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## RESEARCH ARTICLE

# *Istihsān* Theory and Its Application in the Standard Inpatient Class (KRIS) Initiative by the National Health Insurance Program (JKN)

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## Abstract

*This research aims to discuss the Standard Inpatient Class (KRIS) initiative which is integrated into the National Health Insurance Program (JKN) in Indonesia. This program was implemented to improve the quality and access of health services. KRIS is designed to improve the physical aspects of health facilities, but challenges arise in its implementation, including adapting hospital infrastructure and varying public perceptions. This research uses a qualitative method with a literature review approach, namely by collecting various sources relevant to the research topic. Data sources include scientific articles, books, research reports, government regulations, and other official documents related to the implementation of KRIS by JKN and analyzed using istihsān theory. The results of the research are that although hospitals in Indonesia are generally ready to implement KRIS, BPJS Health still considers its implementation to be no longer relevant due to a budget surplus. On the other hand, if viewed using the istihsān theory, the KRIS program initiative is the implementation of government steps to achieve social justice and equal access to health services. This article also highlights differences of opinion between BPJS Health and the National Social Security Council (DJSN) as well as the lack of clarity in existing law regarding the government's role in implementing KRIS. This research shows the need for adjustments and better communication between stakeholders to ensure the success of KRIS in achieving the goals of the National Health Insurance Program (JKN-KIS).*

**Keywords:** KRIS; JKN; *Istihsān* Theory.

## 1. Introduction

The basic need for health is essential for everyone. Based on Republic of Indonesia Law no. 36 of 2009, health is defined as a condition of well-being that includes physical, mental,

spiritual and social aspects, which enable individuals to live socially and economically productive lives. Starting January 1 2014, the Indonesian Government has implemented the National Health Insurance Program - Healthy Indonesia Card (JKN-KIS), which is now managed by BPJS Health with the mission to provide health protection for all Indonesian citizens.<sup>1</sup>

The Indonesian government has the ambition to achieve Universal Health Coverage (*Universal Health Coverage* or UHC) in 2019, with the main aim of providing a uniform health service package, both medical and non-medical (care categories) without discrimination, for the sake of creating social justice for all citizens. This is confirmed in Article 23 Paragraph 4 of Law no. 40 of 2004 concerning the National Social Security System (SJSN), which stipulates that JKN-KIS participants who require inpatient hospital treatment must receive services in a standard class, which ideally is class I (one room for three patients) or at least class II. However, even though the JKN-KIS program has been running for four years, the realization of this mandate has still not been achieved.<sup>2</sup> As a step to implement Law no. 40 of 2004 concerning the National Social Security System (SJSN), a series of modifications and improvements have been made to regulations relating to BPJS Health. One of the significant transformations announced by the Indonesian Government is the replacement of the old inpatient care class grouping system with the implementation of Standard Inpatient Classes (KRIS).<sup>3</sup>

The National Social Security Council (DJSN) has conducted research on the idea of a Standard Inpatient Class (KRIS), taking into account various factors. These factors include the growth in participation rates in the National Health Insurance (JKN) program, the availability of beds in various treatment classes in hospitals, the financial capacity of the government and the public to pay premiums, and the level of use of JKN services.<sup>4</sup> Regarding this policy, DJSN has determined twelve criteria that hospitals must fulfill to implement KRIS. Phased implementation of the nine criteria starting July 2022.<sup>5</sup>

In administering JKN through BPJS Health, the Standard Inpatient Class (KRIS), also known as the Single Class, will replace the current BPJS Health membership cluster or class which consists of classes 1, 2, and 3. In 2023, BPJS Health participants will get the same, comparable and standard service (PIT, 2022) There is no longer a division into inpatient classes because every BPJS Health participant gets the same service.<sup>6</sup>

The implementation of the KRIS JKN policy is the implementation of a new policy and is ongoing in 2023. Preliminary research focuses more on hospital readiness in responding to the new KRIS JKN policy as well as public knowledge about what KRIS JKN is. There has been

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<sup>1</sup> Syarifuddin Syarifuddin, Chandra Nurcahyo, and Andi Afdal, "Manajemen SDM Dalam Penyelenggaraan Program JKN-KIS: Sebuah Tinjauan Literatur," *Jurnal Jaminan Kesehatan Nasional* 1, no. 2 (2021): 166–193.

