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Legal Challenges of Tapera Implementation in Indonesia: Toward an Equitable and Effective Housing Financing Scheme

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ABSTRACT: This research discusses the legal challenges in the implementation of Public Housing Savings (Tapera) in Indonesia. Tapera is regulated by laws and government regulations with the aim of providing affordable housing finance for all citizens, especially Low-Income Communities (MBR). However, there are several legal obstacles that need to be overcome, such as inconsistencies with existing laws and regulations, lack of provisions on the management of Tapera funds, and the absence of a special dispute resolution institution for Tapera. The research method used is qualitative analysis, using a literature study approach by conducting an in- depth review of relevant literature, including government regulations, research articles, and publications related to the implementation of the Public Housing Savings Program (Tapera). By using analysis such as relevant laws, regulations, and official documents Proposed solutions include harmonizing laws and regulations, formulating clear regulations on the management of Tapera funds, and establishing a dispute resolution institution. In addition, it is necessary to conduct extensive socialization and education about Tapera, and build adequate supporting infrastructure.

Keywords: Tapera, HousingFinancing Scheme, Legal Challenges.

INTRODUCTION

The Indonesian government has issued Government Regulation (PP) Number 21 of 2024 concerning Public Housing Savings (Tapera) on April 30, 2024. This regulation is an important step in the effort to address the housing backlog in Indonesia and realize an equitable and effective housing financing scheme. Tapera aims to provide sustainable long-term low-cost funds for housing finance for the people of Indonesia.(Putra et al., 2019) Tapera funds will be managed by the Tapera Management Agency (BP Tapera) and used to provide housing loans to low- income people (MBR) at low interest rates.

Although Tapera has the potential to be an effective solution to address the housing backlog, there are several challenges that need to be addressed in its implementation. These challenges include: There are still many people who do not know about Tapera and its benefits. Tapera funds are still not sufficient to meet MBR housing financing needs. BP Tapera needs to ensure good and transparent governance in the management of Tapera funds. It needs to be ensured that PP No. 21 of 2024 is in line with regional regulations related to housing.

A comprehensive legal solution is needed to ensure effective implementation of Tapera. The legal solution must: ensure the mandatory participation of all workers, establish a transparent and accountable Tapera fund management mechanism. Provide protection for Tapera participants from misuse of funds.(Indonesia, 2017) Resolving issues related to the transfer of funds from the Public Housing Savings program (Simperak) to Tapera.

PP No. 21 of 2024 is expected to be a solution to overcome the challenges of implementing Tapera and realizing an equitable and effective housing financing scheme in Indonesia. This regulation provides a strong legal basis for the management of Tapera and provides legal certainty for Tapera participants. With the effective implementation of Tapera, it is hoped that an equitable and effective housing financing scheme can be realized in Indonesia. This scheme will help people to gain easier access to decent and affordable housing, and will ultimately improve the quality of life of the Indonesian people. Tapera has the potential to be an effective solution to address the housing backlog in Indonesia and realize an equitable and effective housing financing scheme. However, to achieve these goals, serious efforts need to be made to overcome the various challenges that exist. PP No. 21 of 2024 is expected to be a strong legal basis for the effective implementation of Tapera.

This study aims to find out how a comprehensive legal solution can ensure the effective implementation of Tapera, including mandatory participation, transparent fund governance, and protection of Tapera participants from misuse of funds. As well as the extent to which the effectiveness of the implementation of Tapera in overcoming the housing backlog in Indonesia and realizing an equitable and effective housing financing scheme. Based on this, the author wants to know the challenges faced and efforts to overcome them. Although there have been several previous studies examining the implementation of public housing savings products in Indonesia, none of them have specifically examined the challenges to the implementation of tapera and formulated solutions to overcome these challenges. For example, Neysa Tania, et al (2021) who conducted research with the title of the article "Review of Preogressive Legal Theory on the Implementation of Public Housing Savings Products", has not specifically explored the implementation of tapera in the financing scheme. Another research was conducted by Abia Nathanael, et al in the Journal of the Faculty of Law, Diponegoro University (2022) with the title of the article "Fulfillment of the Constitusional Rights of Indonesia's Citizens in the Participation of Property Housing Savings Based on Law Number 4 Year 2016 About Property Housing Savings_071 HTN 2022" where the results of the study discuss the application of the Tapera Law as potentially violating the Constitutional Rights of citizens. Another study was then conducted by Kevin C.I Gagundali, with the title of the article "Administrative Sanctions for Violations of Law Number 4 of 2016 concerning Public Housing Savings" the results of this study are the forms of administrative violations in Article 72 of Law No. 4 of 2016 Tapera and the provision of administrative sanctions in the form of written relief, administrative fines, up to.

