



LEGAL JUSTICE FOR LOW-INCOME COMMUNITIES IN BALANCED RESIDENTIAL DEVELOPMENT

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Abstract

This research investigates legal protection for low-income communities in the context of balanced residential development in Indonesia. The study aims to analyze the policies and regulations surrounding balanced housing development while identifying solutions to promote social justice for low-income people (MBR). Grounded in Law No. 1 of 2011 on Housing and Settlement Areas, which mandates the government to address housing needs for MBR, the research reveals various implementation challenges. Utilizing a normative juridical approach, the analysis employs legal protection theory, development law theory, and human rights theory as frameworks. Findings indicate significant obstacles, including limited land availability and rising land prices, which hinder low-income individuals' access to decent housing. The research underscores the necessity for stricter legal protections and adaptable policy measures to achieve the objectives of balanced housing development effectively.

Keywords: Legal protection, balanced housing, low-income community, social justice.

1. INTRODUCTION

The issue of legal justice in housing development is a critical concern, especially for low-income communities that often face barriers to accessing affordable, equitable living spaces. In the context of balanced residential development, where the aim is to create harmonious, inclusive neighborhoods, ensuring that legal frameworks protect the rights of marginalized groups becomes essential.

Indonesia, as a developing country, grapples with significant inequality in housing development, particularly for low-income communities, known as Masyarakat Berpenghasilan Rendah (MBR). According to data from the Central Statistics Agency (BPS), Indonesia faced a housing backlog of 7.64 million units as of early 2020. Of this, around 6.48 million units were allocated for non-fixed income MBR, while 1.72 million units were designated for fixed income MBR (Aribowo et al., 2024; Ramadhan & Frida Sebayang, 2022). This shortage is exacerbated by the country's rapidly growing population, with approximately 800,000 new households forming each year (Setiawati et al., 2020). As demand continues to outpace supply, the gap between the available housing and the needs of low-income communities widens. The housing shortage is compounded by several factors, including limited land availability and rising land prices, particularly in urban centers where economic opportunities are concentrated. Urban land scarcity leads to soaring real estate costs, making it increasingly challenging for MBR to access decent housing (Aribowo et al., 2024). These escalating prices place homeownership and rental options further out of reach for many low-income individuals, contributing to the growing socio-economic divide. As the population continues to expand and urbanization accelerates, the housing crisis becomes an urgent issue requiring immediate and sustainable solutions. Addressing this problem necessitates targeted government policies, legal reforms, and strategic partnerships between the public and private sectors. Ensuring equitable housing development for MBR is crucial not only for reducing inequality but also for promoting social stability and economic growth in Indonesia. By

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focusing on the legal and regulatory frameworks that shape housing accessibility, this research aims to shed light on the pathways toward more balanced residential development for low-income communities.

The Indonesian government, through Law No. 1 of 2011 on Housing and Settlement Areas, has sought to mitigate housing inequality by mandating a balanced residential development approach. This policy requires developers to build a proportionate mix of luxury, medium, and affordable housing to ensure equitable access to housing for all income levels (Widyastutik et al., 2022). The concept aims to promote inclusivity and address the housing shortage faced by low-income communities. However, despite the good intentions behind this legislation, its implementation has been fraught with challenges. One major obstacle is that developers often prioritize constructing luxury housing, which offers higher financial returns, over medium and affordable housing, which is less profitable (Setiawati et al., 2020). This tendency undermines the goal of balanced development, as it leads to a continued shortage of affordable housing for low-income groups. Furthermore, the lack of sufficient incentives for developers to comply with the balanced housing concept exacerbates the issue. While the government has introduced policies to encourage developers to participate in the program, such as offering tax benefits or expedited permits, these measures have not been enough to shift developer priorities. As a result, many housing projects fail to include the required proportion of affordable units, leaving the low-income population with limited housing options. The effectiveness of Law No. 1 of 2011 is thus hindered by market-driven dynamics and insufficient regulatory enforcement, making it difficult to achieve the intended balance in residential development. This research will examine these obstacles further and explore potential solutions for improving the implementation of balanced residential policies in Indonesia.

Despite the Indonesian government's efforts through Law No. 1 of 2011 to promote balanced residential development, significant gaps remain in understanding the effectiveness of this policy in practice. Previous studies have highlighted obstacles such as developers' preference for luxury housing and the lack of strong incentives for affordable housing projects (Widyastutik et al., 2022; Setiawati et al., 2020). However, there is a limited exploration of how these challenges specifically impact low-income communities, and few studies offer concrete solutions to incentivize developers or enforce compliance. Furthermore, the influence of recent economic factors, such as rising land prices and post-pandemic urban migration patterns, on the housing crisis has not been adequately addressed (Aribowo et al., 2024). This research aims to fill these gaps by analyzing the practical challenges of implementing balanced residential policies and identifying strategies for enhancing legal frameworks and developer participation to better serve low-income populations.

