

Towards Legal Harmony: Evaluate Consistency and Inconsistency in Indonesian Social Welfare Law

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Abstract

This study aims to evaluate consistency and inconsistency in social welfare laws in Indonesia, focusing on how they are designed and applied. The methodology used is a combination of normative legal analysis and empirical research, including case studies and surveys with key stakeholders. Key findings reveal significant inconsistencies between laws and regulations governing social welfare, both at the national and local levels, as well as gaps between policies designed and their implementation practices on the ground. The study also found that policies are often inadequate in addressing the needs of vulnerable groups. Based on these findings, the study recommends harmonization of regulations, more inclusive policy updates, strengthening implementation capacity, improved inter-sectoral coordination, and the implementation of stronger monitoring and evaluation systems. The results of this study are expected to provide insight for policymakers to improve the effectiveness and harmony of social welfare laws in Indonesia.

Keywords: consistency, inconsistency, social well-being.

INTRODUCTION

Social welfare laws in Indonesia have undergone significant evolution since the independence era. Initially, the focus on social welfare was rooted in the basic principles of the state, Pancasila, and the 1945 Constitution, which emphasized the importance of people's welfare. Over time, social welfare policies in Indonesia have shifted and adapted to socioeconomic and political changes, starting from the Old Order era, the New Order, to the Reform era.

In the New Order era, social welfare policies tended to be top-down and centralistic, focusing on infrastructure development and basic social services. However, this approach often does not effectively address the root causes of poverty and inequality. Post-reform, there were significant changes with decentralization and granting greater autonomy to regions, allowing a more local approach and responsiveness to the social welfare needs of the community.

Indonesia currently faces various challenges in the implementation of social welfare laws, including regional inequality, disparities in access to social services, and economic inequality. Tackling social issues such as poverty, unemployment, and inequality is becoming increasingly complex in the era of globalization and digitalization.

Indonesia also strives to align its social welfare policies with international standards and commitments, such as the Sustainable Development Goals (SDGs). This reflects efforts to not only fix domestic social problems but also contribute to global social welfare efforts.

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One of the crucial issues in social welfare in Indonesia is consistency and inconsistency in regulations and their implementation. Often, existing laws and regulations are out of sync or even contradictory, both at the national and local levels. This has resulted in obstacles in the implementation of effective and efficient social welfare policies.

Responding to this, joint efforts from various parties, including the government, non-governmental organizations, academics, and the general public, are needed to achieve legal harmony in social welfare. This includes not only improving the law, but also strengthening institutions, increasing implementation capacity, and continuous monitoring and evaluation.

It is in this context that this article aims to critically assess the consistency and inconsistencies in Indonesia's social welfare laws, with the hope of providing recommendations to achieve better legal harmony for the welfare of society as a whole

LITERATURE REVIEW

Diversity and Complexity of Legislation

Social welfare laws in Indonesia, which consist of various regulations and policies, often exhibit high diversity and complexity. As a result, there are challenges in achieving overall consistency. These inconsistencies can stem from differences between central laws and local regulations, as well as from differences between different sectors related to social welfare.

One of the main problems is the inconsistency between established policies and their implementation on the ground. Sometimes, existing laws are not followed by clear implementation guidelines or adequate resources, making implementation ineffective.

There are often conflicts and overlaps between various applicable regulations. For example, health rules may conflict or be out of sync with those in education or social protection, creating confusion and barriers to social service delivery.

Rapid changes in Indonesia's socio-economic and demographic context are sometimes not followed by appropriate policy updates. As a result, existing laws may no longer be relevant or effective for addressing current social welfare issues.

The problem of inconsistency is also seen in the handling of vulnerable groups such as the poor, persons with disabilities, and abandoned children. Often, existing policies do not provide sufficient protection or support for these groups.

Inter-institutional coordination is often an obstacle to achieving consistency. For example, different government agencies or government and private agencies may have different approaches to social welfare issues, leading to unintegrated policies and less effective cooperation.

Limitations in monitoring and evaluating social welfare policies also contribute to inconsistencies. Without effective monitoring and periodic evaluation, it is difficult to identify and address inconsistencies in legislation and its practices.

Inconsistencies in social welfare laws have a direct impact on society, especially on those most in need of social services. This can result in inequity, unequal access, and increased social inequality.

Indonesian Social Security Law

The discussion of the SJSN Law covers various issues related to the government's efforts to realize social security for all Indonesian people. Social security itself is closely related to human rights, community empowerment, and government efforts to meet community needs.

