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Optimizing Legal Protection for the Elderly in Indonesia within the Perspective of Social Welfare

Mira Rachmariyanti Kartawijaya

Faculty of Law, Universitas Islam As-Syafi'iyah, Jakarta, Indonesia mirakartawijaya@gmail.com

Abstract

The paper explores the optimization of legal protection for the elderly in Indonesia through the lens of social welfare. Despite the increasing life expectancy and demographic shifts, the welfare of the elderly remains a serious concern, with many facing economic hardship and inadequate social protection. Existing legal frameworks, including the Elderly Welfare Law, fall short in ensuring comprehensive protection for the elderly. The study reviews relevant legislation, such as Law No. 13 of 1998, and governmental efforts to enhance the well-being of the elderly. It also presents proposals for legal reforms, including revising the definition of elderly, expanding the coverage of social protection programs, and strengthening institutional support. Challenges such as limited access to healthcare, economic vulnerability, and inconsistent government support highlight the need for comprehensive reform to address the diverse needs of the elderly population in Indonesia.

Keywords: Legal Protection, Social Welfare, Elderly Welfare Law

I. INTRODUCTION

The success of National Development has had the impact of increasing Life Expectancy namely from 71.3 in 2020 to 73.9 in 2023. The increase in life expectancy has led to an increase in the number of elderly people. Data from the Ministry of Health of the Republic of Indonesia states that in 2020, the number of elderly people reached 26.82 million people or around 9.92% of the total population of Indonesia and is expected to increase to 33.69 million people in 2025.

However, the welfare of the elderly is still a serious concern. In terms of economic aspects, in 2019, as many as 11 million elderly people were in the bottom 40 percent economic status group. Integrated Social Welfare Data (ISWD) in January 2019 recorded that the number of poor elderly people reached 12.9 million people or around 48.9 percent of the total elderly population.² Research from the National Team for the Acceleration of Poverty Reduction (TNP2K) shows that around 80 percent of elderly

 $^{\rm I}$ Ministry of Health of the Republic of Indonesia, Analysis of the elderly in Indonesia. Indonesian Ministry of Health data and information centre. Jakarta, 2020

² Kemensos. (2020). *Kebijakan dan program rehabilitasi sosial lanjut usia tahun 2021*. Jakarta: Direktorat Rehabiliasi Sosial Lanjut Usia.



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people live in conditions of poverty, which is a relatively higher figure compared to other age groups.³ It is estimated that around 80 percent of the population aged 65 years and over live in households with per capita consumption levels below IDR 50,000.00 per day, and do not have guaranteed income.

In the context of social protection prepared by the International Labor Organization (ILO), the Indonesian government's commitment to providing social security for the elderly still does not meet international standards. Elderly people in Indonesia are still not fully protected by health insurance and employment social security. Only about three out of five elderly people currently have health insurance and only 12 percent of elderly people have employment social security (pension).⁴

Social protection programs for the elderly are still limited, both in terms of quality and coverage. 2017 SUSENAS (National Socio-Economic Survey) data shows that only 13 percent of elderly people have access to social protection programs such as Bansos Rastra, PKH Card, Social Protection Card (KPS)/Prosperous Family Card (KKS), and Business Development Credit.⁵ The budget allocation for social protection programs for the elderly in the State Revenue and Expenditure Budget (APBN) is only around 2 percent. Compare this with middle-income countries, which on average have allocated around 14.6 percent of GDP per capita for social pension security.⁶

Based on the 2017 TNP2K report, it is proven that the social protection program has had a positive impact on the welfare of the elderly. The implementation of social assistance schemes for the elderly in several regions has significantly reduced poverty levels among those aged 70 years and over. Considering the increasing number of elderly populations, it is important for Indonesia to take regulatory steps that can ensure their welfare. This is necessary as an anticipation of the future where Indonesia will face a demographic bonus over the next 10 years, when the number of individuals of productive age reaches its peak.