<sup>2</sup> Golda Kurniawati et al., "Kesiapan Penerapan Pelayanan Kelas Standar Rawat Inap Dan Persepsi Pemangku Kepentingan," *Jurnal Jaminan Kesehatan Nasional* 1, no. 1 (2021): 33–43.

<sup>3</sup> Adiwan Qodar, Heriyadi Heriyadi, and Nur Afifah, "Pengaruh Hospital Service Quality Dan Customer Perceived Value Terhadap Kepuasan Dan Keinginan Membayar Iuran BPJS Kesehatan Dimoderasi Perubahan Kebijakan Baru Kelas Rawat Inap Standar Di Indonesia," *Equator Journal of Management and Entrepreneurship (EJME)* 10, no. 04 (n.d.): 194–211.

<sup>4</sup> Finish Weny Arntanti, "Upaya Pemeratan Kesehatan Nasional Melalui Kebijakan Kelas Standar (Literatur Review)," *Media Bina Ilmiah* 18, no. 2 (2023): 321–328.

<sup>5</sup> Miftahul Qurnaini Mz et al., "Analisis Kesiapan Rumah Sakit Bhayangkara TK II Medan Terhadap Pelaksanaan Kelas Rawat Inap Standar (KRIS)," *Jurnal Kesehatan Tambusai* 4, no. 2 (2023): 1893–1911.

<sup>6</sup> Athalia Revanna Salangka, "Pengawasan Bagi Badan Penyelenggara Jaminan Sosial (Bpjs) Kesehatan Dilihat Dari Hukum Administrasi Negara," *Lex Privatum* 12, no. 3 (2023).

no research that discusses the KRIS JKN study from an *istihsān* perspective. Therefore, this research tries to explore the implementation of the KRIS JKN policy based on *istihsān* theory analysis.

The research method used in this article is a qualitative approach, which aims to understand the implementation of the Standard Inpatient Class Policy (KRIS) in the National Health Insurance Program (JKN). This research collects data through a comprehensive literature review, including various sources such as scientific articles, books, research reports, government regulations, and other official documents relevant to KRIS and JKN. Data analysis was carried out using *istihsān* theory, which allows exceptions from general rules in order to achieve justice and public benefit, to evaluate the implementation of KRIS as a government step in achieving social justice and equal access to health services. This research also considers public knowledge and perceptions of KRIS, which were obtained through a survey of BPJS Health members.

## 2. Discussion

### 2.1 Standard Inpatient Class (KRIS)

Implementation of the Standard Inpatient Class Policy (KRIS) aims to realize the principles of social justice in the National Health Insurance (JKN) program by providing inpatient services that have uniform quality standards.<sup>7</sup> This policy is based on Law no. 40 of 2004 concerning the National Social Security System (SJSN), especially Article 19 which emphasizes the principles of social insurance and equality, as well as Article 23 Paragraph (4) which states that hospital services for participants who require hospitalization must comply with the class standards set. This standardization has also been integrated into the 2012-2019 JKN Strategic Plan. To achieve this goal, the Government issued Presidential Regulation no. 64/2020 as the second amendment to Presidential Decree no. 82/2018 concerning JKN, which regulates the continuity of JKN financing and the implementation of KRIS which must be implemented no later than 2020.<sup>8</sup>

Furthermore, PP Number 47/2021 concerning the Implementation of the Hospital Sector stipulates that standard class inpatient services must begin on January 1 2023 (PP 47 of 2021, INFID, 2022). Social insurance and equity are the basis of KRIS according to the opinion of DJSN as the initiator. This standardization was created to ensure that all health insurance recipients receive services according to their medical needs, not based on the contributions paid. The Standard Inpatient Class Policy (KRIS) was then created with a focus on inpatient services in hospitals.<sup>9</sup>

Hospitals must meet twelve criteria in implementing the KRIS policy. Technical instructions for the readiness of hospital infrastructure for the implementation of standard inpatient classes for national health insurance include these twelve criteria.<sup>10</sup> However, the

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<sup>7</sup> Sri Dharmayanti, Ardiansah Ardiansah, and Bagio Kadaryanto, "Pemenuhan Ketersediaan Kelas Rawat Inap Standar Bagi Peserta Jaminan Kesehatan Nasional Dalam Perspektif Hak Asasi Manusia," *Innovative: Journal Of Social Science Research* 3, no. 6 (2023): 1171–1181.

