

## LEGAL PROTECTION OF HOUSEHOLD CREDIT GUARANTEE AGAINST PENSION OF CIVIL SERVANTS IN THE CONCEPT OF WELFARE STATE

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### Abstract

Prosperous is the life goal of all people without knowing territory and nationality. All countries in the world are formed with the main objective to achieve prosperity for its inhabitants. Abraham H. Maslow as quoted by Soekidjo Notoatmodjo classifies human needs in the level of needs, hereinafter referred to as the hierarchy of needs. Human needs are categorized into five levels of hierarchy ranging from physiological needs, security guarantees, social needs, recognition and appreciation, and finally is the opportunity to develop themselves. Law No. 1 of 2011 concerning Housing and Settlement Areas explicitly emphasizes the need to increase community access to housing, including for Low Income Communities. Housing management is the responsibility of the state whose guidance is carried out by the central government and regional governments in that case housing and settlement development. Housing problems are one of the primary needs of the community. Where in the case of housing supply and development, it is inevitable that the public service sector is very vital in nature. Talking about housing means also talking about financing, increased development financing due to soaring land prices, construction costs, and the cost of infrastructure and environmental facilities affect the rising prices of home ownership. The government through the banking community provides a housing loan facility, commonly called a Home Ownership Credit. Home Ownership Credit is a credit facility provided by banks to individual customers who will buy or repair a house.

*Keywords: legal protection, home ownership credit guarantee, civil servants, welfare state*

### INTRODUCTION

Physiological needs are a basic need for human beings (basic needs), therefore this need is still physical needs/material. The needs of physical/material covering the need for food (feeding), clothing and planks (housing) is a manifestation of the physiological staple needs of every human being. The three underlying physiological needs in fact must be met together, does not mean that food is more important than clothing and clothing is more important than housing. So, these three kinds of physiological needs are a necessity that should be fulfilled at a minimum. The need for housing is to be the one in aspire and a problem that is quite incriminated for everyone, including civil servants with a very limited income, which is only able to fulfill the need for clothing and food alone.

The welfare state is a form of democratic government that confirms that the country is responsible for the minimum welfare of the people, that the government must regulate the distribution of the wealth of the country so that no people are hungry, and no people who are not productive (pension) can not borrow funds to the bank.

The country's purpose in the concept of welfare state is to realize the welfare of every citizen of his country. Based on the purpose of the country, the country is required to participate in all aspects of social life especially in the economic activities of the community. This is in accordance with the basic idea of the country's objectives as outlined in the preamble of the opening of the CONSTITUTION of NKRI 1945 as well as the principle of the law State in the explanation of the CONSTITUTION 1945 before the amendment process, where the concept of welfare state and the principles of the State of law are both based on Pancasila as the basis of state. Pancasila which is the mind of the Law (Rcchtsidee) and also is grundnorm

in the order of Indonesian law which contains basic values of national and state as well as the benchmark for every behavior of citizens, has given the foundation for the country to realize the welfare of society. It is clearly reflected through one of its syllasons, namely to create a social justice for all Indonesians.

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The sense of social justice can not be understood as a sense of justice that is *Sich*, but Justice also related to the fulfillment of the needs of the people evenly by the state. That the increase of the economic life of an individual and community members not only depends on the role of the market and the existence of private economic organizations, but also depends on the role of the country. In order to acknowledge the role of the State directly in economic activities that is, in the form of government expenditures and the arrangement of supportive economic activities in overcoming depression.

The role of the country is more important when many welfare economics experts are so confident that the system or the market mechanism will not be able to fully resolve all economic issues. State presence is required precisely to reduce the impact of market failures (market failure), price rigidity (price rigidities), and the impact of exlericity on the environment and social.

Based on the argument above, the implementation of welfare Law State concept (welfare-Rechtstaat) plays an important role in the fulfillment of Community welfare, therefore, the presence of the State in economic activity is very important and relevant in achieving the state objectives, namely the achievement of public welfare.

Thus, the country's presence through banking is not fully directed to the search for profit (Profitization function), but it is better to reach the welfare of society through the function of service to the Community (social function) through civil servants Pension Fund is made a credit guarantee in the Bank.