Various policies and programs implemented by the government include those contained in Law no. 13 of 1998 concerning the Welfare of the Elderly and Government Regulation Number 43 of 2004 concerning the Implementation of Efforts

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³ Kidd, S., Gelders, B., Rahayu, S. K., Larasati, D., Huda, K., & Siyarangmual, a. M. (2018). *Perlindungan Sosial bagi Penduduk Lanjut Usia di Indonesia*. Jakarta: Tim Nasional Percepatan Penanggulanagan Kemiskinan (TNP2K).

⁴ BPS. (2019). Satistik Penduduk Lanjut Usia 2019. Jakarta: Badan Pusat Statistik Indonesia.

⁵ BPS. (2017). Statistik Kesejahteraan Rakyat Welfare Statistic 2017. Jakarta: Badan Pusat Statistik Indonesia

⁶ Kidd, loc.cit

⁷ TNP2K. (2018). Konferensi Internasional tentang Perlindungan Sosial bagi Lansia . (TNP2K, Pemain) Jakarta



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to Improve the Welfare of the Elderly. Efforts to implement this law have also been made, although not yet optimal, so that the needs of the elderly (physical, spiritual and social) can be fulfilled optimally, which will lead to the creation of social welfare for them and they will avoid neglect. However, it is still found in the midst of people's lives in Indonesia, many elderly people are still neglected and marginalized from aspects of care, economics and social, so that in their old age, they do not get their rights. Many nursing homes provided by the government are still not adequate, both in terms of facilities and services.⁸

The Elderly Welfare Law further regulates the government's responsibilities in improving the welfare of the elderly. In reality, this responsibility cannot be carried out as it should. Both from the aspect of human resources, facilities and infrastructure, meeting the daily needs of elderly people in institutions and those outside of institutions. The dissolution of the National Commission for the Elderly in November 2020 shows that the state has not been able to provide adequate social protection for the elderly and that the welfare of the elderly has not been a priority.

This research aims to delve into the optimization of legal protection for the elderly in Indonesia, contextualized within the lens of social welfare. By examining existing legal frameworks and their impact on the well-being of the elderly, the study seeks to provide insights for refining and strengthening legal provisions to enhance the social welfare of this demographic.

II. LITERATURE REVIEW

According to Law Number 13 of 1998 concerning the Welfare of the Elderly (UU No. 13/1998), elderly people are classified into 3, including:

- 1. Elderly, someone who has reached the age of 60 years or above;
- 2. Potential elderly; elderly people who are still able to carry out work and/or activities that can produce goods and/or services;
- 3. Elderly people without potential, elderly people who are unable to earn a living so their lives depend on the help of other people.

Law No. 13/1998 is the legal basis for officials, government and society in efforts to improve social welfare which aims to realize the independence and welfare of the elderly.

As for Law no. 13/1998 refers to the UN Principles regarding the rights of the elderly. On December 16 1991, the UN General Assembly adopted five principles for the elderly under resolution 46 of 1991. These principles agreed to by the UN, aim for the

⁸ Prakarsa (2020), Kondisi Kesejahteraan Lansia di Indonesia, Jakarta: Perkumpulan Prakarsa

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government to emphasize protection and respect for the elderly as a priority program, so that efforts to increase social progress and a better standard of living for the elderly can be realized.

Following are the five principles regarding the rights of the elderly:⁹

- 1. Independence: The elderly people must have access to adequate food, water, clothing and health care, with support from family and community. Access to health care, including adequate infrastructure, as well as sustainable employment opportunities must be provided.
- 2. Participation: The elderly people must continue to actively participate in society, share knowledge or skills with the younger generation, and have the freedom to form movements or associations that strengthen their role in society.¹⁰
- 3. Care: The elderly people have the right to basic freedom of care, including at home, ensuring dignity, trust, privacy, as well as the right to make their own decisions.¹¹
- 4. Self-Fulfillment: Seniors must have access to educational, cultural, spiritual, and recreational resources for the full development of their potential.¹²
- 5. Dignity: Elderly people must be able to live their lives with dignity, free from exploitation and abuse, and not be treated unfairly because of age, gender, ethnic background, or disability. One way to promote the dignity of the elderly is to involve them in social activities and public policy making.¹³

Legal Basis for Elderly Protection National Social Security System Law (Sistem Jaminan Sosial Nasional - SJSN) and Social Welfare Law

National Social Security System (Sistem Jaminan Sosial Nasional - SJSN) Law No. 40/2004 establishes the legal framework for social protection in Indonesia, confirming the right of every individual to social security to meet the basic needs of a decent life and increase self-esteem, as well as creating a safe, just and prosperous society. The aim is to ensure access to health insurance and pensions for all, including those who experience disability due to work accidents or illness. In accordance with Law no. 11/2009 concerning Social Welfare, social protection refers to efforts to prevent and

⁹ UN. (1999). International Year of Older Person.