METHOD

In this research, the method used is to use a descriptive-analytical approach to analyze the legal challenges in the implementation of Tapera in Indonesia as well as the solutions offered. Data was obtained through a desk study of various legal sources and related literature, including laws, government regulations, and official publications related to Tapera. The analysis is conducted by comparing existing legal provisions with the needs of Tapera implementation, then evaluating the solutions proposed by the author. The research method used is qualitative analysis, using a literature study approach by conducting an in-depth review of relevant literature, including government regulations, research articles, and publications related to the implementation of the Public Housing Savings Program (Tapera).
The research method used is qualitative analysis, using a literature study approach by conducting an in-depth review of relevant literature, including government regulations, research articles, and publications related to the implementation of the Public Housing Savings Program (Tapera). As well as using an official document analysis approach such as Government Regulation No. 21 of 2024, relevant local regulations, and official reports from BP Tapera to deeply understand existing regulations and their implementation in practice.

RESULT AND DISCUSSION

Legal Challenges in the Implementation of Public Housing Savings (Tapera) in Indonesia

The Indonesian Constitution, precisely in the Preamble of the 1945 Constitution, mandates protection for the entire Indonesian nation. One form of this protection is contained in Article 28H paragraph (1) of the 1945 Constitution, namely the right of every person to live in physical and mental prosperity, to have a place to live, and to have a good and healthy environment.(Budiawan, n.d.)The right to housing is also reinforced in the Human Rights Law, which obliges the state to protect and provide access for the entire population to the housing financing system.(Golay et al., 2007)

Therefore, the state is responsible for ensuring the fulfillment of decent and affordable housing needs for all its citizens, as part of efforts to build a complete Indonesian human being, has a strong identity, is independent, and productive.(Gagundali, 2020)
Based on law number 4 of 2016 on Public Housing Savings,(Silangit et al., 2022)Tapera is a periodic saving system carried out by participants during a certain period. Where the funds can be used to finance the purchase of a house or returned along with the interest returns after the participation period ends.(Johannes Ibrahim et al., 2021)
Tapera funds are a combination of participant deposits and interest returns, which are joint trusts of all participants.(Pradewi & Haris, 2023)Tapera participants include all foreign nationals who have a work residence permit in Indonesia for at least six months and have made deposit payments. According to Article 7 of the Tapera Law, every worker or self-employed person who receives an income at least equivalent to the minimum wage must become a participant.(Tania et al., 2021)

Inspired by the theories of Hans Kelsen and Hans Nawiasky, Indonesian law applies a hierarchical system of legal norms.(Kurniawan & Purbosari, 2022) This theory states that the legal system is structured like a ladder, with tiered legal norms. Consequently, the PP Tapera, which is lower in level than the Tapera Law, functions as an implementing regulation of the law. The existence of this implementing regulation aims to carry out orders or delegations from the regulations above it that provide the mandate.(Fauzi, 2023)

President Joko Widodo has issued Government Regulation Number 21 of 2024, which amends Government Regulation (PP) Number 25 of 2020 concerning Public Housing Savings (Tapera), which was established on May 20, 2024. Heru Pudyo Nugroho as Commissioner of BP Tapera, welcomed this revision as an improvement over the previous regulation.(*Tingkatkan Efektifitas Penyelenggaraan TAPERA, Pemerintah Tetapkan PP No.21 Tahun 2024*, n.d.)

Previously, Tapera management involved periodic deposits by participants within a certain period of time, which could only be used for housing finance or returned after participation ended. This change aims to increase the effectiveness of Tapera and the accountability of fund management. Government Regulation No. 21 of 2024 regulates several important matters, including the authority of relevant Ministries in regulating Tapera membership, as well as the separation of funds between FLPP and Tapera. BP Tapera was established under Law No. 4/2016 on Public Housing Savings and is further regulated by Government Regulation No. 25/2020. Its main objective is to raise long-term funds for affordable housing finance for participants and protect their interests.(Kaban, 2023)

BP Tapera is tasked with providing savings-based housing finance with a spirit of mutual cooperation. Participants in the Low-Income Community (MBR) category can obtain KPR, KBR, and KRR with tenors of up to 30 years and fixed interest rates below the market. The funds collected will be managed by BP Tapera and returned to participants after participation ends, including principal deposits and fertilization results.(Dewanto & MM, 2020)

There are still several laws and regulations that are not in line with Tapera, so it is necessary to harmonize the laws and regulations. For example, the Labor Law and Social Security Law do not explicitly regulate Tapera. This can lead to confusion and legal uncertainty for workers and employers. In addition, there are no clear provisions on the management of Tapera funds, including investment mechanisms and the distribution of funds to participants. This may raise concerns about the transparency and accountability of Tapera fund management.(Nasution, n.d.)

