

The Indonesian Update

Monthly Review on Economic, Legal, Security, Political, and Social Affairs



Main Report:

Post-Presidential Election Reconciliation

Economics

- Looking at Bank Indonesia Monetary Policy
- Considering the Discourse on Revising VAT Rates

Legal

- Maintaining the Momentum of Corruption Eradication
- Regarding the Corruption Offence in the RKUHP

Politics

- Preventing Corruption: From Strengthening Competency-Based Recruitment to Fostering State Civil Apparatus
- Looking at a Possible Jokowi-Ma'ruf Amin Cabinet

Social

- Girls Are Not Brides: Child Marriage Cases
- Who are the Perpetrators, Who are the Victims: the Case of Sexual Harassment in Indonesia
- Strategic Efforts to Boost Health Services amid The Health Care and Social Security Agency's (BPJS Kesehatan) Deficit

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FOREWORD

The July 2019 edition of the Indonesian Update raises a main report on the reconciliation after the 2019 presidential elections. This theme is very relevant because after the Constitutional Court (MK) ruling that rejected all review petitions of the Prabowo-Sandiaga Uno pair, reconciliation has become a hot topic.

In the economic field, this edition of the Indonesian Update discusses the monetary policy of Bank Indonesia (BI) to hold the benchmark interest rate at a level of 6%. Although it is not in line with the expectations of many parties, BI has compensated it by relaxing the minimum reserve requirement (GWM). In addition, we also discuss the discourse on the revision of Value Added Tax (VAT) rates. This is quite relevant because the Government is preparing a revision of a number of derivative tax laws, including the Income Tax Law (PPH) and the Value Added Tax Act (VAT).

In the field of law, we discuss the selection of candidates for the Corruption Eradication Commission (KPK) heads. This theme is very important because the selection of the KPK heads is crucial as one of the milestones to eradicate corruption and its derivative implications in the future. In addition, we also discuss the polemics over the discussions on the Draft Criminal Code (RKUHP, or the HP Bill), specifically related to the formulation of corruption offenses.

In the political field, the Indonesian Update discusses the grand design of national bureaucratic reform to strengthen competency-based recruitment and to foster the State Civil Apparatus (ASN). In addition, we also discuss the cabinet formation for the 2019-2024 period. This theme is relevant to be discussed because the cabinet formation process involves the interests of political parties. This is also evident from the maneuvers of political party elites.

In the social field, the Indonesian Update raises the cases of child marriages due to the increasing prevalence of child marriages in Indonesia. In addition, we also discuss cases of sexual abuse that occur in Indonesia. This relevant theme is raised because the legal umbrella in Indonesia has actually led to the criminalization of victims. In the social field, we also discuss strategic efforts to improve health services amid a deficit in the Health BPJS and the importance of its financial management.

The monthly publication of the Indonesian Update with actual themes is expected to help policymakers in government and business institutions - as well as academics, think tanks, and elements of civil society, both domestic and foreign, to obtain actual information and contextual analysis of economic conditions, politics, social, and law in Indonesia, as well as an understanding of public policy in Indonesia.

Happy Reading.

Post-Presidential Election Reconciliation

After all electoral fraud appeal petitions had been rejected by the Constitutional Court (MK), Koalisi Adil Makmur that endorsed the Prabowo-Sandiaga pair has officially been disbanded. On the other hand, as the winner of the 2019 presidential elections, various political parties that are supporting Jokowi-Ma'ruf have opened the opportunity for political parties that supported Prabowo-Sandiaga to join the government's Cabinet.

The attention of the public is then turned to the reconciliation of political parties participated in the elections. Leading political figures have actively been involved in the contestation have been giving diverse responses toward the issue. The Secretary-General of the United Development Party (PPP), Arsul Sani, claims that he opens the door for those political parties that supported Prabowo-Sandi to join the coalition (*kompas.com*, 24/6). Otherwise, the Chair of the National Awakening Party (PKB), Muhaimin Iskandar, considers the coalition is packed, so additions are not necessary.

Meanwhile, the decision of the National Mandate Party (PAN), according to its Secretary-General Eddy Soeparno, will be decided through the medium of *rakernas* (*jawapos.com*, 3/7). Different from PAN, the Democratic Party via its Deputy Chairman, Syarief Hasan openly said that the party was ready to give support if the next government approached them (*detik.com*, 29/7).

If the political elite has been widely discussing the idea of reconciliation, the polarization at the grassroots level caused by the elections has not been solved even though MK has given its final decision. It cannot be denied that the two political figures who contested the 2019 presidential elections have divided the society into two large groups. This is where the elite's responsibility is really needed to eliminate segregation in society.

This article tries to show sundry reconciliation points that have emerged. First, the elite has been talking about the negotiation process between political parties informing the government. Second, society has been polarized, which should be ended.

Checks and Balances Considerations

One of the discussions about party reconciliation is the existence of opposition. The General Commissioner of the Prosperous Justice Party (PKS), Mardani Ali Sera, stated that his party would become an opposition that would implement checks and balances mechanisms during the second term of the Joko Widodo government (*republika.co.id*, 29/6).

According to LIPI researcher Firman Noor in his journal titled *Oposisi Dalam Kehidupan Demokrasi*, an opposition is a group of political parties that position themselves outside of the ruling government. This group has a right to speak out their own opinions and to carry out activities in order to criticize and control the government's attitudes, views, or policies.

But, the usage of the opposition term is uncommon in a presidential system that has been espoused by Indonesia. The president who gets a direct mandate from the people is only responding directly to the people. The opposition is more accurately referred to as a government controller so that the government does not abuse its powers.

Parties that are outside of the government actually do not conduct the control by themselves. Other forces, such as society, are also able to and also should implement control mechanisms. Institutionalized civil society is another channel that can facilitate the checks and balances mechanisms from the extra-parliament.

The High Number of Government Supporters

Another discussion that grabs attention is the high number of political parties in the coalition supporting Jokowi-Ma'ruf. Six political parties are endorsing Jokowi, while three political parties are supporting Ma'ruf. This has created high-level interest overlaps. It can be predicted that the Kabinet Kerja Jilid II will not have a strong level of solidity.