The objective of this research is to conduct an in-depth analysis of the regulation and implementation of balanced residential development for low-income people (MBR) in Indonesia, focusing on identifying a more effective legal protection mechanism to ensure fair access to decent housing for this community group. It aims to examine both legal and non-legal obstacles faced in the implementation of the balanced housing policy and propose solutions that enhance the roles of government and property developers in promoting social justice through housing development. The research seeks to provide practical recommendations for policymakers and developers while contributing new insights to the academic literature on housing law, particularly in safeguarding the rights of low-income communities and fostering more equitable housing policies.



2. IMPLEMENTATION METHOD

This research adopts a normative juridical method with an analytical descriptive approach, aiming to provide a comprehensive legal analysis of housing regulations for low-income communities (MBR) in Indonesia. The normative juridical method involves examining and interpreting legal principles, laws, and regulations related to balanced residential development. By focusing on legal texts, this method seeks to assess how existing housing laws protect MBR and identify gaps in legal protection. The analytical descriptive approach is used to describe and analyze the current implementation of these regulations, shedding light on the legal and practical challenges in ensuring fair access to housing for MBR (Negara, 2023).

Primary legal materials in this study consist of Indonesian laws and regulations that govern housing development, including Law No. 1 of 2011 on Housing and Settlement Areas. Secondary legal materials include legal literature, academic papers, and previous research related to housing policies, legal protection for low-income communities, and the balanced housing concept. These sources are critically analyzed to provide context and support for the legal arguments presented.

The theoretical framework underpinning this research includes several key theories. Philipus M. Hadjon's theory of legal protection serves as the foundation for examining how legal mechanisms safeguard the rights of low-income individuals in accessing housing. Mochtar Kusumaatmadja's development law theory is used to explore the intersection of law and development, particularly how legal regulations can support social justice in housing. Human rights theory is also applied to underscore the fundamental right to adequate housing as a basic human need and the role of the state in protecting this right.

This methodology enables the research to thoroughly evaluate the effectiveness of current housing laws, identify shortcomings, and propose reforms that could enhance legal protections for low-income communities in the context of balanced residential development.

3. RESULTS AND DISCUSSION

Balanced residential development in Indonesia continues to face substantial challenges, particularly in terms of practical implementation (Alfrida et al., 2024). Among the primary issues are the uncontrolled rise in land prices, insufficient incentives for developers to build housing for low-income people (MBR), and a lack of rigorous regulatory enforcement to ensure compliance with balanced housing policies (Average, 2019). These problems create inequalities that exacerbate the already limited access low-income groups have to adequate housing.

The theoretical framework employed in this research consists of three key theories—Legal Protection Theory, Development Law Theory, and Human Rights Theory—which together provide a comprehensive understanding of how legal protection can be optimized for MBR in the context of balanced housing development. Legal Protection Theory posits that the state has an obligation to protect the rights of low-income people, including their right to adequate housing, through the establishment of clear policies and supporting regulations (Salam, 2023). This legal framework aims to prevent social inequality, wherein low-income households struggle to access housing due to economic limitations and the rising cost of land. In this context, legal protection is crucial in ensuring that the rights of MBR are not disregarded by the dynamics of the property market, which often favors high-income groups.

Development Law Theory offers a complementary perspective, suggesting that law should not only function as a set of normative rules but also as an instrument for social and economic transformation (Warrouw, 2021). Law plays a pivotal role in driving inclusive and equitable



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development (Widyawati, 2020). In the realm of balanced housing, legal instruments are used to encourage developers to contribute to creating affordable housing options for all income levels. The government, through appropriate regulations, can ensure that housing development promotes socio-economic equity and improves access for MBR to decent housing. This theory emphasizes the importance of utilizing law to combat social inequality in housing and highlights the state's role in ensuring that development projects serve the needs of all societal sectors, not just the wealthy.

Human Rights Theory further expands the normative foundation, asserting that the right to adequate housing is a recognized human right that must be safeguarded by the state (Leijten & de Bel, 2020; Thiele, 2002). Balanced housing policies are seen as one method through which the state fulfills its responsibility to protect the fundamental rights of its citizens, particularly for vulnerable groups such as MBR (Segal, 2020). This theory underscores the moral and legal responsibility of the state to guarantee that all individuals, regardless of socio-economic status, have equal access to adequate housing. Thus, the implementation of balanced housing policies is a concrete demonstration of the state's obligation to uphold human rights (Donnelly et al., 2020).

The urgency of enhancing legal protection within the context of balanced residential development cannot be overstated (Ghosh & Petrova, 2021; Putra et al., 2023). Without timely and effective interventions, the disparity in access to housing will only grow wider. The weak enforcement of the balanced housing policy continues to present a significant barrier, as low-income households find it increasingly difficult to secure adequate housing—a fundamental human right. Simultaneously, developers tend to neglect their responsibilities to provide affordable housing, largely due to unclear incentives or the lack of robust oversight from the government. These challenges call for a more concrete and proactive approach to legal reform, which should include strengthening sanction mechanisms for non-compliance and increasing incentives for developers to actively participate in providing balanced housing options.

