



Available online at: <https://intropublica.org/index.php/rp>

**RES PUBLICA:  
JOURNAL OF SOCIAL POLICY ISSUES**

ISSN (Online) 2964-8769



# Institutional Reconstruction Of Civil Servant Housing Savings Management After The Constitutional Court Decision Toward Autonomous And Just Governance

Nedi Yoernaldi Muqorrobin, Rahma Budi Robani, Muhammad Iksan Kaplale, Maya Puspita Dewi, Izzatusholekha

Universitas Muhammadiyah Jakarta

\*Corresponding Author: [yoernaldi.muqorrobin@gmail.com](mailto:yoernaldi.muqorrobin@gmail.com)

## ARTICLE INFORMATION

Received: November 1<sup>st</sup>, 2025

Revised: November 15<sup>th</sup>, 2025

Accepted: November 20<sup>th</sup>, 2025

Available online: December, 2025

## KEYWORDS

*institutional reform; tapera; bapertarum pns; constitutional court decision; public policy;*

## ABSTRACT

The Constitutional Court Decision Number 96/PUU-XXII/2024, which declared Law Number 4 of 2016 on Public Housing Savings (Tapera) conditionally unconstitutional, has fundamentally altered the national housing policy landscape. This study aims to formulate a model for institutional reconstruction of the management of Civil Servant Housing Savings (TAPERUM PNS) funds following the annulment of the mandatory nature of participation. The research employs a qualitative approach with a policy analysis design. The findings indicate that the mandatory provision in Article 7 of the Tapera Law violates the principle of justice because it creates a double burden overlapping with other social security schemes. In addition, the merger of assets of the former Civil Servant Housing Savings Advisory Body (Bapertarum PNS) under Article 77 risks eliminating the characteristics of a trust fund owned by civil servants. The liquidation of Bapertarum PNS into the centralized BP Tapera model has proven problematic, as it creates service uncertainty for civil servants after the Constitutional Court decision. This study recommends institutional reconstruction by establishing a more autonomous housing contribution fund management entity for civil servants, in the form of a State Owned Legal Entity,



Available online at: <https://intropublicia.org/index.php/rp>

## RES PUBLICA: JOURNAL OF SOCIAL POLICY ISSUES

ISSN (Online) 2964-8769




---

and separating it from public funds to ensure accountability and alignment with the characteristics of state civil service administration.

---

### INTRODUCTION

The provision of adequate housing is a fundamental right of citizens and a constitutional mandate as stipulated in Article 28H paragraph (1) of the 1945 Constitution. For state apparatus, housing provision is not merely the fulfillment of a basic right but an integral part of the bureaucratic welfare system. Historically, this strategic role was carried out by the Civil Servant Housing Savings Advisory Body (Bapertarum PNS) based on Presidential Decree Number 14 of 1993. Alhabsyi (2019) notes that Bapertarum played a crucial role in channeling three main services for civil servants, namely Down Payment Assistance, Partial Construction Cost Assistance, and Savings Refunds.

In an effort to expand housing access for all citizens, the government carried out institutional transformation through Law Number 4 of 2016 on Public Housing Savings (Tapera). This transformation liquidated Bapertarum PNS and merged its assets and functions into the Public Housing Savings Management Agency (BP Tapera). However, the implementation of this policy faced serious challenges, particularly Article 7, which mandates that every worker and self employed worker earning at least the minimum wage, including low income communities, become participants. This obligation triggered massive public resistance. Ariningdyah et al. (2024) found that the majority of the public, 60.7 percent, rejected the program because it was considered to add financial burden amid economic uncertainty without proportional benefit guarantees.