Political parties that are endorsing Jokowi-Ma'ruf are parties that have seats in the 2014-2019 Parliament. Those six parties are the Indonesian Democratic Party for Struggle (PDI-P), PKB, PPP, Nasdem Party, Golkar Party, and Hanura Party. In addition, Jokowi-Ma'ruf is also supported by political parties that did not have seats in the Parliament for the 2014-2019 period. These political parties are the Indonesian Solidarity Party (PSI), the United Indonesia Party (Perindo), and the Indonesian Justice and Unity Party (PKPI).

It can be expected that the solidity of the cabinet will not be stronger if other political parties also consolidate. So many interests

will make Jokowi's position as the chief executive will not be strong and will tend to be compromised. The vision that has previously been proclaimed can be changed, giving an impact on policies that will be produced by the government.

The high number of political parties in the coalition in the cabinet will make the direction of the government's policies taken hostage by so many interests. On the one side, this coalition should ideally be facilitated, because it will have great support in the Parliament. But on the other side, the process of policy formulation will be complicated by the many challenges from the coalition. Considering that political parties accommodate diverse constituent patterns, then the political parties' disagreement with government policies is very likely to occur.

In addition, Jokowi's desire to include young people and professionals in his cabinet can be limited to candidates only from political parties. Political parties, such as Nasdem and PKB, have requested 11 and 10 ministerial seats (*tirto.id*, 3/7/2019). It must be admitted that there are cadre members from political parties who match the requirements (young or professional). But, these conditions minimize the opportunity for young and professional non-party candidates who have the capacity as ministers to be elected.

Reconciliation as Political Pragmatism

As long as the reconciliation discourse only becomes a dialogue about the sharing of powers, this process will be seen as an elitist one. The conversations about the level of support in the Parliament, the stability of government, and the historical records from several political parties that participated in previous elections, have been constructed as a foundation in rationalizing reconciliation.

However, the specific programs offered by political parties that want to join and the value that they bring can be adopted in the form of policy by the government, have never been discussed clearly. This has become a number of important points when the community wants to assess how much profit will be obtained if there are political parties, which were previously at odds, to join the new government camp. This consideration is important because the joining of the political parties will influence whether the policies that will be produced can provide greater benefits to the society or not.

On the other hand, political parties also have an obligation to understand that the efforts they did to win the candidates they support also involve people's participation. Moving the political orientation without a concrete framework has only proved that

political parties will always return to the interests of their groups and abandon grassroots attributes that they used during the election period.

Ceasing Polarization in the Society

Reconciliation still remains political pragmatism if the discussion over the steps in resolving polarization at the grassroots level does not come to the attention and be moved by elites from political parties. As if, the bulkhead in the society instantly vanished after Prabowo and Jokowi had a meeting.

This condition illustrates that the meaning of reconciliation stops at the symbolic level, assuming that the segregation in society will be completely gone when the top of the two poles of the political forces meet one another. The political party actors believe that this will indirectly provide a derivative effect that can reduce the situation on society.

It should be realized that the responsibility to cool down the people lies with each political party. Whether these political parties actively participate in creating discourses that often confront society or not. This obligation remains attached to political parties as an element that represents society in a democratic country.

Political parties should not only identify the people in the society as a bag of votes that could capitalize only for electoral purposes. This has a very dangerous impact on the nations' integrity because the dividing line in society is built without a sense of understanding of the differences in political orientation.

The space for differences should be filled by national narratives and unity made by political parties through political education. The planting of constructive values of democracy is not only given to cadres, but political parties are also obliged to teach these values to the wider community.

By carrying out political education in society, political parties can teach that differences in choice, identity, and even ideology are common in democracy. Gradually, the value obtained from the process of political education will also affect the quality of society which prioritizes rationality over sentiment as a factor used in taking political attitudes.

Another point that also needs to be emphasized is about elections, which are often narrowly interpreted as the moments of seizing or continuing power. Political education provided by political parties can teach that election also giving opportunities for the public to find candidates with programs considered as the most fulfilling the needs.

Thus, in the next elections, societies' considerations of giving a vote are not only based on the likes or dislike towards the candidates, which can cause cults by each of the sides of supporters. The focus from society will shift into the vision, mission, and programs offered by the candidate. These conditions will increase the degree of democracy in our country because people begin to switch to the substantive considerations rather than just prioritizing sentiments in giving a vote.

The suppression of sentiments in taking a political stance will also make society more mature. Differences in choices, which often manifest clearly during the moment of elections will be responded as a natural thing. The potential for segregation will also be covered with the awareness that living a life as a nation must be safeguarded rather than fighting for power.

Policy Recommendations

First, political parties should conduct a political education that really has an impact on the maturity of society in politics. Political parties must stop blowing issues that potentially segregate the nation, such as identity politics. Give society knowledge about respecting different views, respect for legal supremacies, and how to give constructive critics. Anyone who is inside or outside the government will contribute equally to democratic governance that has an aimed to develop the nation and state.

Secondly, the reconciliation discourse at the elite level must be enriched by the discussion of values and programs that will be brought by a political party if they want to join Jokowi's second period of government. Do not let the parties only motivated by the power they might gain if they join the stronghold of the 2019 Presidential Election. It is even better if the discussion is accessible to the public, so the assumption that said reconciliation was limited to sharing power can be eliminated.

Synchronization can be done later if the government gains additional support from another political party. It is important to ensure that the values and programs brought by the newly joined political parties are matched with an effort to achieve the government's vision. This phase is the biggest challenge because the historical record states that the fatness of supporting parties in the cabinet will cause the busyness of the government in taking care of internal conflict rather than focusing on implementing policies.

- Rifqi Rachman -

The spectrum of interests is likely to make Jokowi's position as a 'single chief executive', not strong and tends to be compromised. The vision that has previously been proclaimed can experience an alter, and finally giving an impact on the policies that will be produced by the government.

Looking at Bank Indonesia Monetary Policy

Bank Indonesia (BI), at the Board of Governors' Meeting (RDG) on 19-20 June 2019, decided to hold the benchmark interest rate, or the BI 7-Day Reverse Repo Rate, at a level of 6%. The Deposit Facility (DF) interest rate remained at a level of 5.25%, and the Lending Facility (LF) at a level of 6.75%. This was the 6th month the Central Bank held its benchmark interest rates in 2019 (*Bank Indonesia, 2019*).

