

Reform of Civil Servant Pension Benefits Implementation Regulations in the Theory of Law and Development

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Abstract

Regulatory Reform of the Implementation of Civil Servant Pension Benefits in the Theory of Law and Development the Civil Servant Pension Benefit program has been administered by PT TASPEN (Persero) since 1987. The Civil Servant Pension Benefit program is provided monthly to ensure the continuity of retirement income as a right and as a reward for the Civil Servant's dedication, as well as to fulfill sustainable economic, social, and cultural rights and guarantee a decent living in accordance with their duties, responsibilities, and obligations. However, with the issuance of Law Number 20 of 2023 concerning the State Civil Apparatus, a new paradigm has emerged regarding the implementation of Civil Servant Pension Benefits. In accordance with Article 22 paragraph (3) and Article 23 of Law Number 20 of 2023 concerning State Civil Apparatus which states that "ASN Old Age Security and Pension Security are provided in a social security program in accordance with the national social security system and the social security administering body". This causes uncertainty about the future of the "Old Age Program and Pension Program" which has been organized by PT TASPEN (Persero), which has provided financial benefits for Civil Servants. The normative method is used in conducting a study on the Study of the Implementation of Civil Servant Pension Benefits in Development Law Theory, there are 3 (three) approaches to studying the problem, namely the statute approach, the case approach, and the conceptual approach. The pension system is a legal instrument directly related to fiscal policy, social protection, and personnel management. Therefore, pension reform must be designed comprehensively and in stages. Development Law Theory provides the basis for pension law reforms to strengthen civil servant governance to support the achievement of national development goals.

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1. INTRODUCTION

The Civil Servant pension system not only functions as social security (*social security*) but also as a form of national appreciation (*state's appreciation*) for lifelong service, and is a constitutional right of citizens guaranteed in the 1945 Constitution of the Republic of Indonesia.

Civil Servants, hereinafter abbreviated as PNS, are Indonesian citizens who meet certain requirements, appointed as permanent ASN employees by civil service development officials to occupy government positions. Civil Servants consist of Regional Civil Servants who are usually based in district/city or provincial areas, and Central Civil Servants who are usually based in provincial areas.

The Civil Servant pension program is managed by PT TASPEN (Persero), which is also a state-owned enterprise. Civil servant contributions amount to 4.75% of the basic monthly

salary, which is then managed by PT TASPEN (Persero). The Civil Servant Pension Program in Indonesia is still running based on Law Number 11 of 1969 concerning Employee Pensions and Employee Widow/Widower Pensions. A Decree issued by the authorized official serves as the basis for pension payments, supplemented by other requirements.

The provision of pension benefits for Civil Servants (PNS) is a crucial part of the national social security system, which aims to provide economic protection for state officials after retirement. This pension system not only plays a role in safeguarding the welfare of retirees but also reflects the state's commitment to rewarding the dedication of its employees.

The 1998 Reformation had a significant impact on the Indonesian nation, one of which was the amendment to the 1945 Constitution of the Republic of Indonesia (UUD 1945). This change would undoubtedly have a significant impact on the Indonesian state system. Ir. Soekarno stated that the 1945 Constitution was a "Revolutie-Grondwet" or "Quick Constitution" drafted solely to meet the need to proclaim Indonesia as an independent nation as soon as possible.

Reforming the regulations for the implementation of pension benefit payments for Civil Servants (PNS) is a legal necessity to realize legal certainty (*legal certainty*) and welfare in old age for civil servants.

The fundamental problem lies in the lack of legal certainty for civil servants regarding their rights to pension benefits.

This uncertainty is reflected in several things, such as fluctuations and non-uniformity in the calculation of pension benefit amounts, which are influenced by non-legal factors such as the state budget, lack of transparency and clear information regarding the rights and obligations of the parties, and weak dispute resolution mechanisms in the event of delays or errors in payments. The principle of legal certainty requires clear, stable, consistent, and predictable regulations so that everyone can know their rights and obligations.

According to Soerjono Soekanto, law is not only an integral part of society, but is also a functional element in the social system, so a sociological perspective is very necessary to better understand legal life.

According to traditional legal theory, law is a set of rules and principles that enable society to maintain its order and freedom. Adherents of traditional legal theory believe that law should be neutral and can be applied to everyone fairly, regardless of wealth, race, gender, or property. Although they disagree on the best basis for legal principles, namely whether the basis is God's revelation, secular ethics, community experience, or the will of the majority, they generally agree on the possibility of separation between law and politics; the law, according to them will be applied by the courts fairly.

Law and society are two inseparable aspects. Where there is society, there is law. Aristotle stated that humans are *zoonpoliticon*, meaning that humans fundamentally always desire to socialize and gather with others. To achieve an orderly, safe life and secure community rights, the law is necessary. According to positivism, law is a command from those who hold supreme power or sovereignty. Law is considered a logical, permanent, and systematic system or *closed logical system*.