 $^{^{10}}$ Ananta, A. (2012). Financing Indonesia's Ageing Population. Jakarta: Institute of Southeast Asian Studies.

¹¹ Humpreys, L. K., Lee, S. S., Telzer, E. H., Gabard-Durnam, L. J., Goff, B., Flannery, J., & Tottenham, N. (2015). Exploration -- Exploitation Strategy is Dependent on Early Experience. *Developmental Psychobiology*.

¹² Gastmans, C. (2013). Dignity-enhancing nursing care: A foundational ethical framework. *Nursing Ethics*, 20(2):142-149. doi:10.1177/0969733012473772.

¹³ Ibid



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manage the risk of shock and social vulnerability of individuals, families, groups or communities, in order to ensure the fulfilment of their minimum basic needs, by upholding human rights and physical, spiritual and social welfare. optimal social.

Law on the Welfare of the Elderly

The government's attention to the lives of the elderly in Indonesia is regulated in Article 28H paragraph (2) of the 1945 Constitution of the Republic of Indonesia, which guarantees opportunities and special treatment to achieve equality and justice. Articles 7 and 8 assign the government to direct, guide and create an environment that supports improving the social welfare of the elderly, with the joint responsibility of the government, society and family. Law No. 13 of 1998 concerning Elderly Welfare was issued in 1998 to strengthen this concern.

As a form of effort to improve social welfare for the elderly, Law No. 13/1998 also regulates the rights of the elderly which include:

- 1. Religious and mental spiritual services;
- 2. Health services;
- 3. Employment opportunity services;
- 4. Education and training services;
- 5. Services to facilitate the use of public facilities, facilities and infrastructure;
- 6. Providing convenience in legal services and assistance;
- 7. Social assistance.

Government Regulations for Social Protection of the Elderly

The social protection program for the elderly is technically regulated through Government Regulation (PP) no. 43/2004 regarding efforts to improve the welfare of the elderly. The National Commission for the Elderly was formed in 2004 through Presidential Decree no. 52/2004 and Presidential Decree no. 93/2005 regulates the membership of the commission.

Guidelines for Social Services for the Elderly are regulated in the Republic of Indonesia Minister of Social Affairs Regulation Number 19 of 2012, which defines social services for the elderly as an effort to support the recovery and development of their social functions. This includes service activities inside and outside the institution, protection, and development of social institutions for the elderly. Elderly service and empowerment programs include services in nursing homes, Social Assistance for the Elderly through Home Care, Social Assistance for Abandoned Elderly (ASLUT), Emergency Social Services for the Elderly, Family Support for the Elderly, Daily Services, Development of Friendly Areas Seniors, Resilient Seniors Program, Elderly Ark Program, and Nursing Care program.



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National Strategy for Aging

The government has issued Presidential Regulation no. 88 of 2021 concerning the National Strategy for Aging. This Presidential Decree is intended as a reference for ministries/institutions, provincial governments, district/city governments in the context of formulating policies, programs and activities related to aging as part of national and regional development.

Strategies in implementing the National Strategy for Aging include:

- 1. Increasing social protection, income security and individual capacity;
- 2. Improving the health status and quality of life of the elderly;
- 3. Development of an elderly-friendly society and environment;
- 4. Strengthening institutions implementing seniority programs; and
- 5. Respect, protection and fulfillment of the rights of the elderly.

The National Strategy uses a life cycle approach which describes the existence, characteristics and needs of humans from birth to the end of life. Apart from that, the "family best" approach is also implemented, where the elderly will receive care from the family so they do not depend on health workers. To create healthy elderly people, it is necessary to strengthen healthy lifestyle patterns from an early age (life course) and increase National Social Security participation coverage.