Although it was not in line with the expectations of many parties, BI compensated it by relaxing the minimum reserve requirement (GWM). The definition of Statutory Reserves is funds or minimum deposits that must be maintained by a bank in the form of a checking account balance placed at BI. (*sikapiuangmu.ojk.go.id, 07-08*). In its decision, the reserve requirement was reduced by 50 basis points to 6% for commercial banks and to 4.5 percent for Islamic banks, with a fixed average rate of 3 percent.

Observing BI Considerations

There were at least two considerations that made BI keep its interest rates instead of cutting the benchmark interest rates as signaled previously. The first consideration came from external conditions, which were marked by the trade war between the United States (US) and China, which was projected to result in a decline in the volume of international trade growth by one percentage point to 2.6% compared to the previous projection. This trade war would also slow down the economic growth of a number of countries. As a result, Indonesia's export performance can also be affected negatively. (*Tempo, 26/06/2019*).

Meanwhile, the second consideration came from domestic conditions. According to BI calculations, the current account balance deficit in the first quarter of 2019 exceeded USD7 billion, equivalent to 2.6% of Indonesia's Gross Domestic Product (GDP). Furthermore, entering the second quarter, Indonesia must face with the annual tradition of the repatriation of dividends and of interest payments

on foreign debts, which will further widen the current account deficit. Consequently, the current account deficit in the second quarter is predicted to increase by around 3% of GDP (Kuncoro, 2019).

Under these conditions, Indonesia must increase the demand for foreign exchange in a substantial amount. If the current account deficit cannot be balanced with the supply of foreign exchange from financial portfolios, such as hot money, the Indonesian balance of payments (NPI) will experience deficit.

This is an indication that the external balance is experiencing a problem; that is, the amount of foreign exchange that comes out is more than the one that enters. These conditions are certainly not good for the domestic economy in particular, because Indonesia can be hit by a weakening exchange rate. Therefore, BI had chosen a conservative stance to maintain interest rates to maintain competitiveness in attracting foreign capital.

If we explore further, the root causes of the current account deficit come from oil and gas imports. The value of oil and gas imports was recorded to increase in April 2019, with a value reaching USD2.24 billion. This figure increased by 46.99% from the realization of imports in March, which reached USD1.52 billion. (BPS, 2019) This is the main reason for the soaring current account deficit.

Recommendations

Presumably, the step of encouraging exports amid the global slowdown will be difficult. For this reason, another option is needed by BI; namely, the option of pressing imports to reduce the current account deficit. First, the government will suppress the consumption of fuel oil (BBM) in order to suppress oil and gas imports through a scheme to revoke subsidies and increase fuel prices slowly.

In theory, if fuel prices increase, this will encourage a decline in people to consume fuel and will directly reduce imports. The policy can directly suppress the current account deficit caused by the high oil and gas imports.

In addition, BI can also cover the deficit by attracting foreign investment, especially Foreign Direct Investment (FDI). In this case, FDI must be directed at boosting domestic production.

Finally, BI must also be able to encourage banks to channel loans to the public in order to boost domestic consumption with a complementary increase in banking liquidity of around Rp 25 trillion, which can be used to increase credit growth in the range of 12-13% so far this year.

As a result, the consumption of the lower classes of society will be boosted. The production costs of export goods for competitiveness in international trade should be lowered. Thus, the slowing of economic growth amid the weakening global economy can be avoided. Cutting interest rates is not as easy as people think. BI, which holds two mandates of maintaining the stability of the Rupiah value and also of supporting pro-growth, must be able to be responsive, accommodating, and careful.

- M. Rifki Fadilah -

Bank Indonesia (BI) at the Board of Governors' Meeting (RDG) on 19-20 June 2019 decided to hold the benchmark interest rate, or the BI 7-Day Reverse Repo Rate, at the level of 6%. The trade war between the United States and China and the current account deficit were considerations for BI to hold its benchmark interest rates.

Considering the Discourse on Revising VAT Rates

The government is working on revised tax law (UU), including articles on the Income Tax Law (PPH) and the Value Added Tax Act (VAT). The Corporate Income Tax (Article 25-29) that must be paid by the taxpayers in the current year will have a lower rate of between 20-22%. The current rate is 25 % (*Dialy Investors, 6/20*).

The strong reason why the government wants to revise the Corporate Income Tax and VAT rates is the Current Account Deficit (CAD) problem that has not been resolved. In addition, the government also believes that the corporate income tax rates in Indonesia are still relatively expensive compared to those in other countries in the Southeast Asia region.

In comparison, the Philippines applies 30% of corporate income tax rates, Malaysia 25%, Vietnam 22%, Thailand 20%, and Singapore 17%. The last two countries seem to be the government's reference in amending the Income Tax Law.

The cutting down of the corporate income tax rates is expected to stimulate foreign investment to enter Indonesia, especially to the real sector. The new investment will strengthen domestic industries, which will in turn increase exports and reduce dependence on imports. As a result, the current account deficit can be minimized. Also, with this tax rate reduction, the government hopes to increase taxpayer compliance (WP) (*CNBC, 03/07/2019*).

In order to accommodate the cut-off policy of the Corporate PPh rate, the government compensates by increasing the VAT rate from 10% to 12%. This revision of tax rates is an attempt to boost revenue (tax counterbalancing) in order to avoid a tax shortfall.

Backfire

It seems that the government is using a patch-scissors scheme to pursue its mission of securing the current account balance, increasing the tax base, and also pursuing deposits.

By increasing the VAT rate, the government thinks that the rate can bring more revenue to compensate reduced revenue from the PPH of corporations. That way, the government will not lose much revenue when implementing the policy to cut the corporate income tax rate.

However, it is rather unfortunate that the scheme to increase the VAT tariff could backfire for the government. This is because according to calculations, the 10% VAT rate that is still valid seems to have reached its optimum point. Referring to the Laffer curve theory, state revenues can decrease if the effective increase rate has been exceeded.