The law provides a fundamental foundation that ensures that rules and procedures must be followed in every aspect of development. Without clear laws, various development policies and programs can be misused or implemented improperly. Applicable laws and regulations serve as guidelines for the government, the public, and the private sector in implementing legitimate and targeted development activities.

The right to a pension for Civil Servants (PNS) is a constitutional right guaranteed by the state as a reward for the services rendered by civil servants over many years of service

in government service. However, in Indonesia, the fulfillment of this right remains hampered by bureaucratic inefficiencies. The current pension payment system is conventional and reactive, requiring civil servants or their heirs to submit applications either manually or digitally. This process is not only time-consuming and cumbersome, but also often creates a gap between retirement and the first payment, potentially leading to financial hardship.

This legal uncertainty has the potential to erode the sense of justice and reduce the motivation of civil servants, and is contrary to the principle of a state based on law (*rechtsstaat*), which guarantees protection of the rights of its citizens, including the right to social security in old age. In the context of civil servant pensions, legal certainty means a guarantee that pension benefits will be paid on time, in a clear amount, and through procedures that have been clearly established.

Therefore, comprehensive and systematic regulatory reform is urgent. This reform goes beyond updating outdated laws and restructuring the entire regulatory ecosystem for the payment of civil servant pension benefits. The goal is to build a system based on the principle of legal certainty, to provide strong legal guarantees and protection for civil servants as beneficiaries, and to create sustainable civil servant pension governance.

The importance of the first automated and integrated pension payment system across data is becoming increasingly urgent as Indonesia faces a large wave of civil servant retirements, as reflected in data from the National Civil Service Agency (BKN), which records approximately 1 million civil servants retiring between 2022 and 2027. Unfortunately, the applicable regulatory framework, such as Law Number 5 of 2014 concerning the State Civil Apparatus, Government Regulation Number 11 of 2017 in conjunction with Government Regulation No. 17 of 2020 concerning Civil Servant Management, and technical provisions from PT TASPEN (Persero), still require a manual process consisting of applications, document collection, and tiered verification.

From an Indonesian legal perspective, there are no explicit norms governing automatic validation of population and personnel data in the pension system. Law No. 23 of 2006, in conjunction with Law No. 24 of 2013 concerning Population Administration and Law No. 27 of 2022 concerning Personal Data Protection, actually opens up space for digital data integration and use. The Ministry of Home Affairs has actually supported the payment of pension benefits without documents and without having to come to PT TASPEN (Persero). This provides convenience to civil servants or their families in terms of pension payments. PT TASPEN (Persero) has collaborated with the Ministry of Finance regarding the management of Civil Servant Data to synergize to support the reform of the automatic Civil Servant Pension Payment system without Submission, but is still hampered by the lack of harmony and the lack of regulations, thus hampering the realization of the Civil Servant Pension Payment system's automatically *autodisbursement*.

When compared to the situation in Indonesia, it's clear that the primary challenge isn't technological readiness, but rather the readiness of the legal system to transform. Therefore, a legal review of the need for regulatory reform is crucial and urgent, ensuring that the law becomes a catalyst for change in the public service system rather than an obstacle.

The idea of an automatic pension payment system without a formal application is a response to the need for bureaucratic efficiency and the government's efforts to fulfill the rights of civil servants (ASN) quickly and accurately. This concept relies on the integration of information systems between institutions—such as the State Civil Service Agency (BKN), the Directorate General of Population and Civil Registration (Dukcapil), and PT TASPEN (Persero)—to automatically validate data, allowing pension payments to be made directly without the need for an active application process from civil servants. However,

this transformation cannot be optimal without regulatory updates that align with the digital ecosystem.

The need for regulatory reform becomes even more pressing given that Indonesia is facing a massive wave of retirements. According to data from the National Civil Service Agency (BKN), approximately 1 million civil servants are expected to retire between 2022 and 2027. Without an efficient digital system and adaptive regulations, the country risks facing a surge in administrative burdens that could disrupt the smooth operation of pension services and worsen public perception of bureaucratic performance.

Therefore, this dissertation aims to compile a legal study that critically examines the gaps and disharmonies in regulations, and formulates a legal framework model that allows for the implementation of an automatic, legally valid ASN pension payment system and guarantees the protection of pensioners' rights and data.

2. RESEARCH METHODS (12 Pt)

The normative method is used in conducting a study on the Study of the Implementation of Civil Servant Pension Benefits in the Theory of Development Law. There are 3 (three) approaches to studying the problem, namely the legislative approach (*statute approach*), case approach (*case approach*), as well as conceptual approaches (*conceptual approach*). The data sources used are secondary data consisting of primary legal materials in the form of laws and court decisions, as well as secondary legal materials in the form of literature and research results.