<sup>8</sup> Mz et al., "Analisis Kesiapan Rumah Sakit Bhayangkara TK II Medan Terhadap Pelaksanaan Kelas Rawat Inap Standar (KRIS)."

<sup>9</sup> Ardat Ahmad and Indra Jaya, *Biostatistik: Statistik Dalam Penelitian Kesehatan* (Prenada Media, 2021).

<sup>10</sup> Widiya Wati, Rizanda Machmud, and Yurniwati Yurniwati, "Analisis Kualitas Pelayanan Program Jaminan Kesehatan Nasional Di Ruang Rawat Inap Rumah Sakit X Kabupaten Kerinci," *Jurnal Kesehatan Andalas* 8,

focus of implementing KRIS is on non-medical care facilities and infrastructure, such as inpatient rooms.<sup>11</sup> One of the most striking is the reduction in the number of inpatient beds in hospitals. For example, if currently class 3 hospitals can provide 6 to 10 beds per room, while class 1 is provided with 1 or 2 beds, with the implementation of KRIS hospitals are determined to provide a maximum of 6 beds per room (Ministry of Health, 2022). Hospitals must meet twelve criteria to implement the elimination of the class 1, 2 and 3 system for BPJS Health inpatients, one of which is reducing beds. Dante Saksono, Deputy Minister of Health of Indonesia, assured in an interview that the quality of hospital services would not be affected by the reduction in beds.<sup>12</sup>

In the future, the standard class in the membership program will be divided into two types: Standard Class A which is intended for members who are Contribution Assistance Recipients (PBI), and Standard Class B which is intended for non-PBI members or those who join independently. Participants who work and receive a salary (PPU) as well as workers who do not receive a salary (PBPU) will be categorized as non-PBI members. They will get a variety of facilities, including differences in room size and number of beds available. For PBI class, the specified room size is a minimum of 7.2 square meters with a capacity of up to six beds per room. Meanwhile, for non-PBI or independent classes, the specified room size is a minimum of 10 square meters with a capacity of up to four beds per room.<sup>13</sup>

Based on the principles of social insurance and equality contained in Law no. 40 of 2004 concerning the National Social Security System, as well as Article 23 paragraph (4) which regulates standard classes, the national health insurance program has transformed the inpatient care class into a standard class. This transformation is also strengthened through Presidential Regulation no. 64 of 2020 concerning Health Insurance and Government Regulation no. 47 of 2021 concerning Health Insurance Management. To implement this standard inpatient class, collaboration between legal institutions is needed.<sup>14</sup>

In the results of the analysis carried out by BPKN-RI (National Consumer Protection Agency of the Republic of Indonesia) it was stated that even though 81% of hospitals were ready to implement the KRIS KN policy, there would still be concerns that the program would have an impact on society.<sup>15</sup> Impacts that can be analyzed include the possibility of an increase in JKN contributions for Non-Wage Earning Workers or known as JKN Mandiri, especially in class III which will of course be an additional burden. On the other hand, class I

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no. 2 (2019): 366–375.

<sup>11</sup> Siaran Pers Nomor 031/HM.01/VI/2022, *Penyesuaian Iuran BPJS Kesehatan Dan Pemberlakuan Kelas Rawat Inap Standar*, 2022, accessed July 13, 2023, <https://ombudsman.go.id/news/r/penyesuaian-iuran-bpjs-kesehatan-dan-pemberlakuan-kelas-rawat-inap-standar>.

<sup>12</sup> Arrijal Rahman, 2023, accessed February 7, 2023, <https://www.cnbcindonesia.com/news/20230213063302-4-413140/membedah-kelas-standar-bpjs-kesehatan-pengganti-kelas-123>.

<sup>13</sup> Dea Amalia Putri et al., "Analisis Respon Masyarakat Dalam Implementasi Kebijakan Kelas Standar BPJS Kesehatan Di Desa Bandar Selamat Kecamatan Aek Songsongan," *Humantech: Jurnal Ilmiah Multidisiplin Indonesia* 1, no. 8 (2022): 1121–1128; "Penyesuaian Iuran BPJS Kesehatan Dan Pemberlakuan Kelas Rawat Inap Standar" (Ombudsman Republik Indonesia, 2022), accessed August 11, 2023, [https://yankes.kemkes.go.id/unduhuan/fileunduhuan\\_1661758868\\_683827.pdf](https://yankes.kemkes.go.id/unduhuan/fileunduhuan_1661758868_683827.pdf).