According to calculations, the VAT rate itself is more or less the same as the companies' profit margins. It means that if there is an increase in VAT, it is feared that it will disturb Pareto Optimum, where the increase in VAT must be paid by the decreasing profit margins, so the income tax that is achieved also decreases (*Kuncoro, 2019*).

More than that, as a type of indirect tax, VAT is a tax paid by other parties (traders) who are not tax bearers, or in other words, in the VAT scheme, the tax is charged to the final consumer, which is then deposited by the trader.

If the 10% VAT rate is raised, of course, this will have a direct impact on consumers in the form of higher selling prices. In particular, the increase in VAT will also target basic goods. As a result, inevitably consumers must bear a higher tax burden than before.

In pursuing this ambition, the government pleases consumers by providing convenience to entrepreneurs through tax cuts, but on the one hand, the government brings burdensome to consumers by posing a higher VAT rate.

The World Bank, in the 2017-2018 Global Investment Competitiveness Report entitled Foreign Investor Perspectives and Policy Implications, shows the fact that consideration of low tax rates

(58%) is in the seventh position out of ten factors, which are the main considerations in foreign investment decisions. The results of this survey indicate that a low tax rate is not the factor that most influences an investment decision.

Thinking ahead, it is not impossible that consumers will think of holding back their consumption because they are avoiding the more expensive VAT tax. In the end, the government will fail miserably to use this strategy in pursuing state revenue posts. In fact, as a ceiling in the variable economic growth, consumption will become stagnant and economic growth can be threatened.

Recommendations

Therefore, in fact, taxation policies are not solely dealing with the state treasury. Tax plays a strategic role in terms of equity, stabilization, and growth. For this reason, the application must be adapted to the domestic situation and conditions.

Considering the above points, here are some policy recommendations specific to the tax authorities to avoid this boomerang. For example, with the agenda of corporate income tax deduction, the tax authority can actually cut the corporate income tax for provinces with low income and growth rates. Tax incentives in underdeveloped regions do not reduce tax revenues, because they encourage economic activities that drive production and consumption.

Regarding the segment of the lower class, revisions to tax rates can be divided into commodity levels. This is because consumer behavior in responding to the increase in VAT rates varies depending on the characteristics of the goods, individuals, regions, and the time of implementation. As a result, the increase in VAT will not have a serious impact on commodities of basic needs that concern the livelihood of many people.

Thus, the application of casuistic matters such as this requires specific thinking sophistication for the effectiveness of the new Corporate Income Tax and VAT Act. As a policy, the formulation process does require a combination of strategies to minimize the negative impact of policy implementation. In addition to the right formulation, the policies adopted by the government must also be able to contribute positively to the economy.

- M. Rifki Fadilah -

The government is preparing a revision of a number of derivative tax laws, including the Agency Income Tax Law and the Value Added Tax Act. The government is using a patch-scissors scheme to pursue its mission of securing the current account balance, increasing the tax base, and also pursuing deposits. However, the government should not let this scheme backfire.

Maintaining the Momentum of Corruption Eradication

These days, people have been preoccupied with the drama of disputes over election results in the Constitutional Court, without realizing there is actually no less important event to get attention. It is about the screening and selection of the candidates for the heads of the Corruption Eradication Commission (KPK).

This event is crucial because it directly involves the momentum of corruption eradication and also the derivative implications in the future. Indonesia had previously succeeded in getting a score of 38 points in the Corruption Perception Index (CPI) in 2018. This was attributable to the performance of anti-corruption institutions, including KPK, in taking actions or in preventing corruption in Indonesia. KPK has had cooperation with relevant state institutions to deal with corruption.

Regarding the CPI score, even though it only increased by one point from 2017, at least it had succeeded in placing Indonesia in fourth place in Southeast Asia after Singapore, Brunei Darussalam and Malaysia. If you look further, Indonesia was now far in the 89th place, one point below China, which was at number 87. This position improved by seven ranks compared to the previous year, which was 96th (*Transparency International, 2019*).

Through the role of the KPK, which has been reflected in the characters of its leaders (integrity, autonomy, and independence), the community should expect that the CPI score can be maximized and should be better. Therefore, the agenda for screening and selecting the KPK candidates should be watched closely together.

Regarding the Screening of the Prospective Heads of KPK

The selection of the KPK heads is regulated directly in Law No. 30/2002 on the Corruption Eradication Commission (KPK Law). In this Law, the mechanisms of selection can be divided into the stages

of recruitment, screening, and selection. Each of the implementing authorities is also regulated separately.

Article 30 of Law on KPK states that the authority for the screening belongs to the President, while the selection is conducted in the House of Representatives of the Republic of Indonesia (DPR RI). It is further explained that in the screening phase, the President forms a selection committee that is specifically tasked with conducting candidate registrations, announcing the candidates for the public to comment on, and finally determining and submitting the selected candidates (as many as 2 (two) times of the number of positions needed) to the President.

The selection committee was formed on May 17 through the Decree of the President of the Republic of Indonesia Number 54 /2019. The registration has been opened since June 17. If it is consistent with the provisions stipulated in the KPK Law, the registration lasts 14 working days and will end on this 4th of July.

Until now, there have been 133 registrants who have submitted the applications. The information is sourced from Hendaridi's statement, one of the members of the KPK's 2019-2024 selection committee, which was published in the online website national.kompas.com on July 2, 2019. Unfortunately, the names of the 133 registrants and their background information cannot be found, both in the media coverage and in any official publications.

Even though Article 31 of the Corruption Eradication Commission Law regulates the nomination and selection process for KPK members, Article 30 states that the process must be done transparently, without any exceptions. The lack of information disclosure from the beginning of this stage certainly makes it difficult for the public to comment on the applicants.

Early monitoring is certainly needed so that the public can immediately find out, assess and ensure the validity of the applicants' data, such as the experience, integrity, competence, and consistency in the eradication of corruption. This process should take place no later than 1 (one) month.

Therefore, if it is still possible, the registration process for the KPK members should be carried out transparently from the beginning. The implementation can certainly be done in many ways. One of them is by utilizing the development of technology and information

networks, by publishing things discussed above on online pages that can be accessed by everyone.