National Action Plan for Seniors

On One effort that indicates the government's commitment to addressing the welfare of the elderly is through the implementation of the National Action Plan (Rencana Aksi Nasional – RAN) for Elderly Health. This RAN functions as a guide for the central government, regional governments and all relevant stakeholders to carry out a series of actions aimed at ensuring that the 74 percent of elderly people who are still independent, as recorded in the 2018 Basic Health Research, can continue to actively contribute and optimize their potential.

On September 22 2020, the Ministry of Health launched six new strategies in the 2020-2024 RAN for Elderly Health, which aims as follows:

- 1. Formulate and socialize policies, regulations, norms, standards, procedures and criteria related to health services for the elderly.
- 2. Increase the number and quality of elderly-friendly health service facilities, as well as expand access to services and long-term care.
- 3. Build and develop partnerships and collaborative networks in the implementation of elderly health services, involving various programs, sectors, professional organizations, educational institutions, society, the business world, mass media and other related parties.



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- 4. Increase the availability of data and information related to elderly health.
- 6. Strengthen the participation and empowerment of families, communities and the elderly in efforts to improve the health of the elderly.
- 7. Encourage the active participation of the elderly in efforts to improve the health of their families and society as a whole.

III. METHODOLOGY

The method used in this research is prescriptive normative legal research by examining library-based materials and secondary legal materials in the form of legal rules, legal principles and legal doctrines to produce new arguments, theories or concepts as prescriptions in solving the problems faced. The approaches used in this research are the statutory approach and the case approach. Types and sources of legal materials are primary legal materials and secondary legal materials. Primary legal materials include the Law Number 13 of 1998 concerning the welfare of the elderly. Secondary legal materials were obtained from books, papers, journals, articles and the internet which have correlations to support this research. The legal material collection technique used is library research. In this literature study, the researcher carried out an inventory of primary legal materials and secondary legal materials that were still relevant to the legal issue being studied. The legal material is then analyzed using the deductive syllogism method which draws from the major premise and then the minor premise.

IV. RESULT AND DISCUSSION

With the passage of time and changes in demographics, as well as the increasing needs of the elderly, the government has initiated discourse on reform of Law Number 13 of 1998 concerning the Welfare of the Elderly since 2017. However, to date, this reform has not been implemented and has not been included in the Legislation Program National (Prolegnas). This is due to the contents of the current law are inadequate and irrelevant to current and future conditions, because they have not been adjusted.

Proposed revisions to Law Number 13 of 1998 have been submitted by the government and the Regional Representative Council. Some points of change proposed by the government include; 1) The elderly are no longer subjects but become objects; 2) Program implementation shifts from care to awareness; 3) The scope of the regulation is no longer limited to the vulnerable and poor elderly, but to all elderly people; 4)



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There are only 2 classifications of elderly, namely potential and non-potential elderly; and 5) Elderly is not a natural phenomenon but must be faced and prepared for.¹⁴ The following are several proposals submitted by the community through the Regional Representative Council (Dewan Perwakilan Daerah):¹⁵

- 1. Proposal to increase the age limit for elderly people to 65 years according to WHO standards. The government is expected to pay attention to differences in needs based on age, because currently the grouping of elderly needs is still not precise and is still uniform. For example, the needs of an elderly person aged 65 years are certainly different from those aged 80 years.
- 2. Proposals related to the implementation of elderly care, which includes the standardization of elderly homes, including the establishment of homes, services, facilities and human resources.
- 3. Proposals related to protection, where the definition of social protection will be separated between social security and social assistance.
- 4. Proposals to increase the potential empowerment of the elderly in a comprehensive and integrated manner.
- 5. Proposals regarding the duties and authorities of the government (central, regional and village) in re-establishing special institutions that care for the elderly. Regional governments are expected to regulate the allocation of the Regional Revenue and Expenditure Budget (APBD) to improve the welfare of the elderly population.
- 6. Suggestions regarding respect for the elderly, where local governments need to develop services and care for the elderly in the family in the future.
- 7. Proposal to involve all groups of society in efforts to improve the welfare of the elderly group.
- 8. Proposals regarding criminal provisions, where the elderly will receive legal protection and criminal provisions, including penalties for elderly who commit acts of violence.
- 9. Other transitional provisions.