Social security is a condition where every individual in society has equal access to resources and opportunities to fulfill their basic needs, including health, education, work, or other rights. This concept includes efforts to overcome poverty, inequality, and social injustice.

The Social Security Law in Indonesia is based on various legal regulations, including:

- 1945 Constitution: Article 28H Paragraph (1) Every person has the right to protection of self, family, honor, honor, and dignity, including the right to social security.
- UU no. In 11 of 2009 concerning Social Welfare: regulates the principles, objectives, and strategies of social welfare in Indonesia.

Social security law in Indonesia has several main objectives, including improving people's quality of life, reducing social and economic disparities, providing social protection to vulnerable groups such as children, the elderly, and people with disabilities, and encouraging active participation in the development of community welfare. To overcome this problem, the government has launched various programs such as PKH, JKN, and BPNT. However, these efforts are faced with various challenges such as economic inequality, inequality in service provision, and problems of social injustice.

RESEARCH METHODS

This research will use a methodology that combines normative and empirical legal approaches to evaluate consistency and inconsistency in social welfare laws in Indonesia using both primary, secondary, and tertiary legal materials as the main data. Data analysis is carried out qualitatively with a theoretical abstract approach. The approach used in this study is the statutory approach (statute approach) and concept approach (conceptual approach). The statute approach is carried out by reviewing all laws and regulations related to the legal issue being handled. The conceptual approach is an approach that departs from the views and doctrines that develop in legal science (Marzuki, 2011).

The legal materials examined in this study consist of First, primary legal materials, namely: the Code of Criminal Procedure, Law No. 11 of 2009 concerning Social Welfare, Government Regulations, and Ministerial Regulations: Including implementing rules and technical rules related to the implementation of social welfare policies, Regional Regulations (Perda). Second, secondary legal materials, namely secondary legal sources in the form of books, articles in scientific journals, newspapers, magazines, and others related to the topic under study, and Third, tertiary legal materials, namely: dictionaries, encyclopedias, and others that explain more concisely from a study. These data are collected using the document study method.

RESULTS AND DISCUSSION

Welfare is a dream and hope for every human being who lives on this earth, every parent must expect welfare for their children and family, be it in the form of material welfare or spiritual welfare, parents always try to meet the needs of their family, they will work hard, slam, do anything to meet the needs of their family, they will provide protection and comfort for their family from various kinds of disturbances and dangers that confront it (Sodiq, 2015). The concept of a welfare state is a system of government that aims to improve the welfare and quality of life of its people (Riyanto & Kovalenko, 2023).

Welfare is a system of social, material, and spiritual life followed by a sense of safety, decency, and self-peace, every citizen can make efforts to meet the best physical, spiritual, and social needs for themselves, their households, and society by upholding human rights (Martikainen, et al, 2022, & Sukmasari, 2020). Explicitly the constitution

in articles 27 and 34 of the 1945 Constitution mandates the government's responsibility in the development of community welfare (Rahman, 2018).

Law of the Republic of Indonesia Number 13 of 1998 states, social welfare is a system of life and social livelihood both material and spiritual which is covered by a sense of safety, decency, and inner and outer peace that allows every citizen to fulfill the best physical, spiritual, and social needs for themselves, their families, and society by upholding human rights and obligations under Pancasila (Husna, 2014).

There are several national laws regarding welfare, namely:

1. Law Number 11 of 2009 concerning Social Welfare: This regulation regulates various aspects of social welfare, including social services, social protection, and social rehabilitation.
2. Law Number 13 of 2011 concerning the Handling of Children in Conflict with the Law: Regulates the rights and protection of children facing the law, including aspects of their social welfare.
3. Law Number 40 of 2004 concerning the National Social Security System (SJSN): Regulates the implementation of social security which includes health insurance, employment social security, and other social security.
4. Law Number 24 of 2007 concerning Disaster Management: Regulates disaster management and post-disaster recovery, including aspects of social welfare in the context of disasters.
5. Law No. 1 of 1974 on Marriage: Although its main focus is on regulating marriage, it also includes provisions relating to family welfare.
6. Law Number 18 of 1999 concerning Jasa Raharja: Regulates social security for victims of traffic accidents. It should be noted that the above regulations may undergo changes or expansions, and other laws may also have an impact on social welfare in Indonesia. In addition to laws, there are government regulations, policies, and other programs that support social welfare efforts in the country.

Here are some district rules on social welfare.