This constitutional polemic culminated in the issuance of Constitutional Court Decision Number 96/PUU-XXII/2024 in September 2025. In its ruling, the Court declared that the mandatory Tapera participation scheme was conditionally unconstitutional because it overlapped with other social security programs. This decision created a policy vacuum requiring revision or restructuring within a maximum of two years from the date of the ruling, 29 September 2025, and generated significant legal uncertainty, particularly for Civil Servants. This uncertainty arises because under Article 77 of Law Number 4 of 2016, all Bapertarum PNS assets were liquidated and transferred to BP Tapera as initial balances. With the annulment of the mandatory nature by the Court, the legitimacy of BP Tapera to continue managing trust funds belonging to civil servants is questionable. The focus of this study is not merely asset return but how to redesign the appropriate institutional framework to manage these civil servant funds.



Available online at: <https://intropublica.org/index.php/rp>

## RES PUBLICA: JOURNAL OF SOCIAL POLICY ISSUES

ISSN (Online) 2964-8769



This study examines the urgency of policy reconceptualization to safeguard civil servant trust funds. The fundamental question posed is whether the management of civil servant funds should remain under BP Tapera, which has lost its mandatory legitimacy and no longer has contribution sources from participants, or whether it should be returned to a more autonomous and accountable civil servant specific institution.

### METHOD

This study uses a qualitative approach with a desk study method. This approach is relevant for examining macro policy phenomena involving regulatory changes and public organizational restructuring.

#### Research Design

The author employs an Institutional Policy Analysis design. This design combines policy impact evaluation after the Constitutional Court decision with organizational structure analysis to formulate policy redesign related to civil servant fund management.

#### Data Sources

The data used are secondary data collected through documentation techniques, including:

- a. Legal and regulatory materials such as Law Number 4 of 2016, Presidential Decree Number 14 of 1993 on Bapertarum, and Constitutional Court Decision Number 96/PUU-XXII/2024 as the legal basis.
- b. Academic literature including previous studies on institutional models and State Owned Legal Entity recommendations (Alhabsyi, 2019), principles of Good Governance in public institutions (Nasution, 2021), and evaluations of housing program effectiveness (Putra et al., 2020).

#### Data Analysis Techniques

Data were analyzed using Comparative Analysis and Content Analysis. The author compares the effectiveness of centralized national institutional models (BP Tapera) with sectoral or autonomous models (former Bapertarum PNS). The analysis focuses on identifying gaps between *das sollen*, the constitutional welfare objectives, and *das sein*, the reality of BP Tapera's unconstitutionality, to formulate recommendations for an ideal new entity.

### RESULT AND DISCUSSION

#### Unconstitutionality of Fundamental Provisions of the Tapera Law

The main finding of this study is the annulment of the legitimacy of mandatory participation in the Tapera Law. Article 7 paragraph (1) of Law Number 4 of 2016 explicitly requires every worker and self employed worker earning at least the minimum wage, including



Available online at: <https://intropublica.org/index.php/rp>

## RES PUBLICA: JOURNAL OF SOCIAL POLICY ISSUES

ISSN (Online) 2964-8769



low income groups, to become participants. However, through Decision Number 96/PUU-XXII/2024, the Constitutional Court declared this article conditionally unconstitutional. The Court assessed that this obligation creates a double burden for workers who already own homes or are registered in other social security programs such as Taspen, Asabri, or BPJS Employment. The juridical implication of this decision is the loss of the coercive basis that had served as BP Tapera's operational foundation in collecting public funds, particularly from workers.

### **The Strategic Role of Bapertarum PNS**

Before being liquidated and merged into Tapera, Bapertarum PNS had a specific role as an instrument of bureaucratic welfare. Alhabsyi (2019) explains that this institution aimed to be a reliable manager of housing savings funds specifically for civil servants. Based on SWOT analysis, Bapertarum was actually in a diversification strategy position, meaning the organization was internally stable and resource sufficient but required strategic adaptation rather than total dissolution. This finding indicates that merging Bapertarum PNS into the general national BP Tapera eliminated the specific service focus previously enjoyed by civil servants.