In resolving disputes related to Tapera, in fact there is no legislation that specifically regulates dispute resolution related to Tapera.(Rumengan, 2022)This can create difficulties for Tapera participants who wish to resolve disputes with Tapera managers. There is no institution authorized to resolve disputes related to Tapera.(Anwar, 2020)This can slow down the dispute resolution process and create legal uncertainty for the parties involved.

These legal obstacles need to be overcome so that Tapera can run effectively and achieve its goals.(Susantio & Beatrice, 2024) Where the government needs to harmonize laws and regulations, formulate clear regulations on the management of Tapera funds, and establish a dispute resolution institution for Tapera.(Radwa & Megawati, 2023) In addition to legal obstacles, there are several other challenges in implementing Tapera, such as the lack of socialization and education about Tapera to the public, the unpreparedness of supporting infrastructure, and limited human resources. The government needs to work with various parties to overcome these challenges so that Tapera can become a useful program for the community.(Saputra, 2024)

Aspects	Existing Legal Provisions	Tapera Implementation Needs
Legal Basis	- PP Tapera No. 21 of 2024 concerning Tapera	- Harmonization with other relevant laws such as the Manpower Law and the Social Security Law.
Fund Management	- Manage by BP Tapera	- Clear investment mechanism for Tapera funds, transparency, and accountability in fund management.
Mandatory Participation	- Not explicitly mentioned	- Mandatory participation for all workers
Dispute Resolution	- There are no specific regulations related to the settlement of Tapera disputes	- Establishment of specialized and competent dispute resolution institutions
Socialization and Education	- Not yet regulated in detail	- Massive and structured socialization and education regarding Tapera
Supporting Infrastructure	- Not mentioned	- Development of supporting infrastructure such as information technology systems, human resources, and Tapera service offices
Transparency and Accountability	- There are no detailed provisions regarding reports and supervision	- Regulations governing periodic reports and audits by independent institutions
Pengawasan dan Evaluasi	- Not mentioned	- Periodic evaluation of BP Tapera's performance and program effectiveness

The solutions that the author offers to overcome the challenges of tapera implementation in Indonesia, namely:

1. Tapera compatibility with existing laws and regulations.

Harmonize laws and regulations with Tapera. The government needs to review and revise laws and regulations that have not been harmonized with Tapera, such as the Labor Law and Social Security Law. This can be done by involving various related parties, such as ministries / institutions, workers' organizations, and employers' organizations. Formulate clear regulations on the management of Tapera funds. These regulations must regulate the investment mechanism of Tapera funds, the distribution of funds to participants, and the transparency and accountability of Tapera fund management. These regulations must be formulated by taking into account the interests of all parties involved, such as the government, Tapera participants, and Tapera managers.

2. Dispute settlement mechanism related to Tapera

Create specific legislation on Tapera-related dispute resolution. These regulations must regulate dispute resolution mechanisms, such as mediation, arbitration, and litigation. These regulations must also determine the institution authorized to resolve Tapera-related disputes. This institution must be independent, impartial, and have the competence to resolve disputes.
Establish a specialized dispute resolution institution for Tapera. This institution may take the form of a specialized judicial body or an arbitration institution. This institution must have staff who are competent and experienced in resolving housing-related disputes.

3. Socialization and Education about Tapera to the Public
Conduct socialization and education about Tapera in a massive and structured manner. This socialization and education can be carried out through various media, such as mass media, the internet, and direct meetings with the public. This socialization and education must explain the benefits of Tapera, the rights and obligations of Tapera participants, and the procedures for registering and paying Tapera contributions.

Involve various parties in Tapera socialization and education. The government can work with civil society organizations, mass media, and influencers to reach the wider community. This socialization and education can be carried out in various formats, such as seminars, workshops, and social media.