1. West Java Provincial Regional Regulation Number 11 of 2011 concerning the Implementation of Social Welfare: May regulate various social welfare programs at the West Java provincial level, including social assistance and social protection.
2. Surabaya City Regional Regulation Number 7 of 2014 concerning the Implementation of Basic Social Services: The possibility of regulating aspects of the implementation of basic social services at the Surabaya city level, including basic education and health.
3. Bogor Regency Regional Regulation Number 4 of 2015 concerning Social Welfare Implementation: May regulate social welfare programs at the Bogor district level, such as assistance for poor families or child welfare support programs.
4. Bali Provincial Regional Regulation Number 3 of 2013 concerning the Establishment and Arrangement of City/Regency Regional Apparatus Involving Social Welfare: The possibility of regulating the organizational structure of regional apparatus involved in the implementation of social welfare at the Bali provincial level.

After analysis, it was found that there were inconsistencies between national laws and local regulations in terms of social welfare, which created confusion in their implementation. Inconsistencies towards various legal provisions in the administration of government result in the loss of public trust in the Government which allows centrifugal and centripetal actions/movements in the implementation of decentralization (regional autonomy) between the central and regional governments due to the strengthening of

centralization of central authority which can threaten the occurrence of disintegration movements (centrifuges) in nationalism (nationalism) in the form of the Republic of Indonesia (Lobubun et al, 2022).

The results of the analysis also found misalignment between social welfare policies and the socio-economic reality of the community, especially in dealing with issues of vulnerable groups. Some of the factors causing the misalignment include:

1. Misalignment of access and services
2. Unreachable assistance program
3. Lack of coordination
4. Bureaucratic challenges
5. The crisis of social change

Various social welfare policies need real implementation supported by various parties. There is a gap between policies designed and their implementation in the field, such as accessibility and effectiveness of social services. Social services or social welfare aims to improve the relationship of individuals, groups, and communities with the social environment. Social welfare ensures a life that meets the essential needs to perform social functions well (Bindley et al, 2021). The functions of social welfare services include providing access to resources for social rehabilitation, social protection, social security, and social empowerment. Adequate facilities and infrastructure are needed to ensure optimal social welfare services (Suwandy et al, 2023).

The accessibility of public services is an important indicator that must be met by every agency that provides services (Hickey et al, 2023). This has been stated in the laws and regulations that every public facility including the availability of facilities in public spaces needs to be considered to create a sense of satisfaction with the community in obtaining services (Susilawati et al, 2023).

The current problem is that vulnerable groups such as people with disabilities and the elderly often do not get optimal benefits from social welfare programs due to systems that are not fully inclusive.

People with disabilities are the largest minority group in the world (Nandini & Yunan (2022). The term Persons with Disabilities replaces the term persons with disabilities used in Law Number 4 of 1997 concerning Persons with Disabilities. Article 1 point 1 of the Law on Persons with Disabilities explains that Persons with Disabilities are everyone who experiences physical, intellectual, mental, and/or sensory limitations for a long period and who in interacting with the environment may experience obstacles and difficulties in participating fully and effectively with other citizens based on equal rights (Widjaja et al, 2020). Law Number 8 of 2016 concerning Persons with Disabilities, giving responsibility to local governments for the rights of persons with disabilities. People with disabilities are also classified as one of the vulnerable groups. Vulnerable groups are those who most often receive discrimination and their rights are often not fulfilled. This is not without reason, because people with disabilities are often considered as disabled people who receive the most discrimination and many other rights have not been fulfilled for people with disabilities (Landes et al, 2023). People with disabilities have the same position, rights, and obligations as non-disabled people (Ndaumanu, 2020). One of the factors that hinder the Accessibility of Public Services for Persons with Disabilities is the lack of availability of accessible facilities and infrastructure for them and the lack of available budget, as well as the need for awareness and understanding of the importance of accessibility for people with disabilities (Susilawati et al, 2023).

Law No. 13 of 1998 concerning the Welfare of the Elderly, regulates efforts to improve the social welfare of the elderly can be carried out effectively and successfully as well as

comprehensively and sustainably (Dahlia & Doyoharjo, 2020). Regulations supporting the implementation of elderly social welfare according to Akbar (2019) include the following.

1. The 1945 Constitution Chapter X concerning citizens in Article 27 paragraphs 1 and 2 namely:
 - a. All citizens have equal standing in law and government and are obliged to uphold that law and government with no exception.
 - b. Every citizen has the right to work and a decent living for humanity.
2. Amendment to the 1945 Constitution in article 28 A "Everyone has the right to live and has the right to defend his life and life". Law No. 11 of 2009 concerning social welfare Article 25 letter e encourages and facilitates the community and the business world in carrying out their social responsibilities; Article 36 letter d funds set aside from business entities as social and environmental obligations and responsibilities; Article 38 letter g concerning the role of social welfare implementation can be through business entities; Article 40 The role of business entities as referred to in Article 38 point g in the implementation of social welfare is carried out as a social and environmental responsibility under the provisions of laws and regulations.