3. RESEARCH RESULT

The following are the dynamics of pension security payment sources from 1993 until now, where the financing source from 2009 until now is 100% burdening the APBN, it is feared that with the annual budgeting scheme through the APBN, it can affect the sustainability of pension security payments if the country experiences a fiscal deficit/economic crisis.

Periode	Sharing Pembayaran Pensiun		Keterangan
	APBN	Dana Pensiun	
Sampai dengan 1993	100%	0%	
Januari 1994-Maret 1994	0%	100%	SURAT MENKEU No.1204/MK.03/1993
April 1994-Maret 1997	77.50%	22.50%	SURAT DJA NO:S-1684/A/56/0394
April 1997- Desember 1998	77%	23%	SURAT DJA NO: S-993/A/67/0297
Januari 1999- Desember 2002	75%	25%	SURAT DJA NO: S-3389/A/1999
Januari 2003-Desember 2005	79%	21%	SURAT DJA NO: S-6878/HK.2/2002
Januari 2006- Desember 2006	82.50%	17.50%	SURAT MENKEU NO: S-07/MK-02/2006
Januari 2007- Desember 2007	85.50%	14.50%	SURAT MENKEU NO: S-03/MK-02/2007
Januari 2008- Desember 2008	91.00%	9.00%	SURAT DJA NO: S-05/MK.02/2008
Januari 2009-sekarang	100%	0%	SURAT DJA NO: S-39/MK-02/2009

Sumber: Website PT Taspen (Persero)

Pension Guarantee provided to Civil Servants as protection of the continuity of old-age income, as a right and as a reward for dedication/services during years of work in government service. Currently, the Regulation of Civil Servant Pension Guarantee is regulated in Law Number 11 of 1969 with a defined benefit scheme, where the government does not set aside funds in advance for payment of pension benefits when due, but the government budgets annually through the State Budget. In the defined benefit scheme,

pension contributions and the government are the main sources of funding, but since January 2009 until now, pension payments have been funded from the State Budget. Law Number 11 of 1969 has been used for 56 years, while the Law on ASN, which regulates Civil Servants, has undergone several amendments. Amendments to Law 11 of 1969 are considered necessary because they are no longer in accordance with the conditions of the country. Amendments to the law need to provide limits on beneficiaries and the delay in paying pension guarantees in order to minimize the payment of pension guarantees becoming longer, which ultimately burdens the State Budget.

4. DISCUSSION

Regulations on Civil Servant Pension Guarantees Following the Enactment of Law Number 20 of 2023

Social Security is provided to every citizen, including Civil Servants, as a reward for years of service in government. According to Law Number 20 of 2023, Civil Servants, hereinafter abbreviated as PNS, are Indonesian citizens who meet certain requirements and are appointed as permanent ASN employees by the Civil Service Development Officer to hold government positions. Social Security provided to Civil Servants consists of health insurance, work accident insurance, death insurance, pension insurance, and old-age insurance. Pension Guarantee provided to Civil Servants as protection for the continuity of old-age income, as a right and as a reward for years of service/services in government service. Currently, the Civil Servant Pension Guarantee Regulation is regulated in Law Number 11 of 1969 with a defined benefit scheme (*defined benefit*), where the government does not set aside funds in advance for payment of pension benefits when they fall due, but the government budgets it annually through the APBN. In a defined benefit scheme, pension contributions and the government are the main sources of funding, but since January 2009 until now, pension payments have been funded by the State Budget (APBN). Law Number 11 of 1969 has been in effect for 56 years, while the Law on Civil Servants (ASN), which regulates civil servants, has undergone several amendments. Amendments to Law Number 11 of 1969 are deemed necessary because they are no longer in line with the country's conditions. Amendments to the Law need to provide limits on beneficiaries and the possibility of overdue pension payments in order to minimize the lengthy pension payment period that ultimately burdens the State Budget. The Civil Servant Pension Benefit program is currently run by PT TASPEN (Persero) since 1987. Civil Servant Pension Benefit payments are provided monthly for the continuity of old-age income as a right and as a reward for the dedication of Civil Servants, as well as the fulfillment of sustainable economic, social, and cultural rights and guarantees a decent life in accordance with duties, responsibilities, and obligations. However, with the issuance of Law Number 20 of 2023 concerning State Civil Apparatus, it creates a new paradigm regarding the implementation of Civil Servant Pension Benefits. In accordance with Article 22 paragraph (3) and Article 23 of Law Number 20 of 2023 concerning State Civil Apparatus, which states that "ASN Old Age Security and Pension Security are provided in a social security program in accordance with the national social security system and the social security administering body". This causes uncertainty about the future of the "Old Age Program and Pension Program," which has been organized by PT TASPEN (Persero), which has provided financial benefits for Civil Servants. Article 57 letter f and Article 65 paragraph (2) of Law Number 24 of 2011 concerning the Social Security Administration Agency, that the Implementation of the Old Age Security Program and the Pension Security Payment Program managed by PT TASPEN (Persero) must be transferred to BPJS Ketenagakerjaan no later than 2029, this is in fact contrary to the 1945 Constitution of the Republic of Indonesia and does not have binding legal force based on the decision of the Constitutional

