage resulting from mining activities. Malaysia's mining sector is governed by the Mineral Development Act 1994 which is designed to regulate the management of mineral resources in Malaysia. It defines various terms related to mining activities and provides a clear explanation of the scope of its application. It covers the management of mineral resources, supervision and control, environmental protection and exploration, investigation, and penalties. The Mineral Development Act 1994 in Malaysia plays an important role in regulating the mining sector with ESG aspects in mind. Effective implementation of this regulation is key to achieving sustainable development goals and ensuring that mining activities provide sustainable benefits to society and the environment. However, while the Mineral Development Act 1994 may cover some ESG aspects, it does not cover the above environmental and social concerns. Therefore, recent developments in global ESG regulations may also affect how these regulations are implemented and complied with by the mining industry in Malaysia.

2. Finland

The Finnish government's commitment to environmental conservation and its obligation to protect the environment is enshrined in Article 20 of the Finnish Constitution:

> *"The public authorities shall endeavor to guarantee for everyone the right to a healthy environment and for everyone the possibility to influence the decisions that concern their own living environment. Responsibility for the environment Nature and its biodiversity, the environment and the national heritage are the responsibility of everyone".*

A number of Finnish legislations have incorporated environmental protection, namely the Constitution of Finland June 11, 1999 (731/1999, amendments up to 1112/2011 included), Environmental Protection Act (86/2000; amendments up to 728/2011 included), Mining Act (621/2011), Charter of Fundamental Rights of the European Union 2000/C 364/01, Act on Investment Firms 26.7.1996/579, Act on the Right of a Foreign Investment Firm to Provide Investment Services in Finland 26.7.1996/580 (Wartini & Ghafur, 2015). One form of application of environmental sanctions carried out by the Finnish Government is sanctions in the Talvivaara Mining Company case. The Talvivaara Mining Company case is a case of environmental pollution that occurred in Finland in the 2008-2013 period.

CONCLUSIONS

BPJS Kesehatan as a public legal entity built to carry out health social security and is responsible to the President, has social responsibility through an Organization Social Responsibility program. On the other hand, as a financial sector organizer, BPJS Kesehatan certainly needs to implement the concept of sustainable development through Environmental, Social, Governance (ESG). As a health insurance provider, BPJS Kesehatan certainly collaborates with the health industry such as Hospitals, Clinics, Individual Doctor Practitioners, and Puskesmas. Then the health facilities also work with the pharmaceutical industry and medical devices. Then, apart from being sourced from state finances, funding for the implementation of health insurance by BPJS Kesehatan also comes from contributions from health insurance participants. One of the segments of health insurance participants is the wage earner segment, which mostly comes from industrial companies. This framework for the implementation of health insurance encourages BPJS Kesehatan to implement the ESG scheme in BPJS Kesehatan. In its implementation, of course, it should be remembered that BPJS Kesehatan is not an institution that seeks profit or profit from the investment results of investors, so that one of the ESG implementations in BPJS Kesehatan can be carried out through the BPJS Kesehatan OSR program. For this reason, it is hoped that BPJS Kesehatan will form an internal BPJS Kesehatan regulation to run ESG through the BPJS Kesehatan OSR program. This regulation aims to create certainty in the implementation of ESG in BPJS Kesehatan and provide technical guidance for the implementation of ESG through BPJS Kesehatan OSR so that it is appropriate and has an impact on the environment.

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