The Selection Process and Maintaining the Momentum of Corruption Eradication

The most crucial problem in terms of the selection of the KPK committee is basically not only located in the screening stage. The real challenge is in the stage when the names that have been selected will be submitted by the selection committee through the President to the House of Representatives to be used in the selection stage.

This selection stage, or also known technically as a fit and proper test, is certainly a very decisive stage. In this stage, KPK leaders will be selected, consisting of 1 (one) Chairperson and 4 (four) members who concurrently as Vice-Chairs.

Unfortunately, the process of selecting in the DPR is like a jungle that is so mysterious, dark, untouched and full of uncertainty. The lack of transparency and unclear assessment indicators, such as competence and integrity, are eroded by factors of interests and political closeness in the selection process. This may lead to a breakdown in the momentum in eradicating corruption.

People still remember the second and third periods of KPK leaders who experienced “criminalization” after naming several state officials as corruption suspects (*Tempo Book Series, 2013*). People also still remember the submission of the Questionnaire Right in the DPR shortly after the KPK determined the main perpetrators of the e-KTP mega project corruption case as suspects.

The efforts to weaken KPK, of course, will be even more frightening considering the fact that the selection process is actually carried out by actors who have been implicated in corruption. However, institutionally, the DPR should be neutral.

The bad image of the DPR should be put aside, as the bad conducts have been done not by the institution but by its members. Unfortunately, members of the House of Representatives who will later determine the future KPK leaders are politicians elected in the 2019 general elections, which were full of disputes.

The selection of the KPK heads for the period 2019-2024 should be jointly monitored. There should also be a revision to KPK Law to evaluate the screening and selection system.

- Muhammad Aulia Y Guzasiah -

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Regarding the Corruption Offence in the RKUHP

One of the corruption eradication agenda items in Indonesia that has captured the public's attention, in addition to ending and re-opening the the selection for the candidates for the Corruption Eradication Commission (KPK) heads for the period 2019-2024, is the discussion of the Draft Criminal Law (RKUHP or also abbreviated as Draft of HP Bill). Another interesting thing in the discussion of the Draft of HP Bill is the corruption offense.

This discussion is interesting to be revived because of the heated debate between the Government and the House of Representatives (DPR) on one side and the Corruption Eradication Commission (KPK), several Civil Society Organizations (CSOs), and other anti-corruption activists on the other side to decide on "whether to regulate and include corruption offenses in the Criminal Code or to regulate them in separate regulations?"

This debate has invited problematic polemics, because it has been successful again in delaying the ratification of the Criminal Code, which was planned to be passed on August 17th of last year. The polemics have been going on since it was first conceived at the National Law Seminar I in 1963 in Semarang.

Regarding KUHP and its Development

Polemics continue to emerge towards the end of its endorsement. This happens almost in every period of government. The Criminal Code that is still in use today, is actually a colonial legacy that has become obsolete and is no longer used in its home country.

This codified regulation, as is known, is still a derivative of *Wetboek van Strafrecht voo Nederlandsh-Indie (WvSNI)*, originating from the Dutch Criminal Code in 1886. This law was enacted long before Indonesia's independence; that is, from January 1, 1918, according to the *Staatsblad (S) Year 1915 Number 732* through *Koninklijk Besluit (King's Order) Number 33, dated October 15, 1915. (Muladi, 2018).*

As for post-independence, the regulation was then implemented according to Article II of the Transitional Rules of the 1945 Constitution of the Republic of Indonesia (1945 Constitution) and Article I of Law Number 1 of 1946 concerning Criminal Law Regulations. Unfortunately, after almost 40 years, various efforts to form the Criminal Code must again be threatened with a dead end. This is because the term of service of the DPR for the 2014-2019 period will end in September.

As is known, our Parliament does not recognize the existence of a legacy system of legislation from the previous period. If it is not immediately passed until the specified time limit, then practically the idea of decolonizing the Criminal Code, which is almost one century old, will return to the same fate as previous attempts, and will likely be discussed from the beginning again in the next period *Lex Specialis* or *Lex Generali*?

The polemics over-regulating corruption in the RKUHP need to be clearly discussed. The KPK has concerns that corruption as an extraordinary crime will be reduced if it is regulated in the Criminal Code.

The character of the Indonesian legal system, which is based in Continental Europe, does not require a lengthy description to explain the necessity for criminal offenses to be codified into the Criminal Code. In addition to being understood at the theoretical level, it has become common practice that in countries with the tradition of the legal system, the whole criminal acts, except military and tax crimes, are regulated by uniting them into a book.

The criminal offense of corruption is currently regulated *lex specialis* (specifically regulated) in separate laws. The development of corruption cases into extraordinary crimes has made the provisions on corruption material that are regulated *lex generalis* (regulated generally) in the Criminal Code and in the Criminal Procedure Code (KUHAP) must be ruled out inevitably.

Therefore, even though it has been implemented by *lex specialis*, but the corruption offenses still need to be regulated in the Criminal Code, which is currently neglected by these provisions. This reason is also indirectly related to the spirit or political choice of criminal law, which lies behind the establishment of the Criminal Procedure Code itself; namely, the re-modification, consolidation, and harmonization.

Eddy O.S Hiariej, one of the members of the Expert Team compiling the Draft of HP Bill, in his opinion in the *Kompas daily* (07/12/2018), explained that if special criminal law provisions were not included at all in the Draft of HP Bill, then what happened was of course decodification. This is contrary to the chosen criminal law politics.

Laws that contain special criminal law regulations have mushroomed. The number is almost 200 laws. Do not stop there, some are not even regulated or do not have core arrangements that can be used as a reference for formation.

The regulation of corruption offenses into the Criminal Code later certainly does not necessarily eliminate the special nature of the crime, let alone weaken or even eliminate the KPK's authority in combating corruption. This is because corruption offenses are regulated in a special criminal offense chapter that serves to assert its specificity, as well as to bridge it with the *lex specialis* provisions outside the Draft of HP Bill. In addition, corruption cases that are also regulated are the core crime provisions of the corruption offense, which will not immediately abolish the Law, especially those currently in effect.