Both proposals emphasize substantive changes so that services for the elderly in the future will be better. However, it is important to note that the revised Law must adopt a rights-based approach to ensure that every right and need of the elderly population in Indonesia is met, and so that the elderly have an equal position with other groups.

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 $^{^{14} \}underline{\text{https://www.komnasham.go.id/index.php/news/2020/10/15/1598/catatan-terhadap-uu-13-1998-tentang-kesejahteraan-lanjut-usia.html}$

¹⁵ https://www.dpr.go.id/uu/detail/id/412



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Hope also lies in increasing the dignity of the elderly to overcome the stigma that may exist in society.

The revision of the Law on the Elderly is considered a positive step in efforts to fulfill and protect the living rights of the elderly, and is expected to be able to accommodate current developments and become an effective solution in increasing the independence and welfare of the elderly.

Social protection for the elderly in Indonesia reveals several challenges faced by the elderly population, including a lack of early treatment for conditions such as Alzheimer's/dementia and vulnerability to physical and verbal violence. Most elderly people in Indonesia face health and financial problems, with many working in the informal sector without pension security. Only around 13% of seniors have access to social protection programs, and budgets for these programs are limited. Therefore, reform is needed to expand the scope of social protection for the elderly.

In Indonesia, elderly people often live in three-generation households, and experience health problems, and have limited access to social protection programs. Obstacles and challenges in implementing social protection programs for the elderly in Indonesia cover various aspects, ranging from administrative problems to minimal local government support. Administrative problems are often related to inaccurate data collection and complicated requirements, making it difficult for elderly people to access social protection programs. Apart from that, a weak legal umbrella is also an obstacle, because it does not provide sufficient clarity and legal strength to protect the rights of the elderly.

Local government support for social protection programs for the elderly is also often inconsistent, with limited budget allocations and a lack of initiative to develop specific programs targeting the needs of the elderly. This causes inequality in access to social protection programs between elderly people who live in urban areas and those who live in rural areas.

To overcome these obstacles and challenges, improvements are needed in several aspects. First, there needs to be an improvement in policies governing the social protection of the elderly, including updating existing laws and strengthening the membership of the National Commission for the Elderly. Second, it is necessary to evaluate and improve data in ISWD (Integrated Social Welfare Data) to ensure that data on elderly people who need assistance is accurate and up to date.

Furthermore, there needs to be adjustments to the rules regarding the definition of elderly and the definition of pension, so that social protection programs can be more

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¹⁶ Alzheimer Indonesia (ALZI). Statistik tentang Demensia. April, 2019



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targeted. The establishment of community-based elderly care institutions is also needed to provide support that is closer to the daily lives of the elderly. Promotion of active aging and strengthening intergenerational relationships are also important to increase the awareness of the younger generation so that they can better prepare for their old age.

With the demographic increase in the number of elderly people which is expected to increase by 25% by 2050, Indonesia needs to prepare itself to face changes in the dependency ratio. Existing social protection programs include a variety of services and empowerment, but are still limited in scope, with differences in access between urban and rural areas.

The report "Condition of Elderly Welfare and Social Protection of the Elderly in Indonesia 2020" highlights that with the increase in the elderly demographic which is expected to increase by 25% by 2050, Indonesia will experience a change in the dependency ratio. This indicates the need for better preparation to face the explosion of the elderly population that will begin in 2030, including the elderly welfare bill on the national legislative agenda, expanding the coverage of universal social protection programs, and developing community-based care.¹⁷

Although social protection programs for the elderly in Indonesia have had positive impacts such as improving the dignity of the elderly, health conditions and household income for the elderly, their coverage is still limited and dominated by central government programs that focus more on poverty alleviation rather than the specific needs of the elderly. This program includes PKH for the elderly and non-cash food assistance, but the value of the assistance received by the elderly is still not sufficient to meet the standard cost of living in Indonesia.