<sup>14</sup> Novi Hamzah, "Rujukan Berjenjang Dalam Pelayanan Rumah Sakit Ditinjau Dari Segi Hukum," *Jurnal HUKUM BISNIS* 4, no. 1 (2020): 376–387.

<sup>15</sup> Azura Arisa, Sri Purwanti, and Rima Diaty, "Kesiapan RSUD Dr. H. Moch Anshari Shaleh Banjarmasin Menghadapi Regulasi PP No 47 2021 Tentang Implementasi Kelas Rawat Inap Standar (KRIS) JKN Di Tahun 2022," *Jurnal Kesehatan Qamarul Huda* 11, no. 1 (2023): 264–270.

participants will feel unfair because they pay for class I service facilities while receiving the same facilities as class III. From the hospital's point of view, limiting the number of bedrooms to 4 per room certainly requires renovation at a significant cost. Apart from that, it also reduces hospital inpatient capitation which results in reduced hospital income.<sup>16</sup>

Referring to the principles of social insurance and equality outlined in Law no. 40 of 2004 concerning the National Social Security System, as well as Article 23 paragraph (4) which determines standard classes, there have been changes in the national health insurance system which have led to the establishment of standard classes for inpatient services. This change is also supported by Presidential Regulation no. 64 of 2020 concerning Health Insurance and Government Regulation no. 47 of 2021 concerning the Implementation of Health Insurance. However, there is still legal uncertainty regarding the government's role in implementing the standard inpatient class program, which influences the legal view of it.<sup>17</sup> In implementing standard inpatient classes, synergy between various legal entities is required. Contract models between hospitals that implement standard inpatient classes tend to be similar to previously existing collaboration agreements. This standard inpatient class program shows several differences compared to the national health insurance program, especially in terms of membership and inpatient facilities. The *ius constituendum* aspect of the standard inpatient class program in national health insurance is a way to ensure health services that have a clear legal basis, designed by the government as a legal policy maker mandated by the state.<sup>18</sup>

The JKN KRIS initiative is designed to improve the physical aspects of health facilities, not directly improve the quality of health services themselves, considering that BPJS Health has adequate resources to operate this program. There was a shift from Indonesia's case-based payment system (ina-CBGs) to a global budget system combined with ina-CBGs, which brought about other changes. From the participant's perspective, access to medicines and doctor visits are the most important aspects of the JKN Program. Participants believed that the right to health services should be accessible at any time when needed.<sup>19</sup>

## 2.2 Hospital Readiness in Implementing KRIS

Hospitals are the first institutions affected by the implementation of the standard inpatient class policy. The results of the 2021 KRI JKN assessment carried out by BPJS with participants from 1916 hospitals in 5 regions of Indonesia show that 81% of hospitals are ready to implement KRIS, although with the caveat that it still requires small-scale infrastructure

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<sup>16</sup> Zahry Vandawati Chumaida et al., "Kepesertaan Program Bpjs Kesehatan Di Tengah Wabah Pandemic Covid-19," *Lex Jurnal: Kajian Hukum Dan Keadilan* 4, no. 2 (2020).

<sup>17</sup> Aria Yuditia, Yusup Hidayat, and Suparji Achmad, "Pelaksanaan Jaminan Kesehatan Nasional Oleh BPJS Berdasarkan Undang-Undang No. 40 Tahun 2004 Tentang Sistem Jaminan Sosial Nasional," *Jurnal Magister Ilmu Hukum* 6, no. 1 (2023): 43–61.

<sup>18</sup> Andreas Prima Yosep and Rahmi Ayunda, "Analisa Perbandingan Hukum Mengenai Pengaturan Rumah Sakit Di Indonesia Dan Singapura," vol. 1, 2021, 357–363.

