

## STATE PROTECTION OF SOCIETY REGARDING SOCIAL INEQUALITY IN INDONESIA

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### ABSTRACT

*Social inequality is one of the main problems in the Indonesian economy. The level of wealth in Indonesia has experienced significant growth. However, this growth has left wealth inequality virtually unchanged. Social inequality can create certain impacts on society. Therefore, as a state, Indonesia has rights and obligations to protect its citizens, one of them is regarding social inequality. The purpose of this paper is to find out how is the state's protection of society regarding social inequality according to positive law in Indonesia and what has been done by the Indonesian government in an effort to protect the welfare of Indonesian citizens. The research method used is normative legal research with statutory approach. The data collection technique used is through the literature on legal materials related to the object of research, such as statutory regulations, books, doctrines and legal journals related to the topic of research. The state, according to the 1945 Constitution of the Republic of Indonesia, has the responsibility through the government to overcome the social inequalities by creating and improving social welfare in Indonesia. The government has created several efforts to improve people welfare such as Child Welfare Protection, developing a social security system and empowering the poor, as well as providing health services and public service facilities for the people of Indonesia.*

**Keywords:** State protection, society in Indonesia, social inequality

### 1. PREFACE

Indonesia is the fourth-most populated country in the world and sixteenth by landmass. It is also known that Indonesia is the world's largest archipelagic state, and is characterized by great ecological, economic, social, and demographic diversity. In Indonesia, poverty and social inequality are one of the main problems of economic development. Economic progress can increase the standard of living and social welfare. (Prasodjo, 2017). Improving the standard of living and social welfare is expected to also overcome the problem of poverty and social inequality. According to Sukmana (2005), inequality is a condition of unequal access to economic resources so that it can be said that inequality is a great vulnerability because the problem of inequality is closely related to the problem of poverty. Social inequality is an unequal distribution (injustice and inequality) experienced by individuals and groups who are considered important in a society and unequal judgments and exclusions based on social position and lifestyle (Dumairy, 1997). Social inequality according to (Abdain, 2014) is a social imbalance that exists in society so that it makes a very striking difference. Or it can also be interpreted as a situation where the rich have a higher position and are more powerful than the poor. Social inequality is a phenomenon that can in essence occur in any country (Anonym, 2017). And according to (Islahiha, Frita, and Maulana 2019) Social inequality is a global problem that affects various countries, especially in countries that are still developing. Moreover, this case has been the main topic of discussion for determining economic policies in various countries since ancient times. This is due to the fact that often development policies that have been set to increase economic development in a country actually exacerbate the situation of socio-economic inequality in that country, also inequality of distribution so that some parties benefit while other parties are disadvantaged.

Over the past two decades, the gap between the richest and the rest in Indonesia has widened faster than in any other country in South-East Asia. Indonesia currently is the sixth country with the greatest wealth inequality in the world. Today, the four richest men in Indonesia have more wealth than the combined total of the poorest 100 million people.

Social inequality is also increasing almost everywhere in the world. Inequality has grown the most rapidly in Russia, India, and China, where inequality has long been suspected but there is not enough accurate data to provide a reliable picture. The least unequal region in the world is Europe, having experienced a slight increase in inequality. In the lower half of the table are Sub-Saharan Africa, Brazil and India, with the Middle East the most unequal region.

Since 1980, the report shows that inequality is increasing at different speeds in most regions of the world. This is measured by the top 10% of the income distribution of how much of a country's total income belongs to the country's richest 10%. Places where inequality has remained stable are places where inequality is already at very high levels. Consistent with this trend, we observe that the Middle East is perhaps the most unequal region, where the top 10% of earners consistently earn more than 60% of national income. The World Inequality Report also shows that the Middle East region may be even more unequal than Central and South America, long considered to be among the most unequal places on Earth.

The 2020 Global Wealth Report places Indonesia in the fourth place for the country with the highest level of inequality in the world, after Russia, India and Thailand. Even though wealth per person increased 6-fold during the 2000-2016 period, only half of wealth assets in Indonesia are controlled by only 1 percent of the richest people.