Moreover, addressing this issue requires the government to not only rely on existing regulations but also to activate legal instruments that are more responsive and proactive in tackling the social realities experienced by MBR. A comprehensive approach, combining elements of legal protection, equitable development, and the fulfillment of human rights, must be realized through policies that are more operational, measurable, and implementable. The government must ensure that balanced housing policies are not merely normative regulations, but actual tools that function as effective solutions for addressing social inequality and fulfilling the basic human right of MBR to access adequate housing.

In light of this, the balanced housing policy, as outlined in Law No. 1 of 2011, must be viewed as an urgent necessity that requires full and unwavering commitment to its implementation (Hendry & Rasji, 2024). Should the state fail to guarantee the effective enforcement of this policy, the gap in social inequality will only widen, and the fundamental rights of low-income individuals will be increasingly marginalized (Keene & Blankenship, 2023). The integration of the three theoretical frameworks—Legal Protection, Development Law, and Human Rights—provides a synergistic understanding of the need for prompt action in addressing housing inequality. It positions the state as the protector of rights, the driver of inclusive social development, and the guardian of human rights, which must be upheld for all segments of society.

Through this combined theoretical lens, it becomes evident that balanced residential development is not only a matter of policy but also a matter of justice and equity. The legal protection for MBR must be strengthened to ensure that they are not sidelined in the country's



economic development. The law must evolve to address the changing dynamics of the housing market, ensuring that low-income communities are not left behind in the process of urbanization and economic growth. The rising cost of land and the prioritization of luxury housing development pose serious threats to the availability of affordable housing, making it imperative for the state to intervene effectively and ensure that the housing rights of MBR are protected.

At the same time, the role of developers in this process cannot be overlooked. While profit motives drive their prioritization of luxury housing, the state must create a framework that encourages or even compels developers to contribute to the provision of affordable housing. This can be achieved through a combination of incentives, such as tax breaks or expedited permits, and disincentives, such as penalties for failing to meet affordable housing quotas. The goal should be to create a balanced residential development model that ensures that all income groups have access to housing that meets their needs.

The human right to adequate housing, as highlighted by Human Rights Theory, serves as a moral imperative that drives the need for balanced residential policies. Housing is not merely a commodity but a fundamental human right that the state is obligated to protect. This perspective elevates the discussion beyond economic or policy considerations and frames it within the broader context of social justice and human dignity. For MBR, access to adequate housing is not only about having a roof over their heads but also about being able to participate fully in society and enjoy a decent quality of life.

Ultimately, this research aims to contribute to the ongoing dialogue about how legal frameworks can be improved to better serve the needs of low-income communities. By integrating the insights from Legal Protection Theory, Development Law Theory, and Human Rights Theory, this study offers a comprehensive analysis of the challenges and potential solutions for balanced residential development in Indonesia. It calls for a more robust and effective legal mechanism that ensures fair access to housing for all, particularly for the most vulnerable segments of society. Through legal reform and more proactive state intervention, it is possible to create a housing system that is not only balanced in its development but also just in its distribution of resources and opportunities.

4. CONCLUSION

This research concludes that Indonesia's balanced housing development policy, as regulated in Law No. 1 of 2011, faces significant obstacles in effectively providing legal protection for low-income communities (MBR). Despite the legal framework, the policy's implementation is far from optimal, particularly in addressing the critical need for decent housing for MBR. The main challenges include rising land prices, insufficient incentives for developers, and weak government oversight. These issues have led to the continued marginalization of low-income communities, who remain unable to access adequate housing, despite the legal provisions meant to protect their rights.

Through the lens of the three theories utilized in this study, it becomes clear that significant gaps remain in policy effectiveness. Legal Protection Theory highlights the failure to adequately protect the housing rights of low-income people, emphasizing that their legal rights have not been fully realized. Development Law Theory shows that the law has yet to function as an effective tool for inclusive social change, especially in encouraging developers to contribute to balanced housing efforts. Human Rights Theory points to a deeper issue, asserting that the inability to provide MBR with access to adequate housing represents a violation of their basic human rights, which the state is obligated to protect. As such, the urgent need for legal



protection in this context must be addressed through a combination of regulatory reform, improved law enforcement, and an increased commitment by the state to uphold the housing rights of MBR.

Recommendations include strengthening regulations and enforcing stricter penalties for developers who fail to meet their obligations under the balanced housing policy. The government should also offer more attractive incentives, such as tax breaks and streamlined permitting processes, to encourage developer participation in providing affordable housing for MBR. Policy flexibility at the regional level is also essential to meet local needs, and the government must be proactive in providing land through mechanisms like land banks. Importantly, housing policy should be viewed not just as an economic tool but as part of the fulfillment of human rights, ensuring that all citizens, particularly low-income groups, can enjoy their right to adequate housing.

In summary, the research calls for stronger legal protection for MBR through comprehensive legal reforms, improved oversight, and proactive government measures to ensure equitable access to housing and reduce social inequality.

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