Furthermore Lawrence M. Friedman explained that *"This peculiar form of 20th century state is usually called the "welfare state", or, more broadly, the welfareregulatory state. Basically, it is an active, interventionist state. Government is ubiquitous. It collects huge post of money, and cmmands as enormous army of civil servants. It distributes billions in the form welfare payments. In many countries, it runs the railroads, the postal service, the telephones, in others it has banks, steel mills and other enterprises in its portfolio"*.

In the concept of this welfare state, the country is required to broaden its responsibilities to the socio-economic problems that many people face. This development provides legalisation of the 20th century "interventionist state." It is necessary and should even intervene in a variety of social and economic problems to ensure the creation of shared prosperity in the community.

In understanding social democracy, the country serves as a welfare state. In welfare state, the State plays an active role in the fulfillment of community welfare. One of the important factors of increasing the welfare of people in the atmosphere of the nation that has become independent is the quality service of government officials as a state apparatus in serving the public interest. It is undeniable that the country's existence in this case the Government is very strategic and important in serving and assisting the community in managing and empowering the potential of this already independent nation. The presence of a people's sovereignty in the independent State does not mean anything when there is no government with government officials as an instrument in managing the nation's potential to safeguard the sovereignty. The sovereign State has no authority in the presence of other nations when the potential of the state is incapable of being managed and properly administered by the government. In contrast, the presence and existence of a government (Government) in an independent country has no meaning if the government has no support and legitimacy from the people as sovereign holders. Strong government is a government that has the support and good relations of the People (Society).

In a welfare state, the breakdown of social welfare problems such as poverty, unemployment, inequality and transparency are not carried out through short-term partial social projects. Rather, it is dealt with in an integrated basis by social security programs, such as social services, social rehabilitation, and various benefits (such as education allowances, health benefits, old day benefits (retirement), and unemployment benefits.

## DISCUSSION

The concept of the welfare state has actually been enacted in the Constitution 1945. However, in reality, the concept of a country like this has not been fully applied in Indonesia. Because, the requirements are quite heavy. The Welfare state must have a good tax system, a large social trust, a strong labor union, a homogeneous population, and a strong social institution. Strong social institutions will make citizens accustomed to the rules of the Games created by the government. Social institutions are the fundamental structure of society that plays a role in creating the regularity of society.

There are at least 2 (two) things that are behind the importance of laws governing the relationship of citizens and countries. First, the law and norms are of paramount importance as a juridical control of citizens to Governments represented by government officials who are carrying out power. Secondly, in the context of democratization in an independent nation, the pillar of law becomes very important as a check and balances for the government.

The public policy of the country played by government officials as a consequence of the realization of the welfare state that became Indonesia's state platform. Even the concept of the welfare state in our legislation for the first time is known as the term "governing state". In its basic sense, the "welfare state" is a conception, paradigm and action framework of governance in which the state sector is performing a key role in providing protection and or conducting welfare promotion for every citizen. This conception clearly puts the country in this case government officials are obliged to carry out an agenda based on welfare for the public. In drafting and realizing the welfare agenda, government officials publish a variety of regulations and policies.

In achieving well-being, it takes the role of "normal" state to create a balanced development, which is the balance between economic development and social development. Seeing the concept of the country as the organizer of people welfare, then came the concept of welfare state.

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The essence of the welfare state to provide the Ministry of Prosperity to the public does not necessarily run in the corridor of the real ideality. In the country's situation has not maximized the mandate to enrich the condition of the people, it should be understood that one of the bad faces of the conception of the welfare state is the emergence of corrupt and authoritarian regimes that appear with the face of a dear. In this case, the government displays a wide range of data and a responsibility for improving welfare efforts. However, on the other hand, real governmental action is actually a lot of aberrant and administered authoritarian and corruptive. The welfare state that reported the best public services still left a corrupt and distorted government potential. The potential deviation by the government is very large, considering that all development controls and matters related to policy management are controlled by the government.

### A. Pension fund as collateral credit at Bank as National Financial reserve

Let's take a look at one of the Jamsosnas programs, namely Old Day benefits (THT) and civil Servants Pension Fund which is now managed by PT. Taspen. Government or state as employer is supposed to be compulsory. With the government also mengiur, of course THT and civil servants pension Fund that is managed by PT. Taspen will become larger. As such, corporates, Taspen will also become a larger company. More than that, the welfare of civil servants will also increase more significantly so that they can actually enjoy a more beautiful old day life. Indeed, Taspen can be a prototype "welfare house"

worker (PNS), as an integral part of the architecture of Indonesia's National Social Security System (SJSN), which is one of the pillars of supporting the independence of the nation and state.