According to the 2022 World Inequality Report, in the last two decades, Indonesia's economic inequality has not changed significantly. The report noted that during the 2001-2021 period as much as 50% of Indonesia's population only had less than 5% of national household wealth (total household wealth). Meanwhile, the other 10% of the population owned around 60% of national household wealth during the same period, as shown in the graph. In this report, total household wealth is defined as the sum of all financial assets (including stocks and other securities) and non-financial assets (such as houses) owned by Indonesian households.

Apart from that, from the quote from the World Inequality Report 2022, since 1999 the level of wealth in Indonesia has experienced significant growth. However, this growth has left wealth inequality virtually unchanged. The report also notes that in 2021 the income gap ratio in Indonesia will be at the level of 1 to 19. This means that the population of the top economic class has an average income 19 times higher than the population of the lowest economic class.

Socio economic inequality can occur because development and modernization are not carried out evenly and in a balanced way. Inequality in development causes development outcomes received by the community to be not evenly distributed. The factors that cause social inequality are differences in natural resources, government policies, the influence of globalization, demographics, and geographical conditions and locations. The occurrence of this social inequality certainly creates impacts, such as high crime rates, poverty and low health quality. Based on data from Badan Pusat Statistik (BPS), the crime rate in Indonesia is 90 per 100,000 residents in 2021. This means that out of 100,000 residents last year, 90 of them were victims of crime.

According to Article 1 Paragraph 3 of the 1945 Constitution of the Republic of Indonesia, The State of Indonesia is a state based on law. Which means that the state in carrying out its administrative powers is based on law. Indonesia as a state certainly has rights and obligations to protect its citizens, one of which is that the state has a responsibility related to social inequality and creating social welfare. This is based on the 1945 Constitution of the Republic of Indonesia. Based on the background above, the formulation of the problem to be discussed in this paper is:

- a) How is the state's protection of society regarding social inequality according to positive law in Indonesia?
- b) What has been done by the Indonesian government in an effort to protect the welfare of Indonesian citizens?

## 2. RESEARCH METHOD

The research method that being used for the paper entitled State Protection of Society Regarding Social Inequality In Indonesia is normative legal research with statutory approach. Normative legal research is one of legal research methods that carried out by examining literature and secondary materials solely through a review of laws and regulations as well as various literature relating to the issues studied (Soekanto & Mamudji, 2015). The reason in using the the normative legal research with a statute approach is because the author would like to comprehensively examine various laws and regulations elaborated on related literature at the legal dogmatic level regarding the state protection of society regarding social inequality in indonesia.

Since in legal research data is unknown, in order to obtain a solution to a legal issue, research sources are needed in the form of primary legal materials and secondary legal materials (Marzuki, 2019). The primary legal materials used in writing this paper are: 1945 Constitution of the Republic of Indonesia, Law Number 40 of 2009 on Social Welfare. While the secondary legal materials used in writing this paper include books, journals, scientific papers, and websites.

## 3. RESULT AND DISCUSSION

### **The State Protection of Society Regarding Inequality According to Positive Law in Indonesia**

In short, social inequality is an imbalance in social society which results in very striking differences between one another. Richard Wilkinson and Kate Pickett (2009) argue that increasingly severe social inequality can lead to weaknesses in society, including the increasing number in crime, drugs & narcotics abuse as well as other addictive substances. There is a potential negative public impact that may occur as a result of social inequality, so eradicating social inequality is one of the problems that the government must immediately resolve.

Indonesia as a state of law, means that Indonesia is carrying out its government based on law supremacy and aims to organize law and order (1997). The main basis for the government to overcome the social inequalities and advance the welfare of the Indonesian societies is listed in the fourth paragraph of the Preamble to 1945 Constitution of the Republic of Indonesia, which states.