<sup>19</sup> John Amos et al., *Administrasi Pelayanan Kesehatan Masyarakat* (Get Press, 2022).

adjustments.<sup>20</sup> In fact, the government has targeted all hospitals in Indonesia to implement the KRIS policy in early 2024. However, this has been postponed to January 1, 2025.<sup>21</sup>

In the implementation process, there are 5 hospitals belonging to the central government that have carried out trials of implementing KRIS in 2022. RSUP Kariadi Semarang, RSUP Surakarta, RSUP Dr. Tadjuddin Chalid Makassar, RSUP Dr. Johannes Leimena Ambon, and RSUP Dr. Rivai Abdullah Palembang is the fifth hospital. Of the five hospitals, 98% of them have met the KRIS criteria. Of course, infrastructure improvements require a large budget. Following this, 15 other hospitals will be appointed by the government in 2023.<sup>22</sup>

DJSN and BPJS Health differ in their opinions about how important the implementation of KRIS is. BPJS Health considers its implementation to be no longer relevant. BPJS Health said that KRIS was created through Presidential Decree no. 64 of 2020 to resolve the BPJS Health budget deficit from 2014-2019. They consider it irrelevant to implement when BPJS Health has had a surplus since 2020-2021. On the other hand, BPJS Health believes that standardizing classes instead of standard classes can improve participant health services.<sup>23</sup>

### 2.3 Review of Public Knowledge regarding KRIS

The concept of Standard Inpatient Class Policy (KRIS) in the health service sector is not yet fully familiar among the public. Until 2023, the government will continue to strive to adjust hospital facilities to comply with Government Regulation (PP) No 47/2021. Based on a survey conducted on 2000 BPJS Health members regarding KRIS, around 69-70% of respondents expressed their disagreement with the implementation of KRIS. The survey included responses from all three classes of participation. Participants from classes 1 and 2 who do not agree with KRIS prefer to maintain their original membership class, even though there is an offer to reduce the amount of contributions in the KRIS scheme. The same situation was seen among class 3 participants, who also rejected a move to a higher class if it had to be accompanied by an increase in fees.<sup>24</sup>

The economic needs and abilities of the community in participating in this health insurance program are quite influential in the community's perspective on the plan to implement KRIS. The findings in this research show that the public places great emphasis on adjusting the amount of contributions in the KRIS policy. Regarding the varied needs of BPJS Kesehatan users, it was revealed that the geographical and demographic aspects of users play a role in their perception of the existence of KRIS.<sup>25</sup>

<sup>20</sup> Kementerian Kesehatan, "Laporan Pengelolaan Program Dan Keuangan BPJS Kesehatan Tahun 2021 (Auditan)" (Badan Kebijakan Pembangunan Kesehatan (BKPK), 2021), <https://www.badankebijakan.kemkes.go.id/laporan-keuangan/>.

<sup>21</sup> Deny Sulistyorini and Mokhamad Khoirul Huda, "Perlindungan Hukum Rumah Sakit Yang Belum Memenuhi Kelas Rawat Inap Standar JKN," *YUSTISIA MERDEKA: Jurnal Ilmiah Hukum* 8, no. 2 (2022): 48–56.

<sup>22</sup> Putri Candaika, "Gambaran Kesiapan Rumah Sakit Umum Daerah (RSUD) Menghadapi Kebijakan Kelas Rawat Inap Standar (KRIS) Tahun 2022" (2022).

<sup>23</sup> Rahmi Fajarwati, Nurmiati Muchlis, and Andi Surahman Batara, "Faktor Internal Dan Eksternal Kesiapan Masyarakat Tentang Rencana Kebijakan Keseragaman Kelas BPJS," *Jurnal Mirai Management* 8, no. 2 (2023): 327–343.

<sup>24</sup> Ari Wibowo et al., *Jaminan Kesehatan Nasional BPJS Kesehatan: Tata Kelola, Efektivitas Dan Perbandingan Dengan Beberapa Negara Kawasan ASEAN*, 1st ed. (Jakarta Selatan, 2022).

<sup>25</sup> Pramana Pramana and Chairunnisa Widya Priastuty, "Perspektif Masyarakat Pengguna BPJS Kesehatan

Public responses regarding the Standard Inpatient Class (KRIS) in the National Health Insurance (JKN) program can vary. Some people may have a positive view because the principle of equality in health services guaranteed by the state, where participants who are able to help (subsidize) participants who are unable, reflects the implementation of the principle of social insurance. However, there are also concerns that arise from the community regarding the quality and availability of the health services they will receive, especially if the surrounding environment does not have adequate facilities to serve BPJS patients uniformly. Public perception of BPJS class 1 before the implementation of KRIS showed that some people considered it positive because it provided access to health services in hospitals and high-class health facilities at more affordable costs, including benefits such as private rooms and a choice of doctors. However, with the plan to eliminate the BPJS Health participant class and the implementation of the KRIS system, the community may need time to understand and adapt to these changes.<sup>26</sup>