The fact that there is no perfect law or regulation is an enigma that must be accepted with grace. As the legal adagium explains that the law actually always staggers behind reality, "*Het Recht Hinkt Achter de Fetein Aan*". While the reality is changing fast, following human behavior, a law can never describe the real situation

Therefore, without negating the attitude of the KPK and other anti-corruption activists, which is essentially an effort to guard the corruption eradication agenda in this country, the Draft of HP Bill needs to be supported and immediately passed for the sake of stability and the development of a better Indonesian legal system.

- Muhammad Aulia Y. Guzasiah -

The Draft of HP Bill needs to be supported and immediately passed for the sake of stability and the development of a better Indonesian legal system.

Preventing Corruption: From Strengthening Competency-Based Recruitment to Fostering State Civil Apparatus

The Grand Design of the National Bureaucratic Reform as stipulated in the Presidential Regulation (Perpres) Number 81/2010 strengthens the government's commitment to implement Bureaucratic Reform (RB) in Indonesia. Bureaucratic reform is one of the first steps to manage good governance, effective and efficient governance so that it can serve the citizens quickly, precisely, and professionally (*Chrisnandi, 2015*).

These reform programs will directly have an impact on governance change and the management of State Civil Apparatus (ASN) in basic services such as education and health.

Competency-Based Recruitment

The existence of bureaucratic reform programs, or more broadly the purpose of President Joko "Jokowi" Widodo's Nawacita, has directly affected the dynamics of government regulations on ASN's management. For example, Law Number 5/2014 on the State Civil Apparatus, which requires that the ASN's management in government agencies be based on competency and performance-based management systems (merit system).

In this matter, competency is the existence of ASN who not only have the ability to achieve their duty but also have integrity, professionalism and high performance. It can be said that ASN is the spearhead of the implementation of bureaucratic reform, as ASN is at the frontline of every public service managed by the government. The step starts with the recruitment process.

The Minister of Administrative Reform and Bureaucratic Reform, Asman Abnur (www.hukumonline.com, 1/22/2018) explained in

more detail that there are three key competencies that must be owned by ASN; namely, technical competence, managerial competence, and cultural social competence, as stipulated in the ASN Law Number 5/2014 on State Civil Apparatus.

Technical competence is measured by the level and specialization of education, functional technical training, and work experience. Managerial competence is measured by the level of education, structural or management training, and leadership experience. Meanwhile, cultural social competence is measured by work experience related to plural societies in terms of religion, ethnicity, and culture so that they have national insight.

Reviewing the Competency Components according to Tucker's and Cofsky's Theory

According to Tucker and Cofsky (1994), there are five main components of competency; namely, the knowledge that refers to information and learning. Skills that refer to a person's ability to perform certain tasks. Self-concept and value that refers to a person's attitude, values, and self-image. Observing the implementation of the selection test, the Personal Characteristics Test (TKP) that is included in the Basic Competency Selection (SKD) can represent the components. In the interview examination, the interviewers also ask questions related to those components.

The next component is characteristics that refer to physical characteristics. For example, for doctors, to have the ability to see is the main requirement. The other component is motives that refer to emotions, desires, physiological needs, and similar impulses that encourage actions. According to Tucker and Cofsky's theory, ASN selection still has to pay attention to the components of the motives. The motives can be tangible. One of them is related to desires. Observing the reality that is happening in Indonesia, deviant actions such as corruption still persist. One of the causes of corruption is the motive for returning participants' campaign funds.

Minister of Administrative Reform and Bureaucratic Reform (Mempu) Syafruddin said that as many as 3,240 ASN's had been dismissed without respect for being involved in corruption (www.cnnindonesia.com, 3/7). Syafruddin (2019) stated that the dismissal was part of the sanction in line with Article 87 Paragraph (4) Letter b of Law Number 5/2014 on State Civil Apparatus.

Soft Skills Development in Supporting ASN's Competency

Basically, ASN's development consists of various activities, including Education and Training (Diklat), Learning Assignments (Tubel), Study Permit (Ibel), and internal coaching by adjusting the structural or functional positions. However, technical or administrative coaching is not enough. According to observations, the government also has collaboration with the People Development Program from the House of Change (Rumah Perubahan) by Rhenald Khasali to support ASN's development. This program emphasizes soft skills development. For example, the National Institute of Health Research Development-Indonesia and Pemda Banyuwangi have implemented this collaboration program.

Basically, soft skills are one of the terms from Sociology about Emotional Quotient (EQ). Soft skills are the ability to connect with other people and ourselves, which are divided into two, namely: interpersonal skills, including communication skills, motivation, public speaking, negotiation, and leadership. In addition, there are also intrapersonal skills, including proficiency, stress management, time management, creative thinking skills, and determining life goals, including the ability to be honest, responsible, fair and others aspects (www.kompasiana.com, 11/9/2013).

The People Development Program is a training series that is specially created for executives. This program is aimed for those who want to prepare themselves to face the challenges of change through the soft skills development, which focus on the character and quality of a leader in the new era: being a Good Driver, who is able to communicate effectively, shaping the leaders' characters who are open, engaged, and caring for the people around (www.rumahperubahan.co.id, 2019).

Soft skills development will support the basic ability of ASN in terms of willingness to work according to duty and responsibility, and the willingness and ability to not commit corruption. The existence of competency-based and soft skills will be able to support the grand design of ASN's development targeted in 2024; that is, Indonesian ASN will achieve world-class bureaucratic standards.

- Vunny Wijaya -

Preventing corruption requires a holistic effort because corruption is so entrenched in Indonesia. Thousands of ASN have been caught in corruption, one of them due to campaign refunds. Strengthening competency-based recruitment up to "soft skills" development will support the government's target towards world-class bureaucracy.

Looking at a Possible Jokowi-Ma'ruf Amin Cabinet

The General Elections Commission (KPU) officially announced Joko Widodo (Jokowi) and Ma'ruf Amin as elected presidents and vice presidents for the 2019-2024 period. The official announcement was conducted at a plenary meeting held by KPU on Sunday (6/30/2019).

This announcement was conducted three days after the Constitutional Court (MK) decided on Thursday, June 27, 2019, to reject all 2019 presidential election petitions submitted by Prabowo Subianto-Sandiaga Uno.