*“Subsequent thereto, to form a Government of the State of Indonesia which shall protect the whole Indonesian nation and the entire native land of Indonesia, and to advance the public welfare...”*

According to the quote from the Preamble of 1945 Constitution of the Republic of Indonesia, the phrase in bold above, it is stated explicitly that one of the purposes of Indonesia is to advance public welfare. Thus advancing public welfare is the responsibility of the state through the

government, in which one solution can be done by overcoming the social inequalities that occur in Indonesia.

Aligned with the Preamble of 1945 Constitution of the Republic of Indonesia, the state responsibility for social inequality as well as advancing social welfare also be regulated on the body of the 1945 Constitution of the Republic of Indonesia. General welfare is specially regulated in the 1945 Constitution of the Republic of Indonesia on Article 34 on Chapter XVI regarding National Economy and Social Justice. Based on Article 34 Paragraph (1), (2), and (3) the 1945 Constitution of the Republic of Indonesia, it is explicitly stated that the state is responsible regarding several matters related to the general welfare, such as: destitute people and neglected children shall be nurtured by the state; the state shall be responsible for develop a social security system and empower the poor and incapable society; and the state shall be responsible for the provision of decent health care and public service facilities. According to the Article 28H Paragraph (1) the 1945 Constitution of the Republic of Indonesia, the rights to live in physical and spiritual prosperity, to have a place to reside, and to acquire a good and healthy living environment as well as rights to be entitled to obtain health care, are one of the human rights.

To combat the problem of social inequality in Indonesian society, the government must realize social welfare. Since 1974, Law number 6 of 1974 on Basic Provisions on Social Welfare has been promulgated and this has been revoked by Law Number 11 of 2009 on Social Welfare (hereinafter referred to as: Social Welfare Law). The Social Welfare Law is the basis for the government to improve the level of welfare of the Indonesian people. In addition, in order to improve social welfare and overcome social inequality, the Indonesian government also promulgated Law Number 40 of 2004 concerning Social as last amended by Law Number 4 of 2023 concerning Development and Strengthening of the Financial Sector.

The term “Social Inequality” is not defined in positive law in Indonesia. Instead of using the “Social Inequality” term, legislators use the term “Social Welfare” to address social inequality. Based on Article 1 Paragraph 1 of the Social Welfare Law, stated that

*“Social Welfare is a condition of fulfilling the material, spiritual and social needs of citizens so that they can live properly and be able to develop themselves, so that they can carry out their social functions.”*

To realize this social welfare, it is partly known as the Implementation of Social Welfare. The implementation of Social Welfare is carried out by the governments including the regional government and the community in the form of social services that aim to meet the basic needs of every citizen. Meanwhile, the implementation of Social Welfare is carried out in a directed, integrated, and sustainable manner which includes social rehabilitation, social security, social empowerment and social protection.

Whereas it is expressly and clearly stated in Article 4 of the Social Welfare Law that the state is responsible for administering social welfare. The implementation of social welfare consists of 6 (six) objectives, which are: a. increasing the level of welfare, quality and life sustainability; b. Restoring social function in order to achieve independence; c. increasing the social security of the community in preventing and treating welfare problems social; d. Improving skills, awareness and corporate social responsibility implementation of social welfare institutionalized and sustainable; e. Increasing skills and awareness society in the administration of welfare is socially institutionalized and sustainable; and lastly f. Improving the quality of implementation

management social welfare. The point a. of the previous sentence needs to be highlighted and became the basis of the government's responsibility to combat social inequality. It is further mentioned in Article 24 paragraph (1) of the Social Welfare Law that the state is responsible for administering social welfare are the government and the regional governments. The implementation of social welfare under the government is carried out by the Minister. Whereas the implementation of social welfare under the regional government in province level is carried out by the Head of Region and will be carried by the regent/mayor at the district or city level.

In order to overcome the problem of social inequality by increasing the level of social welfare of the Indonesian people, the positive law in Indonesia has provided clear and firm regulations. Overcoming social inequality is the responsibility of the state which is delegated to the competent government authorities. Therefore, the state provides protection to all Indonesian people from social inequality and it is fitting that these regulations can be applied immediately and are right on target so that social inequality in Indonesia can be resolved immediately.