Overall, people's readiness for KRIS and their perception of this policy will be influenced by various factors, including their understanding of the program's mechanisms and benefits, as well as the level of participation and awareness of the importance of having health insurance. For this reason, it is important for the government and related parties to carry out effective outreach and ensure that health infrastructure is adequate to support the implementation of KRIS.<sup>27</sup>

## 2.4 Istihsān Theory

Etymologically, *istihsān* comes from the root word *ḥasana-yahsunu-ḥasanan* whose nominal form is *al-ḥusnu*, which means good, as opposed to bad. This word then had several letters added to become *istihsān*, which means viewing something as good, even though in other people's opinion it may not be so.<sup>28</sup> Ibnu As-Subki describes two meanings of *istihsān*: first, choosing a legal analogy (*qiyās*) that is stronger than another analogy that is less strong; second, replacing arguments with people's habits to achieve a benefit. The first sense is generally accepted because the stronger analogy always takes priority. However, the second meaning is often debated because customs are only considered valid if they are in accordance with practices at the time of the Prophet Muhammad SAW or after, and do not conflict with the teachings of the Prophet or the consensus of the people, and are supported by clear evidence, either in the form of text or agreement. From here, *istihsān* can be interpreted as the process of choosing an option that is considered better or profitable. This is like a person who is faced with two good options, but there are factors that encourage him to abandon one option and choose the other because it is considered more appropriate to follow.<sup>29</sup>

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Mengenai Kebijakan Kelas Rawat Inap Standar (KRIS),” *Jurnal Jaminan Kesehatan Nasional* 3, no. 1 (June 30, 2023), accessed December 31, 2023, <https://jurnal-jkn.bpjs-kesehatan.go.id/index.php/jjkn/article/view/98>.

<sup>26</sup> Fajarwati, Muchlis, and Batara, “Faktor Internal Dan Eksternal Kesiapan Masyarakat Tentang Rencana Kebijakan Keseragaman Kelas BPJS.”

<sup>27</sup> Sri Wijati, Syahril Djaddang, and Zulkifli Zulkifli, “Strategi Layanan Pasien Dengan Kualitas Prima Untuk Peningkatan Kepuasan Pasien Rumah Sakit Umum Tipe B,” *EKOBISMAN: JURNAL EKONOMI BISNIS MANAJEMEN* 7, no. 3 (2023): 232–269.

<sup>28</sup> Muhammad Al Zuhri and Fery Dona, “Penggunaan Alkohol Untuk Kepentingan Medis Tinjauan Istihsān,” *Journal of Law, Society, and Islamic Civilization* 9, no. 01 (2021): 40–49.

<sup>29</sup> Fitriani Saragih, Sudirman Suparmin, and Tuti Anggraini, “Relevansi Istihsān Dan Istishab Di Masa Kini Dan Mendatang,” *Jurnal AKMAMI (Akuntansi Manajemen Ekonomi)* 3, no. 2 (2022): 295–304.

According to Abu Hanifah, the theory of *istihsān* is a method of Islamic legal reasoning that allows clear general provisions to be set aside in favor of more specific provisions because there are strong reasons that support them.<sup>30</sup> Abu Hanifah uses *istihsān* not based on personal desire or without strong (*burhān*) and specific (*ḥujjah*) evidence, but based on strong and relevant evidence with the context.<sup>31</sup> *Istihsān* in the context of Abu Hanifah is not done arbitrarily or without a strong basis, and does not contradict the existing *syar'i* arguments.<sup>32</sup> Abu Hanifah and his sincere followers used *istihsān* in a responsible way and did not name Abu Hanifah for political gain or without argument.<sup>33</sup>

Abu Hanifah did not do *istihsān* in the sense criticized by Al-Syafi'i, that is to issue fatwas according to taste and without the basis of *naṣ* or *qiyās*.<sup>34</sup> On the other hand, the *istihsān* done by Abu Hanifah and the Hanafiyah scholars are in accordance with the principles that have been established and do not seek pleasure or personal satisfaction.<sup>35</sup> Therefore, the rejection of Hanafiyah *istihsān* by Al-Syafi'i is more aimed at the use of *istihsān* that contains the element of *talazduz* (according to taste without proof), not to *istihsān* that is in accordance with the spirit of the Sharia text.<sup>36</sup>