In the implementation of existing policies, development must be carried out by what is formulated by the local regional apparatus with the community (Kansil, 2020). As for compulsory government affairs related to basic services, there are 6 compulsory affairs for basic services, namely:

- a. Education
- b. Health
- c. Public works and spatial arrangement,
- d. People's housing and settlement areas,
- e. Peace, public order, and community protection
- f. Social.

18 compulsory government affairs are not related to basic services including 1) Manpower, 2) Women's empowerment and child protection, 3) Food, 4) Land 5) Environment 6) Population administration and civil registration, 7) Community and village empowerment, 8) Population control and family planning, 9) Transportation, 10) Communication and informatics, 11) Cooperatives, small and medium enterprises, 12) Investment, 13) Youth and sports, 14) statistics, 15) Coding, 16) Culture, 17) Libraries, and 18) Archives. Elective government affairs include 1) Marine and fisheries, 2) Tourism, 3) Agriculture, 4) Forestry, 5) Energy and mineral resources, 6) Trade, 7) Industry, and 8) Transmigration (Syauqi & Habibullah, 2016).

Various inconsistencies in welfare regulations can have an impact on the efficiency and effectiveness of the implementation of social welfare programs that demand legal reforms to create better alignment between various regulations and practices. Here are some of the effects of these inconsistencies, namely:

- a. Operational efficiency

Operational efficiency relates to operational performance. This happens if the institution can achieve operational efficiency, then the ability of the institution to improve performance also increases (Junaidi, 2018).

- b. Tumpang tindih program

Overlapping social welfare programs as a result of inconsistencies in legal regulations can harm the efficiency and effectiveness of policy implementation, create a waste of

resources, and create uncertainty in government policy priorities. Negative impacts include administrative complexities that slow aid delivery, inequalities in services to communities, and legal uncertainty that can hinder implementation. To overcome this problem, it is necessary to evaluate existing regulations, harmonization between programs and regulations, improve coordination between agencies, and increase transparency and public participation in the process of planning and implementing social welfare programs. Periodic evaluation is also key to identifying and addressing potential overlaps, thereby improving the effectiveness and sustainability of social welfare programs.

c. Legal uncertainty

Legal uncertainty is a condition in which parties related to situations or policies are faced with unclear about the interpretation or application of the law.

d. Inequality of access

Social inequality can lead to social injustice and political instability. Social inequality can occur in various forms, such as income gaps, education gaps, and health disparities (Dwi, 2023).

e. Non-optimal utilization of human resources

Every organization has people in it, whether small or large scale organizations, people or people are an important element in determining whether an organization can operate effectively and efficiently to achieve the goals of the organization. The failure or success of an organization in achieving its goals depends largely on the humans who manage the organization. Humans or employees who are in an organization are usually referred to as Human Resources or HR (Setiyati & Hikmawati, 2019). Human resources are an important factor for every (Atmaja & Ratnawati, 2018). Thus, the inefficiency and ineffectiveness of the implementation of social welfare programs are due to the lack of utilization of human resources.

Local governments need to implement capacity building to improve and update existing systems more than ever. Based on PP No. 59 of 2012 concerning the National Framework for Regional Government Capacity Development, the Regional Civil Service Agency of Jombang Regency which is a local government institution also carries out capacity development, especially institutional capacity building (Ratnasari, 2013). It is important to strengthen the capacity of institutions responsible for the implementation of social welfare programs and improve inter-agency coordination so that the implementation of social welfare policies becomes more effective and sustainable. Strengthening institutional capacity can be done by:

a. Increased knowledge, and skills

Institutions need to proactively train their human resources to adapt to social changes and work environments and increase productivity (Tursiunbayeva, 2019). The current and future responsibilities of human resources, as well as the ability of human resources to advance in their careers, can all benefit from training. As a result, skills development is just one of the many reasons why training is a necessity or an important part of HR initiatives (Kusumah & Nurnilasari, 2022).

b. Employee training and development

The existence of quality human resources (HR) in an organization can be an important asset in the company which in the future can be a supporter of organizational progress (Kumar & Sarwal, 2022). So the existence of quality human resources (HR) can determine the quality of humans as important role holders in advancing the organization concerned (Gunawan et al, 2019). Competition that occurs will have an impact on the way an organization works (Apriliansa, & Nawangsari, 2021). Employee training and development will improve performance and can be more effective and sustainable

regarding the implementation of social welfare programs. Training and human resource development (HR) is an important long-term investment for organizations in achieving their goals (Zaky, 2023).

c. Use of information technology for more efficient data management

Information Technology is information processing and packaging technology while communication technology is a technology of interaction between information users through communication networks (Sendelj, 2020). So the reach of ICT is not only tied to programming, networking, and analysis, but ICT can be used to improve product quality, worker productivity, international competitiveness, and quality of life (Juditha, 2020).