### **The Results of the Indonesian Government in Effort to Protect the Welfare of Indonesian People**

There are several government efforts to improve people's welfare. For example, one of them is Child Welfare Protection. Various efforts have been made by the Indonesian government to reduce the problem of protecting and fulfilling children's rights, such as efforts to reduce child labor in Indonesia. Since ancient times until now, the government has continued to innovate programs that can be used as benchmarks in alleviating child labor by improving the quality of education.

The efforts that have been made by the Government regarding the protection and fulfillment of children's rights are:

- a) The Programs that Government has made:
  - a. Issuance of free birth certificates for newborns;
  - b. Provide understanding to parents and teachers about parenting without violence;
  - c. Free medical treatment for children;
  - d. Increase the basic education budget and eliminate the cost of basic education.
- b) DPR or DPRD made local regulations (PERDA) for protecting children from acts of violence and exploitation, threatening perpetrators with threats of punishment so that it is hoped that they will create a deterrent effect.
- c) Law enforcers (police, prosecutors) and justice enforcers (judges) process each violating children's rights decisively, indiscriminately, and giving sanctions commensurate with the violations committed.

After the fourth amendment, the state's duties in the field of social welfare were expanded by adding responsibility for developing a social security system and empowering the poor, as well as providing health services and public service facilities for the people of Indonesia. In addition, the government has also implemented an increase in the welfare of Indonesian citizens with Law Number 40 of 2004 on the National Social Security System and Law Number 24 of 2011 on Badan Penyelenggara Jaminan Sosial (BPJS).

In the development of social welfare in Indonesia this is based on the concept of a welfare state. The concept of a welfare state is defined as the government is considered to play an important role in ensuring the welfare of every citizen (labib, 2022) The emphasis on the principle of social justice in Pancasila and the 1945 Constitution of the Republic of Indonesia means that the principle of social justice delegates government responsibility in the development of social welfare.

Majelis Permusyawaratan Rakyat (MPR) legislated TAP MPR Number X/MPR/2001 which assigned the President to make the National Social Security System (SJSN) in the context of providing social protection to the community in a comprehensive and integrated manner and to follow up on this issued Presidential Decree Number 20 of 2002 on The Formation of a System Team National Social Security. SJSN is a government program with the aim of providing certainty for social protection and welfare for all Indonesian people. The hope of holding the National Social Security System is that every basic need of life for every resident can be adequately met which can be lost due to a reduction in salary, experiencing an accident due to termination of employment, suffering from illness, retirement or entering old age.

There are several articles regarding international principles that were incorporated into national law through amendments to the 1945 Constitution of the Republic of Indonesia, with the inclusion of the word social security as a method that must be developed by the state after the Indonesian economic crisis. These subsections are the 1945 Constitution of Republic of Indonesia Subsection 28H paragraph (3), Subsection 34 paragraph (2) of the 1945 Constitution, Subsection 27 paragraph (2) of the 1945 Constitution of the Republic of the Indonesia, Subsection 34 paragraph (1). It is these subsections that are materially the constitutional reasons in the field of Social Security, which emphasize that social security is a "right" (right) not a "privilege" (privilege), because "Privilege is a particular benefit or advantage enjoyed by a person, company, or class beyond the common advantages of other citizen. An exceptional or extraordinary power or exemptions. A peculiar right, advantage, exception, power, franchise, or immunity held by a person or class, not generally possessed by others".

In the 1945 Constitution of the Republic of the Indonesia there is a conception of state responsibility in human rights (state responsibility), which can be seen in Subsection of 1945 Constitution of the Republic of Indonesia 28I (4) and (5), which states that "Protecting, promoting, upholding and fulfilling human rights is the responsibility of the state, especially the government and to uphold and protect human rights in accordance with the principles of a democratic rule of law, the implementation of human rights is guaranteed, regulated and set forth in statutory regulations." Both are key in seeing the constitutional responsibility that must be carried out by the state, in this case the government, to carry out efforts to promote human rights.