Previously, according to the results of the KPU's recapitulation (5/21/2019), the Jokowi-Ma'ruf pair won 85.6 million votes (55.5%) of the total number of legitimate national votes (totaling 154.26 million votes). Meanwhile, their competitors, Prabowo and Sandi only got 68.65 million votes (44.5%).

The Maneuvers of Political Parties

After the announcement of the President- and Vice President-elect, the most important thing is to look at the 2019-2024 cabinet formation. The cabinet formation will take much time and is a prerogative right of the President.

It has become an open secret that the process of forming a cabinet will involve the interests of political parties, as they are keen to get seats in the Cabinet. Since the announcement of the election results, since the determination of the results of the 2019 elections, there have been maneuvers carried out by political parties that are members of the coalition of supporting Jokowi-Ma'ruf Amin.

The maneuvers can be seen from the statements of political party leaders. The Chair of the National Awakening Party (PKB), Muhaimin Iskandar, said that he hoped that PKB would get 10 ministerial posts in the Cabinet. Muhaimin's statement was later responded to

by the Nasdem Party Expert Council Member, Taufiqulhadi, who stated that Nasdem deserved 11 ministerial seats.

Besides PKB and Nasdem, the Golkar Party has also voiced its hopes. Through the Chair of the Golkar Party Expert Council, Agung Laksono, Golkar has requested for five seats in the Cabinet.

In addition to the maneuvers carried out by parties supporting the Jokowi-Ma'ruf Amin coalition, maneuvers have also been carried out by parties in the Prabowo-Sandi coalition, such as the Democratic Party and PAN. This can be seen from a number of meetings between both parties and Jokowi.

The Coalition is the Priority

Maneuvers carried out by political parties to compete for ministerial seats are actually normal. It is natural that political parties are hoping to get positions in the Cabinet in the future.

What needs to be considered is that it is appropriate for Jokowi-Ma'ruf Amin to prioritize the political parties of his coalition members informing the Cabinet. This is very important given the work that has been done by the coalition parties for almost 10 months.

Considering that the 2019 elections were carried out simultaneously, the work process of the campaign teams to win the parties in the Pileg and Pilpres ran simultaneously. Therefore, the distribution of seats in the Cabinet must be proportional to the vote acquisition of political parties in the 2019 legislative elections.

Table 1. Number of Votes of the Jokowi-Ma'ruf Amin Coalition Political Parties in 2019 Pileg

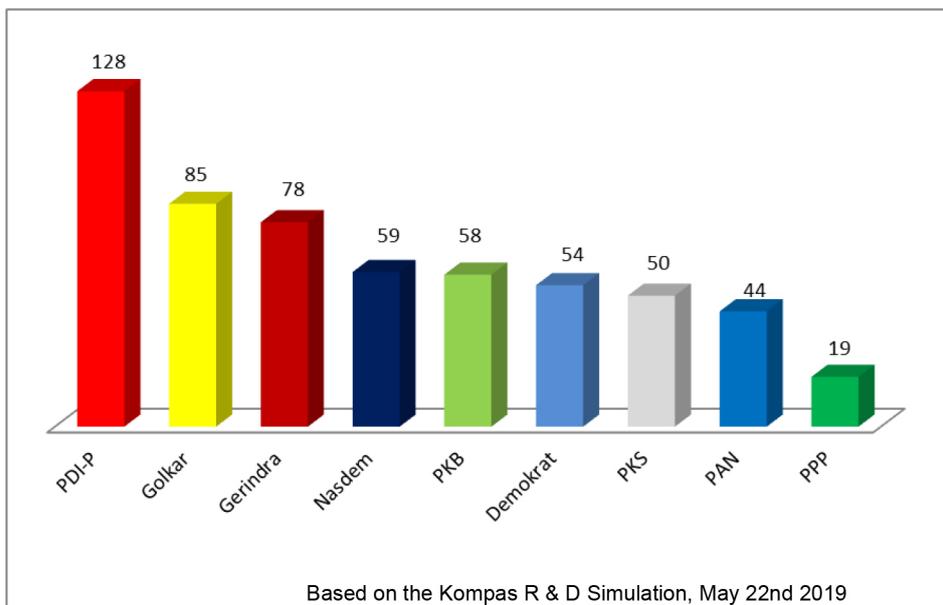
No.	Political Party	Number of votes
1	PDI-P	27.053.961
2	Golkar	17.229.789
3	PKB	13.570.097
4	Nasdem	12.661.792
5	PPP	6.323.147

The four parties that have the biggest numbers of votes in the Jokowi-Ma'ufuf coalition (PDI-P, Golkar, PKB and Nasdem) deserve to get more than two seats in the Cabinet. This is reasonable, given their numbers of votes in the 2019 legislative elections. Their party machines worked. In addition to winning party votes in the electoral regions, their party machines also worked to win the president and vice president candidates at all regional levels, such as at the Regency / City and Province levels.

Executive and Legislative Balance

In addition to these considerations, another thing to consider is the relationship between the executive and the legislative branch of the government. The Jokowi-Ma'ruf Amin Coalition is a fat coalition. Even if we look at the composition of the seats in the DPR, the Jokowi-Ma'ruf Amin coalition is still very dominant compared to the Prabowo-Sandi coalition.

Graph 1. The Projections of the DPR-RI Chair in 2019-2024



According to the Kompas R & D simulation on the acquisition of political party seats in the DPR-RI, the political parties supporting the Jokowi-Ma'aruf Amin pair are projected to get 349 seats in the DPR.

PDI-Perjuangan as a winner of the race won 128 DPR-RI seats. Furthermore, the Golkar Party won 85 seats, Nasdem 59 seats, PKB 58 seats, and PPP 19 seats.

Meanwhile, a coalition of political parties supporting Prabowo-Sandiaga Uno is projected to get 226 seats. The Gerindra Party is a political party supporting Prabowo-Sandi that won the most seats with 78 seats. Furthermore, Democrats secure 54 seats, PKS 50, and PAN 44 seats.