*Istihsān* theory is a method of legal reasoning in Islam that allows exceptions from general rules in order to achieve justice or greater benefit.<sup>37</sup> *Istihsān*, which literally means 'looking good' or 'choosing the better', is used by Islamic jurists to resolve cases that are not explicitly regulated in the *nash* (*qaṭ'i* religious texts) or to avoid wrong outcomes. harsh or unfair that may arise from the strict application of *qiyās* (analogy).<sup>38</sup>

In the Indonesian context, *istihsān* is considered relevant and has a strong influence when applied in various legal cases.<sup>39</sup> For example, *istihsān* can be used to determine the obligation to register marriages, implement health protocols during the COVID-19 pandemic

<sup>30</sup> Habiburrahman Rizapoor and Mohammad Rashid Rahimi, "Imam Abu Hanifah: The Vanguard of Moderation in Islamic Jurisprudence and the Global Dissemination of Moderate Islam," *Mazahib* 22, no. 2 (December 4, 2023): 213–242.

<sup>31</sup> Afthon Yazid and Arif Sugitanata, "The Complexity and Diversity Methods of Legal Discovery in Islam: In the Perspective Ulama of Mazhab al-Arba'ah," *Kawanua International Journal of Multicultural Studies* 4, no. 2 (2023): 152–164.

<sup>32</sup> Yusno Abdullah Ota, "ISTIHSĀN (Telaah Sosiologi-Kultural Pemikiran Imam Hanafi)," *Jurnal Ilmiah Al-Syir'ah* 6, no. 2 (2016).

<sup>33</sup> Henderi Kusmidi, "Eksistensi Istihsān Sebagai Dalil Istinbath Fiqh Siyasaḥ," *Al Ijarah: Jurnal Pemerintahan Dan Politik Islam* 6, no. 2 (2021): 156–170.

<sup>34</sup> Moh Hafid, "The Concept of Istihsān Abu Hanifah in Indonesian Islamic Family Law (Review of Marriage Registration as an Accumulative Condition)," *LEGAL BRIEF* 11, no. 2 (2022): 583–595.

<sup>35</sup> Ahmad Hasan, "Early Modes Of Ijtihād: Ra'y, Qiyās And Istihsān," *Islamic Studies* 6, no. 1 (1967): 47–79.

<sup>36</sup> Bakhtiar Hasan, "Penolakan Imam Syafi'i Terhadap Istihsān Sebagai Salah Satu Metode Istinbath Hukum Islam," *Al-Risalah* 15, no. 01 (2018): 58–73.

<sup>37</sup> Ahmed Fekry Ibrahim, "Customary Practices as Exigencies in Islamic Law: Between a Source of Law and a Legal Maxim," *Oriens* 46, no. 1–2 (2018): 222–261.

<sup>38</sup> Abdul Mun'im Saleh, "Istihsān Dalam Madhhab Shāfi'i: Tinjauan Atas Kasus Mustathnayāt Madhhab Shāfi'i Perspektif Istihsān Madhhab Hanafi," *Justicia Islamica: Jurnal Kajian Hukum dan Sosial* 16, no. 2 (2019): 459–478.

<sup>39</sup> Jm Muslimin and M Abdul Kharis, "Istihsān and Istishab in Islamic Legal Reasoning: Towards the Extension of Legal Finding in the Context of Indonesia," *Al-Risalah* 20, no. 2 (December 27, 2020): 163–179; Afthon Yazid, Arif Sugitanata, and Siti Aminah, "Memetakan Cakrawala Intelektual: Menggali Teori Ushul Fikih Yudian Wahyudi Dan Wahbah Zuhaili," *Tasyri': Journal of Islamic Law* 3, no. 1 (2024): 123–153.



when Muslims perform prayers at mosques, as well as in the use of credit cards and digital commerce as transaction tools. Apart from that, *istihsān* also supports the legitimacy of accepting Pancasila as the basis of the Republic of Indonesia, the 1945 Constitution, and modern legislative principles such as the principle of legality.<sup>40</sup> The application of *istihsān* is based on the principles of *maṣlaḥah muḥaqqah* (proven benefit) and *ibāḥah aṣliyyah* (basic assumption of permission), where there is no explicit prohibition in the Qur'an and Hadith on a problem, thus providing space for *istihsān* to be used in resolving cases.