With the existence of the SJSN which aims to provide assurance of human rights protection and social welfare for all people as mandated in Article 28H paragraph (1), paragraph (2), and paragraph (3) and Article 34 paragraph (1) and paragraph (2) of the Law -The 1945 Constitution of the Republic of Indonesia. Proves that Indonesia has sought welfare protection for Indonesian citizens.

The Indonesian government also continues to add several policies to develop welfare for the Indonesian people, by eliminating subsidies and diverting these subsidies to infrastructure, social and educational development. Apart from that, there must also be something called taking sides in efforts to improve the welfare of the Indonesian people. The first thing that must be done in this partisanship stage is for the government to carry out agrarian reform such as carrying out redistribution, access and land titling. The second is increasing human resources, the government will make every effort to provide education and training so that human resources become qualified. The three governments will increase opportunities to do business and work for Indonesian people, the main thing is in the retail sector.

The government also held a poverty reduction program through two programs, namely in the form of social assistance in the form of Kartu Indonesia Pintar dan Kuliah and also Kartu Indonesia Sehat, the family hope program, Bantuan Pangan Non - Tunai (BPNT) and targeted subsidies. In addition, the government has also formed a National Economic and Sharia Committee which has several programs such as developing the halal industrial area sector and halal tourism (Anonym, 2020). These steps by the government are such a good start to combat the social inequality in Indonesia.

#### **4. CONCLUSIONS AND RECOMMENDATIONS**

Based on the results above, it can be concluded related to the State Protection of Society Regarding Social Inequality in Indonesia are:

- a) According to The Preamble of 1945 constitution of the Republic of Indonesia guarantees that social welfare is the destiny of the state and the government has to realize social welfare. Furthermore, based on the Article 34 of The 1945, it is explicitly stated that the state is responsible regarding several matters related to the general welfare. Then to give more guarantees of social welfare, the legislator legislated the Social Welfare Law. The implementation of Social Welfare has to be implemented directed, integrated, and in a sustainable manner. The implementation of social welfare by the Government is carried out by the Minister. Then the implementation of social welfare by the Regional Government is carried out by the Head of Region at the province level and carried out by the regent/mayor at the district or city level.
- b) Indonesia has taken several actions to improve the welfare of its people, as evidenced by the existence of SJS, Child Welfare Protection, the creation of the National Social Security and Social Security Administration Agency (BPJS), the 1945 Constitution also found the conception of state responsibility in terms of human rights (state responsibilities). It states that the state has full responsibility in protecting, upholding, and also in fulfilling human rights. Because Indonesia has a democratic state legal concept, human rights must be guaranteed. Indonesia also abolished subsidies and shifted subsidies, took sides in agrarian performance, and also increased human resources through education and outreach to do business.

With the existence of Social Welfare Guarantees as stated in the constitution and the Social Welfare Law, it is fitting for the Indonesian people to get what they are entitled to, namely welfare. The implications of the existence of Article 34 of the 1945 Constitution of the Republic of Indonesia which is followed by the Social Welfare Law is that the Government must be responsible for social inequality and improving the social welfare for Indonesian people.

Since the social inequality in Indonesia can still be said to be relatively high, the authors suggested the Government to resolve this problem by increasing Social Welfare in Indonesia. Even though there will be many obstacles that need to be overcome considering the high number of social inequalities in Indonesia, if the government wants to focus and be serious about eradicating social inequalities then this problem will be solved. It is undeniable that in realizing social welfare, the government is unable to get this done alone. As a part of society who has more economic capacity suggested to empathize with the social inequality that occurs in Indonesia. Indonesia also abolished subsidies and shifted subsidies, took sides in agrarian performance, and also increased human resources through education and outreach to do business. make programs namely Smart and Lecture Cards as well as Healthy Indonesia Cards, family hope programs, Non-Cash Food Assistance (BPNT) and targeted subsidies and form a National Economic and Sharia Committee which is contained with a program to develop the Halal industrial area sector and Halal tourism.

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