### **Asset Transition and Governance Deficit**

A consequence of Law Number 4 of 2016 was the liquidation of Bapertarum PNS assets under Article 77, whereby funds deducted from civil servant salaries since 1993 were transferred as Tapera initial balances. However, this transition left serious governance issues after the Constitutional Court decision. First, asset status uncertainty. With the annulment of mandatory participation, BP Tapera's legitimacy to continue holding and managing former Bapertarum PNS funds, which are private trust funds of civil servants, becomes administratively weak. Second, representation deficit. Analysis of Article 54 paragraph (1) of Law Number 4 of 2016 shows that the Tapera Committee structure consists only of government elements and professionals, without seats for worker or employer representatives. Nasution (2021) states that this structure violates transparency principles and fair play in Good Governance, because fund contributors are not involved in strategic oversight functions.

### **Violation of Distributive Justice and Failure of the Centralized Model**

The uniform policy in Article 7 of the Tapera Law violates the principle of distributive justice. Ariningdyah et al. (2024) argue that public policy should consider diverse economic capacities. Forcing self employed workers with fluctuating incomes and civil servants who already own homes to pay the same contribution rate of 3 percent is discriminatory. The Constitutional Court confirmed this by prohibiting overlapping state levies with other social security schemes. Beyond justice, the centralized national model applied by BP Tapera proved ineffective due to its one size fits all approach. This failure demands institutional separation,



Available online at: <https://intropublica.org/index.php/rp>

## RES PUBLICA: JOURNAL OF SOCIAL POLICY ISSUES

ISSN (Online) 2964-8769



where civil servant fund management can no longer be combined with general public funds in a rigid single entity.

### **Institutional Reconstruction**

The failure of BP Tapera to finance housing through participant contributions by combining civil servant contributions with those of private sector workers and self employed workers, including low income groups, within a centralized entity necessitates institutional separation. After the Constitutional Court annulled the mandatory nature of Tapera contributions, the management of civil servant housing funds requires an entity with special autonomy. Based on institutional analysis, Alhabsyi (2019) recommends that the civil servant housing savings fund management institution be established as a State Owned Legal Entity. This form is chosen due to its ability to balance two interests.

First, public interest, namely the mandate to safeguard the welfare of civil servants as state apparatus. Second, corporate behavior, namely flexibility akin to a corporation in managing investments professionally and agilely, free from pure bureaucratic rigidity. As an autonomous legal subject, the entity can engage in strategic cooperation with third parties without the constraints of complex state budget bureaucracy, addressing past service delays. With autonomous legal subject status, the new entity can independently perform legal actions in investment portfolio management and cooperation with developers or banks for housing provision without dependence on rigid state budget bureaucracy, solving previous service inefficiencies.

### **Safeguarding Civil Servant Trust Funds Through Asset Segregation and Capital Repositioning**

Former Bapertarum PNS funds transferred under Article 77 constitute trust funds belonging to civil servants. If these assets remain commingled with general participant funds within BP Tapera, the risk of cross subsidies and use for institutional operational costs would seriously harm civil servants. Therefore, two strategic steps are required. First, fund segregation. Civil servant assets must be separated in accounting from other public funds to ensure security and clarity of benefits. Second, repositioning as seed capital. Former Bapertarum PNS assets must be calculated as initial capital for establishing the new State Owned Legal Entity. This aligns with findings by Putra et al. (2020) and Putri and Prijadi (2023) that specific and decentralized fund management is more feasible than centralized national models. To ensure Good Governance as emphasized by Nasution (2021), the supervisory structure must involve fund owner representatives to guarantee transparency and accountability.

### **Application of Good Governance Principles in the New Institution**



Available online at: <https://intropublicia.org/index.php/rp>

## RES PUBLICA: JOURNAL OF SOCIAL POLICY ISSUES

ISSN (Online) 2964-8769



Establishing a new State Owned Legal Entity also addresses transparency deficits in BP Tapera. Nasution (2021) emphasizes the importance of prudence and openness in public fund management. In the institutional design of the new entity, a participatory supervisory structure is required, involving fund owner representatives to ensure checks and balances, and strict fund segregation to prevent harmful cross subsidies.