Court Number 72/PUU-XVII/2019. If the administration of pension benefits managed by PT TASPEN (Persero) is transferred to BPJS Ketenagakerjaan, this will create legal uncertainty for the Participants, namely Civil Servants, because it cannot be guaranteed that with this transfer, the Participants will not experience a decrease in services and benefits. It cannot be guaranteed that with this transfer, participants will receive better services and benefits than the excellent services that have been provided by PT TASPEN (Persero).

However, currently, PT TASPEN (Persero), as the organizer of Civil Servant Social Security, still has the status of a limited liability company legal entity, while the mandate of Law Number 20 of 2023 is that the implementation of ASN social security is provided in a social security program in accordance with the national social security system and the social security administering body.

According to Gustav Radbruch, the law must pursue three ideal values: justice, utility, and legal certainty. Legal certainty is necessary for the law to function to create order and protect individuals from arbitrariness. In this context, this theory must be realized through clear and written regulations regarding the Civil Servant Pension Guarantee Agency, certainty regarding the amount and calculation received by civil servants, certainty regarding the procedures and timing of payments that are carried out promptly because late payments are not only an administrative issue, but also a violation of the established legal rights of civil servant retirees.

According to the Constitutional Court in its Consideration on Constitutional Court Decision Number 72/PUU-XVII/2019 that "even though Law Number 40 of 2004 requires bodies/institutions engaged in the field of social security administration to transform into social security administering bodies, it does not mean that these bodies are abolished by means of a model or method of merging them with other limited liability companies that have different characteristics. Transformation is sufficient only by making changes to the legal form of the legal entity in question and making adjustments to the position of the legal entity, which was originally a limited liability company to become a legal entity administering social security by strengthening regulations that mandate the obligations of social security providers to be regulated by law.

The Ideal Implementation of Civil Servant Pension Guarantees According to Development Law Theory

1. Theory of Development Law as a Foundation

According to Mochtar Kusumaatmadja, law means **community renewal**, not only an instrument of social control, but a driver of change towards development.

The law must have, as follows:

1. Contains Certainty;
2. Be flexible to respond to the needs of community development.
3. Supporting the effectiveness of socio-economic development.

In the context of ideal pension security, this theory demands that arrangements are not only normative but also responsive to fiscal, demographic, and institutional challenges.

4. Ideal principles of organization

1. Legal certainty

The Pension System must have complete, clear regulations and not cause uncertainty for Civil Servants and government agencies.

2. Institutional effectiveness and efficiency

Development law theory emphasizes the importance of effective institutions. Therefore, pension management institutions must be professional, transparent, and accountable.

3. Sustainability of funding

The mandatory pension system is designed on an actuarial basis so that it does not threaten the country's fiscal stability. Developed countries have proven that blended funding is more stable in the long run.

4. Intergenerational Justice

The concept of justice in development theory includes intergenerational justice, namely, so that the younger generation of ASN does not bear too heavy a burden on future retirement.

5. Compliance with the bureaucratic reform agenda

An ideal pension guarantee should strengthen the professionalism of civil servants. Future security will increase work motivation and commitment to public service.

Civil Servants (PNS), as the main element of state government administration, are entitled to social security, including pension security as protection in old age.¹ Pension security has a strategic function not only to guarantee the survival of ASN after the end of their work period, but also to maintain ASN motivation and professionalism during their service period.²

In the Indonesian context, the pension system has so far used a defined benefit pattern, which is largely funded by the state and managed by PT Taspen (Persero).³ However, this pattern raises fiscal sustainability challenges given the increasing number of retirees and increasing life expectancy. This situation demands fundamental reforms in the governance of ASN pension guarantees.

The pension system is a legal instrument directly related to fiscal policy, social protection, and personnel management.¹² Therefore, pension reform must be designed comprehensively and in stages. Development Law Theory provides the basis for pension law reforms to strengthen civil servant governance to support the achievement of national development goals.

6. CONCLUSION

Overall, the results of this study indicate that the current implementation of civil servant pension benefits is under threat. To support the implementation of a massive pension benefit program, the government needs to reform the regulations governing civil servant pension benefits that are socially just and sustainable.

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