The problem is, so far there is an impression of the government and DPR that if the government is mengiur for the pension Program and social security apparatus of the state then it will only benefit PNS, TNI and police because it affects the numbers in the APBN that becomes very large. Therefore, governments and parliaments remain firmly on the pay as you go pattern instead of the fully funded pattern. It is obviously not true. The APBN burden becomes very large not due to a due that should be paid by employers (the government), but by reason of the Government and DPR always procrastinating its obligations for many years. Until the year 2009 there was no decision. If carefully observed, the macro impact is precisely greater than the micro interests of the country's apparatus itself.

Social Security (pension fund) has a considerable role for the social welfare of participants in particular and in general society. By micro, the gathering of dues (both participants and employers) has the effect of increasing the welfare of the participant and does not provide any foreign debt burden to the employer. And macro, the influence of dues collection is enormous. There are at least nine benefits, namely establishing the independence of a nation, realizing the financial resilience of the country, building national financial reserves (National Reserve Fund), creating long-term financing, driving capital markets, creating jobs, reducing unemployment, alleviating poverty, and improving people's welfare.

So it should be the obligation of the Government to build social security with a fully funded pattern with dues with employers (government) and participants (PNS, TNI, police and other state apparatus). With the fully funded pattern, both the participant and the employer must both give contribution. The impact of the Fund collection in the bank is not only beneficial to the participant, but also the employer and the state (as the national Financial Reserve). Then the choice is to use the pay as you go or the fully funded pattern?

Basically, judging from the funding source, the retirement system knows two patterns. First, the pay as you go pattern is fully loaded with the APBN. And secondly, self-financing or a fully funded pattern with shared dues from entrants and employers (government).

Worldwide, in best practices, the retirement system is geared towards the fully funded system. The pay as you go system is only applied to the beginning of the establishment of pension funds and as the "intermediate system" which then starts many abandoned after funding for fully funded constructed and fulfilled funding.

## **B. Pension fund used for welfare state realization**

We see from the turnaround side of the Social Security System (pension fund) and employment. The turnover of the Social security System (pension fund) and employment, by the Government, must always be maintained and maintained continuously continuity. This cycle is a race against the growth of the population in the community. The increasing number of people, the country must provide more employment by utilizing the National Social Security Fund (pension fund) which is certainly increasingly greater in accordance with the increasing population and income. However, the quicker the rotation is, the better it will be to influence the prosperity and welfare of the community. The slower the rotation will cause suffering for people who do not get jobs due to unemployment and poverty. This cycle takes place continuously throughout the life of the country and society.

The Social Security (Pension fund) and the creation of the employment were both sides of the currency. Both sides of the currency will follow the law of balance, both have a positive impact and can also negatively impact a country.

If the Jamsosnas Fund (pension fund) is quite available in large numbers, it will impact the nation's national financial reserves strong so that the creation of employment will be greater. Walresult, gross domestic product (PDB) also will increase. Conversely, if the Jamsosnas Fund (pension fund) is small then the national financial reserves will shrink and result in the ability of a country to create employment opportunities to be low. Further consequences can increase the amount of unemployment and increase poverty; Community welfare declines; And PDB will always be in low condition.

Second, long term savings side. The Social Security Fund (pension fund) which is a group of dues of civil servants will be a very large fund as a "national savings". Thatway, can be used for the source of investment funds in a country that is long term. The system that builds this fund will make a country have strong financial strength. The accumulated funds are used for investment funds, both in the financial and capital markets sectors; To build factories and infrastructures which are then expected to bring financial

resources to the state tax body. As for each individual as Labor will earn income that will also generate income for the country in the form of individual tax.

Third, the national financial reserves side. The Social Security Fund (pension fund) accumulated and accumulated from year to year will create a national financial reserve for a country. These funds can be used by countries to move their economies and industries through the expenditure of state bonds.

The financial needs of state in cash can be fulfilled with state bonds which in time will be refunded through the repayment of state/Government debts. That way, the additional needs of funds do not need to ask for help from the IMF, World Bank, ADB or foreign donor agencies. All financing needs can be fulfilled from within the country itself so as to strengthen the national financial resilience, therefore also strengthening the national resilience of the country.