Analysis of social protection for the elderly in Indonesia shows that only a small proportion of elderly people benefit from social protection programs, and many of them use this assistance not only for themselves but also for other family members who live in the same house. This shows that the assistance provided is not fully effective in improving the welfare of the elderly individually.

Several regions such as DKI Jakarta, South Tangerang and Pacitan have started implementing special cash social assistance programs for the elderly, but there are still many other cities that have not made social protection for the elderly a policy priority. Social protection programs must consider life cycle aspects and synergies between programs to ensure their effectiveness.

¹⁷ Kemensos. (2020). *Kebijakan dan program rehabilitasi sosial lanjut usia tahun 2021*. Jakarta: Direktorat Rehabiliasi Sosial Lanjut Usia.

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The budget allocation for social protection programs in Indonesia has increased every year, however the special allocation for the elderly is still very small compared to total state spending. The existing budget is more intended for poverty alleviation programs in general, not specifically for the elderly.

Thus, social protection for the elderly in Indonesia requires more attention from the government. Existing social protection must aim to provide moral and material support, as well as special protection for vulnerable elderly people, including mental and social rehabilitation services.

V. CONCLUSION

The elderly social protection program still has limited coverage, especially for poor and neglected elderly, even though they are priority recipients of poverty alleviation programs. This program is currently dominated by central government programs, while regional governments have not prioritized elderly issues and have not allocated a special budget for social protection for the elderly in the APBN. Nevertheless, these programs have had positive impacts, such as improving the dignity and health conditions of the elderly, as well as increasing the household income of the elderly. However, the assistance received by the elderly is still not sufficient for the average cost of living in Indonesia, with most of the assistance being used for other family members living in the same house. The implementation of social assistance programs is still faced by many obstacles, including weak policy support, lack of government commitment, administrative obstacles, and budget limitations. Therefore, improvements are needed in the implementation of social protection programs for the elderly to ensure the realization of inclusive protection for the elderly in Indonesia.

The need to improve the social protection program for the elderly in Indonesia includes several important aspects following are the recommendations:

1. Policy Improvement:

- a. The government and the House of Representative (DPR) must immediately include the elderly welfare bill in the National Legislation Program. Revision of Law Number 13 of 1998 concerning Elderly Welfare is needed to update and strengthen social protection for the elderly. Proposed changes include the classification of the elderly, organizing elderly people, protection, empowering the potential of the elderly, and respect for the elderly.
- b. The government under the coordination of the Coordinating Ministry for Human Development and Culture needs to continue to oversee the implementation of the Presidential Decree Number 88 of 2021 on the National



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Strategy for Aging, together with the Ministry of Social Affairs, Ministry of Health, Ministry of Education, Culture and Research and Technology, KPPPA, Ministry of Villages PDTT, BKKBN, BPJS Health, and BPJS Employment. The government also needs to socialize Presidential Decree no. 88/2021 to regional governments and ensure synergy in regional programs.

- c. The government needs to update the policies governing membership of the National Commission for the Elderly. The National Commission for the Elderly can be tasked with coordinating and providing advice to the President and ensuring that the protection of the rights of the elderly is fulfilled through a sustainable cross-sector and cross-generational approach. The existence of the National Commission for the Elderly is clear evidence that the state is present and fully responsible for fulfilling and protecting the rights of the elderly.
- 2. **Increased Program Access and Coverage:** Expanding the scope of recipients of social protection programs to ensure that more elderly people receive benefits. This includes improving the database of seniors who need assistance and ensuring that the data is accurate and up to date.
- 3. **Regional Government Support:** Regional governments should increase budget allocations for social protection programs for the elderly and develop initiatives for special programs targeting the needs of the elderly, including paying attention to the needs of the elderly living with their families.
- 4. **Development of Community Care:** Development of community-based elderly care is needed to provide support that is closer to the daily lives of elderly people. This includes strengthening intergenerational relations and the promotion of active aging.
- 5. **Adjustment of Regulations:** Evaluation and adjustment of regulations regarding the definition of elderly and the definition of pension are needed to ensure that social protection programs can be more targeted.

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