## 2.5 Implementation KRIS by JKN at the Hospital in *Istihsān* Perspective

The implementation of the Standard Inpatient Class (KRIS) by the National Health Insurance (JKN) in hospitals is a step taken by the Indonesian government to realize the principles of social justice in health services. KRIS aims to provide inpatient services with uniform quality standards for all BPJS Health participants, without differentiating between membership classes which previously consisted of classes 1, 2 and 3. In the perspective of *istihsān* theory, which is a method of legal reasoning in the Islamic legal tradition which allows exceptions from general rules in order to achieve justice or prevent hardship, the implementation of KRIS by JKN can be seen as an effort to achieve social justice and equality in access to health services. KRIS is expected to overcome inequalities that may arise from the previous membership class system, where the quality of inpatient services received by participants depended on the membership class and the fees paid.

This policy is based on Law no. 40 of 2004 concerning the National Social Security System (SJSN) and has been integrated into the 2012-2019 JKN Strategic Plan.<sup>41</sup> The government issued Presidential Regulation no. 64/2020 as the second amendment to Presidential Decree no. 82/2018 concerning JKN. Which regulates the continuity of JKN financing and the implementation of KRIS which must be implemented no later than 2020.<sup>42</sup>

However, the implementation of KRIS also faces challenges, including adjusting hospital facilities to comply with established standards and public knowledge that does not yet fully understand the benefits and implementation of this new system. In addition, there are differences of opinion between BPJS Health and the National Social Security Council (DJSN) regarding the importance of implementing KRIS, which shows the need for consensus and better communication between stakeholders.<sup>43</sup> The public has mixed views on KRIS, with major concerns revolving around the availability of health services and the costs that may be involved. In this context, the *istihsān* theory can be considered as a useful framework for assessing the implementation of KRIS, with the aim of achieving greater justice or benefit for society.

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<sup>40</sup> Syafiq Hasyim, *The Shariatization of Indonesia: The Politics of the Council of Indonesian Ulama (Majelis Ulama Indonesia, MUI)* (BRILL, 2023), accessed January 4, 2024, <https://brill.com/view/title/63445>.

<sup>41</sup> Dewan Jaminan Sosial Nasional, "Himpunan Peraturan Sistem Jaminan Sosial Nasional (SJSN) Dan Kelembagaan Dewan Jaminan Sosial Nasional" (2012).

<sup>42</sup> Slamet Riyanto and Siti Nur Intihani, "Kajian Legal Drafting Urgensi Perubahan Peraturan Presiden Tentang Jaminan Kesehatan," *VERITAS* 9, no. 1 (2023): 54–71.

<sup>43</sup> Sulistyorini and Huda, "Perlindungan Hukum Rumah Sakit Yang Belum Memenuhi Kelas Rawat Inap Standar JKN."

### 3. Conclusion

The JKN KRIS initiative in Indonesia aims to improve the physical aspects of health facilities and create equality in access to health services through the principles of social justice. This program is regulated within the legal framework contained in the SJSN Law and Presidential Regulations relating to JKN. Even though there are good intentions from the government to implement Standard Inpatient Classes (KRIS) in order to provide uniform quality inpatient services, there are challenges in its implementation. These challenges include adapting hospital facilities and a lack of public understanding of the benefits and implementation of this new system. Apart from that, there are differences of opinion between BPJS Health and DJSN as well as varying views from the community regarding their economic readiness and capabilities regarding KRIS. This research also highlights the need for legal clarity regarding the government's role in implementing KRIS to ensure health services are based on clear laws.

By using the theory of *istihsān*, which is a principle of Islamic law that allows exceptions from general rules in order to achieve justice and the general benefit, it can be seen that the application of KRIS in JKN reflects efforts to achieve social justice. This theory supports flexibility in the application of law to accommodate changing social and economic conditions, as well as to overcome injustices that may arise from the application of rigid rules. In this case, the Indonesian government, by implementing KRIS, is trying to adapt the health system to the dynamic needs and conditions of society. Despite the challenges, the main goal is to ensure that every citizen has equal access to quality health services, in accordance with the principles of social justice and equality mandated by the SJSN Law. The KRIS initiative, although faced with obstacles such as infrastructure adjustments and community understanding, remains focused on improving the quality of health services that can be accessed by all levels of society without discrimination. The government, in this case, plays an important role in ensuring that the regulations and policies implemented not only meet existing legal standards but are also responsive to the needs and socio-economic conditions of the community. In this way, it is hoped that KRIS can be a step forward in creating a more equitable and inclusive health system in Indonesia.

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