### Repositioning Former Bapertarum Assets as Initial Capital

Although former Bapertarum PNS assets were formally liquidated into BP Tapera under Article 77 of Law Number 4 of 2016, the Constitutional Court decision opens opportunities for a spin off. In this reconceptualization, former Bapertarum assets should be viewed as seed capital for the new State Owned Legal Entity. This aligns with findings that decentralized and specific fund management is more feasible than centralized models. With the State Owned Legal Entity model, fund management can be more focused according to stable civil servant salary and tenure characteristics, minimizing default risks common in the informal sector.

### CONCLUSION

Constitutional Court Decision Number 96/PUU-XXII/2024 marks a fundamental corrective moment in public housing governance. The Court firmly annulled the legitimacy of mandatory participation in Article 7 of the Tapera Law, which was deemed burdensome and overlapping with other social security schemes. Juridically, the legal basis for managing former Bapertarum PNS assets under Article 77 loses operational legitimacy if forced to remain under centralized BP Tapera.

This study concludes that the solution to this policy vacuum is not merely refunding funds but comprehensive institutional reconstruction. The government is recommended to undertake two strategic steps. First, regulatory reform by revising Law Number 4 of 2016 to eliminate coercive provisions, adopt voluntary schemes, seek alternative housing financing mechanisms, and restructure the Tapera Committee by including worker representatives to ensure checks and balances. Second, institutional transformation by establishing an autonomous civil servant housing fund management entity ideally in the form of a State Owned Legal Entity separate from BP Tapera, which will manage general public funds. Former Bapertarum PNS assets currently held by BP Tapera must be repositioned as seed capital for the new entity to ensure sustainable, specific, and just benefits for civil servants.



Available online at: <https://intropublicia.org/index.php/rp>

## RES PUBLICA: JOURNAL OF SOCIAL POLICY ISSUES

ISSN (Online) 2964-8769



### REFERENCES

- Alhabsyi, M. Y. (2019). Analisis model kelembagaan badan pertimbangan tabungan perumahan pegawai negeri sipil (Bapertarum-PNS). *Jurnal Semarak*, 2(1), 85–96.
- Ariningdyah, C., Lasonda, D., & Miarsa, F. R. D. (2024). Analisis Yuridis Penerapan Tabungan Perumahan Rakyat (Tapera) Dalam Perspektif Asas Keadilan. *INNOVATIVE: Journal Of Social Science Research*, 4(3), 18410–18424.
- Mahkamah Konstitusi Republik Indonesia. (2025, 29 September). *UU Tapera Inkonstitusional Jika Tidak Ditata Ulang Dalam 2 Tahun*. Mahkamah Konstitusi RI. <https://www.mkri.id/berita/uu-tapera-inkonstitusional-jika-tidak-ditata-ulang-dalam-2-tahun-23845>
- Nasution, T. A. (2021). Analisis Yuridis Undang-Undang Tabungan Perumahan Rakyat Ditinjau Dari Perspektif Good Governance. *LEX Renaissance*, 6(4).
- Pemerintah Republik Indonesia. (2016). *Undang-Undang Nomor 4 Tahun 2016 tentang Tabungan Perumahan Rakyat*. Lembaran Negara RI Tahun 2016 Nomor 55.
- Putra, H. G., Fahmi, E., & Taruc, K. (2020). Tabungan perumahan rakyat (tapera) dan penerapannya di DKI Jakarta. *Jurnal Muara Sains, Teknologi, Kedokteran Dan Ilmu Kesehatan*, 3(2), 321. <https://doi.org/10.24912/jmstkik.v3i2.5630>
- Putri, B., & Prijadi, R. (2023, November 28). *Public Fund Optimization for Housing Finance (Case Study: Tabungan Perumahan Rakyat, Indonesia)*. <https://doi.org/10.4108/eai.9-8-2022.2338624>