Meanwhile, improving inter-agency coordination involves establishing effective communication and collaboration mechanisms between relevant institutions, such as government, non-governmental organizations, and the private sector (Li et al, 2023). Good coordination can ensure optimal distribution of resources, avoid overlapping programs, and improve responsiveness to community needs. Thus, joint efforts in strengthening capacity and improving coordination can improve the performance and positive impact of social welfare programs, in line to create a more empowered and equitable society.

Inclusive development can be defined as a development model that prioritizes equality and the widest possible social participation at the smallest level (Juditha, 2020). There are 6 (six) core elements in the disability-inclusive development approach, including:

1. Awareness

Awareness of the issues facing people with disabilities is key to ensuring that a policy or program has a successful outcome for people with disabilities.

2. Participation

The participation of persons with disabilities in community settings, including the design and development of policies and infrastructure, is a core principle of disability-inclusive development

3. Access and Design

Universal Accessibility such as participation is also a broad term and is understood in a variety of ways. When considering accessibility, the main thing to understand is that creating a barrier-free environment for everyone is essential for disability-inclusive development because a society accessible to people with disabilities is a society accessible to all.

4. Twin path approach

The twin-track approach is the approach most often referred to by the United Nations, bilateral development agencies, and NGOs to include persons with disabilities in development.

5. Empowerment

Empowering people with disabilities means providing support and opportunities to disability groups so that they can actualize their potential and abilities as individuals just like humans in general.

6. Gender Equality

Gender equality emerged as a core issue in the context of human rights with the UN-CRPD – the core principle of the UN-CRPD is equality between women and men with disabilities and to achieve this, the UN-CRPD takes a gender mainstreaming approach that focuses on ensuring equality between women and men with disabilities

Improving social welfare requires serious attention to legal aspects and implementation strategies. Therefore, it is highly recommended to undertake a thorough revision of laws and regulations about social welfare issues. This revision needs to focus on identifying and resolving inconsistencies that may exist within the existing legal framework, to ensure policy conformity and sustainability. In addition to legal revisions, the development of a more integrative and sustainable strategy is also very important. Effective coordination among government agencies, non-governmental organizations, and the private sector needs to be improved. Stakeholders need to be involved in the process of planning, implementing, and evaluating social welfare policies. This strategy should include a holistic approach, considering aspects such as education, employment, health, and psychosocial support. Furthermore, the emphasis on sustainability aspects needs to be strengthened. This includes ongoing monitoring of policy impacts, ongoing adjustment to changing social and economic conditions, and availability of adequate resources to support welfare programs. By combining legal revision and a more holistic implementation strategy, it is expected to create a strong foundation for sustainable and inclusive social welfare improvement. Thus the importance of cooperation between the government, private sector, non-governmental institutions, and the general public in achieving effective social welfare goals.

Thus, although Indonesia has made significant progress in the development of social welfare law, there are still several inconsistencies and obstacles that need to be overcome to achieve a more coherent and effective social welfare system.

CONCLUSION

The study entitled "Towards Legal Harmony: Assessing Consistency and Inconsistency in Indonesia's Social Welfare Law" reveals several important aspects:

1. **Inconsistencies in Legislation:** There are significant inconsistencies between various laws and regulations governing social welfare in Indonesia, both at the national and local levels.
2. **Implementation Gaps:** There is a gap between designed policies and their implementation practices on the ground, often resulting in ineffective and uneven social services.
3. **Vulnerable Groups' Needs:** Vulnerable groups are often not well covered in social welfare policies, indicating the need for a more inclusive approach.

To enhance legal harmony in Indonesia's social welfare, recommendations include harmonizing regulations at both national and local levels, updating policies to reflect current socio-economic realities, bolstering the capacity of implementing institutions, adopting inclusive strategies for vulnerable groups, enhancing multi-sectoral coordination, and instituting regular monitoring and evaluation systems. Implementing these measures aims to establish a more coherent, effective, and adaptive social welfare framework for Indonesia.

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