Paul A. Samuelson and William D. Nordhaus in his book *Economics* (1st Edition, 1948) stated: "National saving is the sum of personal, government and business savings. When Nation saves a great deal, its capital stock increases rapidly and its enjoy rapid growth in its potential output. When nation's saving rate is low, its equipment and factories become obsolete and its infrastructure begin rot away." The country with a large and strong national financial reserve reflects that the welfare of the nation and the country is increasingly good and prosperous. That's what happened to the United States and other developed countries.

Strong national financial reserves must also be supported with a strong currency value. For Indonesia, if the value of the currency is weak, of course the national financial reserve is weaker and increasingly shrinkage because the value of national financial reserves is affected by the weakening value of the Rupiah currency. The role of Rupiah currency is very decisive in measuring national financial reserves and the welfare of the Indonesian nation.

Fourth, the capital market funding source. The National Social Security Fund (pension fund) accumulated in the amount that continues to grow and to be able to be more effective, can be used for investment in the capital market by placing it in the stocks or other financial instruments in the capital market. The needs of the manufacturers, shareholders who want additional funds for their working capital, or to increase their factory capacity, can be fulfilled by issuing new stocks or other financial instruments which are then purchased by the institution of Social security management. Similarly, the Government, if needed funds to build public facilities and infrastructures can utilize through the issuance of bonds purchased by the National Social Security Management Board. With the increasing capacity of factories or increasing factories in the community, as well as the growing availability of infrastructure managed by a business entity, the government will also benefit by obtaining taxes from the business entities.

The acceptance of the State and its constitution (if not deficits) will certainly be used by the Government with the approval of DPR for the cost of development of government/State facilities and infrastructures, improvement of service to the public, payment of salaries and emolument state apparatus and state officials, and the increase in the purchasing power of state apparatus and state officials. Also to build Social Security (pension fund) for community and state apparatus that includes social assistance with various forms (basic food aid, health assistance, housing assistance and education assistance); Health care and warranties; Contribution payment of Social Security (pension fund) from the Government in the form of dues as the obligation of the State as employers of state apparatus; Social security contribution payment from the central government in the form of dues to jamsosnasda, as the organizer of the state who is obliged to provide social security to the citizens; and unfunded liability payments relating to social security.

Fifth, the side of job creation. With the increase of factory capacity and the presence of new factories and new facilities and infrastructures, it will require additional manpower with various expertise. New jobs are available to citizens in need. For the workforce, whether new graduates from public schools and certain technical expertise, will be able to accommodate with new employment openings to reduce unemployment and poverty. So, as long as the system and the Social Security Fund is very Pro-growth, Pro-poor and Pro-job as it is now campaign by the government of President Susilo Bambang Yudhoyono.

Sixth, side overcoming unemployment. The National Social Security Fund (pension fund) that enters the capital market will be absorbed by the business entity that manages public facilities and infrastructure, including services. It can be a business entity that builds new factories. With the development of new factories as well as increased capacity and expansion of the factory area, will also open a new job and

position that can accommodate the jobseekers so that it can overcome the occurrence of unemployment in the community. This is now popularly called the Pro-job strategy, which is to open jobs and reduce the unemployment rate.

Seventh, the reduction side of poverty. Social Security Fund (pension fund) accumulated in large numbers will be able to improve the welfare of the community because of the existing workforce can be contained in the wider employment field. So, people can earn the necessary income to fulfill their life needs and improve their prosperity.

The increasing number of social security funds (pension fund) invested and flowing into the capital market will increase the amount of employment and able to absorb the existing workforce so that it will reduce unemployment and poverty in the community. On the other party, there will also be products and services needed by citizens. The availability of adequate products and services can prevent the rate of inflation.

In short, the influence of the Social Security Fund (Pension fund) on efforts to reduce poverty is enormous. In the case of the United States, economist Peter F. Drucker revealed that 50-60 percent of the money that revolved in society came from workers' social security. Similarly, countries that belong to developed countries, in general the prosperity of the community is supported by the magnitude of the national financial reserve derived from the contribution of the Social Security Fund. However, while the output of the Social Security Fund is not utilized as intended and the purpose of the establishment of the Fund, it will lead to unemployment and poverty as it is currently happening in the United States. Note that the accumulation of U.S. social security funds is not used for the benefit of its community, but it is widely used by President George Bush to war and colonize Kuwait, Iraq, Afghanistan and others. Now, President Barack Obama is forced to wash his "dirty plate" left by George Bush.