4. Existence of Supporting Infrastructure
Building Tapera's supporting infrastructure. This supporting infrastructure includes information and technology systems, human resources, and Tapera service offices. Information and technology systems must be sophisticated and easy to use by Tapera participants. Human resources must be trained and competent in managing Tapera. Tapera service offices must be easily accessible to Tapera participants.

Cooperate with the private sector to build Tapera's supporting infrastructure. The government can work with banks, technology companies, and other financial institutions to build Tapera's supporting infrastructure. This can assist the government in accelerating the development of Tapera's supporting infrastructure.

Tapera's Contribution in Realizing an Equitable and Effective Home Financing Scheme in Indonesia

Public Housing Savings (Tapera) is an Indonesian government program that aims to increase public access to housing finance. Tapera is expected to help realize an equitable and effective housing financing scheme in Indonesia. National economies in developing countries are generally still far behind developed countries. This is also true in Indonesia, where the government budget for housing for low-income people (MBR) is not a top priority and minimal funds are available. On the other hand, house prices continue to rise, making existing houses unaffordable for the MBR. This condition is a serious problem for the MBR, given their large numbers and limited economic capacity. Tapera will provide a new source of funding for housing finance, especially for low-income people (MBR) who have had difficulty getting access to banks.(Mangeswuri, 2016) Tapera funds will be managed in a professional and transparent manner to ensure sustainability and usefulness for participants.

Tapera, a government program to address the housing shortage and help low-income people (MBR) own homes, is managed by the Tapera Management Agency (BP Tapera). Tapera funds are collected from workers and self-employed workers with an income of at least the minimum wage.Workers are required to save 2.5% of their salary, while employers save 0.5%.The principle of Tapera is mutual cooperation to help MBR. MBRs can use Tapera funds to buy, build, or repair a home.They also get returns from Tapera fund investments after retirement.People with high income only get investment returns and cannot use Tapera funds for housing finance. Tapera funds are deposited in a custodian bank and their value is calculated daily. Each Tapera participant gets an investment participation unit from the proceeds of their deposit payments.(Harikusuma & Ubed, 2020)

The Tapera Fund is expected to lower the cost of housing finance, so that people can buy houses at more affordable prices.(Umam, 2023) This can be achieved through more competitive and efficient financing schemes, as well as lower interest rates. Tapera will encourage an increase in housing supply, especially houses that are affordable for MBR. This can be achieved through the provision of incentives for developers to build houses that meet the needs of the MBR.(Wibowo et al., 2020)

Tapera will encourage the improvement of housing quality, so that people can live in decent and healthy housing.(Anita, 2022) Providing decent housing for Low-Income Communities (MBR) is a right guaranteed by State Law. The government, including the central government, is committed to making it happen with various programs. One of the main focuses is to provide decent housing for MBR. This can be achieved through the implementation of higher building quality standards and education to the community about the importance of living in quality housing.(Prastiyo et al., 2022)

Tapera is expected to improve the welfare of the community, especially the MBR, by providing easier access to affordable and quality housing finance.(Baidarus et al., 2023) This can improve people's living standards and encourage economic growth. By using a concept called Land Banking. Land Banking is a strategy of purchasing land and property for future use. The aim is to make land available for public use and improve the welfare of the community, especially in relation to housing needs. This concept allows individuals, groups or companies to buy land at current prices and develop it in the future. This is expected to increase the value of the land and provide economic benefits to the owner.(Noegroho, 2012)

Tapera is an ambitious and complex program. Tapera's success in realizing an equitable and effective home financing scheme in Indonesia will depend heavily on the commitment and cooperation of various parties, including the government, the private sector, and the community.(Siregar & Jannah, 2023)

The government needs to continue to socialize and educate the public about Tapera, and build adequate supporting infrastructure.(Putri Ayu Lestari, 2024) The private sector can participate in the Tapera program by providing innovative and competitive housing financing schemes. The public needs to increase awareness of the importance of owning a home and participate in the Tapera program by registering and paying regular contributions.With cooperation and synergy from all parties, Tapera is expected to be a solution to overcome housing problems in Indonesia and realize an equitable and effective housing financing scheme for all people.

CONCLUSION

The purpose of this paper is to review the legal challenges in the implementation of Tapera in Indonesia and offer solutions. Challenges include regulatory inconsistencies, lack of dispute resolution mechanisms, and the need for socialization. The author suggests harmonization of regulations, establishment of a dispute resolution mechanism, extensive socialization, and development of supporting infrastructure. In this case, a concrete example of the solution is to conduct an evaluation related to BP Tapera's governance.

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