Eighth, improving the welfare side of the nation. With the accumulated Social Security Fund (pension fund) that can be channeled for investment, the Community funds become spinning. Furthermore, it can provide employment for the community so that unemployment and poverty are reduced and the face of macro welfare will improve. The welfare of the people and Peoples in macro also has another side of a currency with the national financial reserves. If the national financial Reserve is strong then the welfare and prosperity of the country will increase anyway. Whereas if the State financial reserves are low then the welfare and prosperity of society is also low. With the increasing welfare of society, there is sufficient funds to increase dues and social security in the form of savings for social security, pension funds or other insurance programs.

Ninth, side of increasing welfare per capita community. Individually, the welfare of citizens will increase. With the availability of work, one can hone his skills so that his income will increase too. Conversely, for those who have not worked it will be free from idle because it gets a job and will also earn income. With the income of individuals increasing further the welfare of individuals will also increase. The next influence, the person will increase his ability to pay the hundredths tax and contributions to the Government and the community, among others, the form of zakat, Infaq, and Sadaqah (for citizens who are Muslims).

With the improvement of the welfare of the individuals derived from the income of retirement funds then support from the concept of State prosperous (welfare state) of Indonesia.

## CONCLUSIONS

The concept of state welfare not only includes a description of a way of organizing prosperity (welfare) or social services. But it is also a normative concept or an ideal approach system that emphasizes that everyone should obtain social service as a right. State welfare or welfare state, both as concept or model of welfare development, has a diverse face. It does not vacuum, but dynamically follows the rate of change and demands of the people in the country concerned. The welfare of the state is not dead as many people have. It has also not only developed countries economically. With political will, a clear commitment and vision of social and human investments, developing countries are able to carry out this welfare development approach.

Good Governance becomes the main agenda for the realization of a welfare state for the independent nation. Good Governance is entrusted with an accountable and transparent government that is ready to serve the public professionally. One of the important factors of increasing the welfare of people in the atmosphere of the nation that has become independent is the quality service of government officials as the

state apparatus in serving the public interest. . In achieving well-being, it takes the role of "normal" state to create a balanced development, which is the balance between economic development and social development.

The implementation of the welfare state concept can be seen in the provision of Social Security (pension fund). Then the characteristic of this welfare state itself is (1) the majority of the country's expenditure is intended for social policy or responsibility for the provision of welfare for its citizens. (2) There is a long-term commitment of the country or government that is created which has a set of government programs that aim to ensure the welfare to face the possibilities that will be faced in modernity, individualization, and industrialized society. (3) The country becomes a country without losing the position of the holder of its primary responsibility, able to combine the power of various parties (social organisations, independent parties, voluntary, etc.) to provide welfare protection for the community.

## SUGGESTIONS

Referring to the Social Security cycle (pension fund), the national financial Reserve is also the side of the currency with the face of a nation's welfare. If the national financial reserve is strong, it will have an impact on the welfare level of society and the country that becomes strong. Conversely, if the national financial reserve is weak then the welfare of this nation decreased and weakened anyway. Whatever the reason, it has been experienced by Indonesia since many years ago, from the beginning of the old order, the new order to the reform order now. And even to the next government if not willing to reform the social security system of society. This is indeed the task for the 2009-2014 period government that should not be postponed but must be resolved.

Investments that occur with the utilization of the Social Security Fund (pension fund) will return through the output received by the Government, such as income tax from employees of companies that utilize the Social Security Fund; Tax of the company utilizing the Social Security Fund; Other State acceptance in the form of Earth and building tax (PBB), export tax (if the resulting commodity is exported), other taxes and duties; The increase of public purchasing power due to reduced unemployment; and inflation in control.

Furthermore, new employment course also to accommodate those who have higher skills and skills as a consequence of improving the quality of human resources (SDM) community. The addition of the previous workforce will also be experienced by construction companies who build and design new factories and infrastructure facilities, in addition to those working in the capital markets. Thus, the multiplier effects of the utilization of social Security funds (pension fund) on the creation of employment is indeed large and varied.

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