Table 2. Comparison of Projection of the DPR-RI Chair between the Jokowi-Ma'aruf Amin Coalition and the Prabowo-Sandiaga Uno Coalition

Jokowi _ Ma'ruf Amin Coalition Party	Chairs *	Prabowo - Sandiaga Uno Coalition Party	Chairs*
PDI-P	128	Gerindra	78
Golkar	85	Demokrat	54
Nasdem	59	PKS	50
PKB	58	PAN	44
PPP	19		
Chairs Amount	349	Chairs Amount	226

Looking at the comparison of the projection of the composition of seats in the DPR-RI, the political parties of the Jokowi-Ma'aruf Amin coalition are still very dominant compared to the Prabowo-Sandi coalition in the Parliament.

Balancing power is needed in the Parliament, which is expected to be the “opposition” in the policy-making process, even though in presidential systems such as in Indonesia, the opposition does not exist as it is the case in countries that adhere to a parliamentary system. The practice of “opposition” that takes place in Indonesia is more about criticism and pressing on the policy-making processes.

On the other hand, the coalition of political parties cannot be seen as one entity. In practice, political parties that are members of the coalition may differ in their views with the Government in discussions of the Law and other policies in the Parliament.

Recommendations

Looking at the dynamics that have developed after the announcement of Jokowi-Ma'aruf Amin as President- and Vice President-elected for the period 2019-2024, the process of forming a cabinet is a first step in the government's journey for the next five years.

In the framework of forming a cabinet, Jokowi-Ma'aruf Amin as the elected President and Vice President, they must consider several things, such as, the first, maintaining a commitment to anti-corruption. The anti-corruption commitment is very important to be held high by the Jokowi-Ma'aruf Amin and their supporting political parties in the formation of his Cabinet. Although political parties get seats in the cabinet, they are also expected to delegate representatives who have a clean track record of corrupt practices.

Second, the Cabinet is filled by professionals. As with anti-corruption commitments, even though political parties get seats in the Cabinet, they are also expected to delegate their representatives who have the capacity to assist the President. Apart from the political parties, professionals can also be drawn from non-parties, such as professionals and volunteers who have appropriate experience and capacity.

In addition to political parties, what cannot be denied is the volunteer work to win Jokowi and Ma'aruf Amin. As was done in the 2014 elections, volunteers must also be considered to support the work of the Jokowi-Ma'aruf Amin Cabinet for the next five years.

It is expected that the future Cabinet can accommodate a variety of interests so that the vision, mission, and programs campaigned for the 2019 Elections can be carried out while continuing the unfinished program from the 2014 election campaign. On the other hand, the Cabinet also needs to be controlled by "opposition" constructively to create balance in the government and in the Parliament in a system of democracy and governance.

- **Arfianto Purbolaksono** -

The process of forming a cabinet is the first step in the government's journey for the next five years.

Girls Are Not Brides: Child Marriage Cases

The refugee camps in Palu have witnessed children who have decided to get married. In these cases, little girls had to marry male adults. Unfortunately, these are not fairy tales. Until May 2019, four cases of marriages involving children aged 15 to 17 years had been identified by local officials from the Women's Empowerment and Protection Agency (DP3A) at refugee camps.

The Learning Circle Society for Women (LIBU) has also received the latest news. In the past three months, there have been 10 reports of child marriages in several refugee camps (*BBC, 30/06*). Economic instability in the post-disaster period and maintaining family honor are believed to be the driving forces for these cases to occur in refugee areas.

In Indonesia, the cases of child marriages are in fact not new things. UNICEF (2017) noted that at least 14% of girls in Indonesia were married before the age of 18, and 1% were married before the age of 15. These percentages placed Indonesia at the 8th higher position of the number of child marriages in the world at a level of 1,459,000 children.

Data from the Central Statistics Agency (BPS) were equally dramatic. Child marriage prevalence was quite concerning; namely, one in four married girls at the age of children, or around 23% in 2017. In addition, the national percentage had reached 25.17%, and if viewed by region, there were 23 provinces whose percentages were above the national figures. Sadly, every year, there are about 340,000 girls who got married under the age of 18.

Why is the “Get Married too Early” Phenomenon Important?

At the end of 2018, the Constitutional Court (MK) granted part of a judicial review lawsuit; especially, the part related to Article 7

Paragraph 1 of Law Number 1/1974 on Marriages. The lawsuit says that the ages of marriages (16 years for women and 19 years for men) are a form of discrimination against women. The Constitutional Court's ruling approved the marriage limit for women at the age of 18 years.

This gave hope to the efforts to stop the trend of child marriages. However, the problem has actually not finished. Child marriages are inseparable from various determinants, such as socio-economic, cultural and religious factors. They certainly have negative consequences for the period of development and the basic rights of children. Regions with the highest rates of child marriages are West Sulawesi, Central Kalimantan, and Central Sulawesi.

The government's attention to the issue of child marriages is still high. One of the various policy mixes across ministries/institutions have focused on reducing the number of child marriages. Through a socio-economic approach, several poverty alleviation programs, such as the Family Hope Program (PKH) and Smart Indonesia Card (KIP), have also become parts of the solution.

According to a report from the Ministry of Social Affairs (2018), the number of PKH beneficiaries had reached a level of 10 million families. A note from the Ministry of Education and Culture, the number of beneficiaries of the KIP program also had exceeded the target of 18.7 million students in 2018.

The figures above are quite encouraging. The government has been appreciated for having a strong commitment to solving the problem of child marriages through existing programs. Unfortunately, we need to re-examine the risks that must be faced by married children, especially the girls.

Additional Risks for Girls

A literature review conducted by K.G. Santhya (2011) explained a lot about the relation of child marriages to the health risks faced by girls in developing countries. These risks include unwanted pregnancies, HIV, postnatal maternal mortality, infant mortality, child malnutrition, and physical and sexual violence.

According to a report from the Ministry of Women's Empowerment and Child Protection (2018), there were seven out of 20 girls who got married and then got divorced, having experienced the first pregnancy before the age of 15 years. Other data from the Indone-

sian Health Demographic Survey (SDKI) in 2017, out of 1000 women, there were 36 women giving birth at the age of 15-19 years.

This is also supported by the data of the percentage of married girls aged 15-17 years during the first pregnancy, which was processed in the 2017 National Socio-Economic Survey. The data show the highest percentage average for the first pregnancy of 16 years, at a level of 40.37%; followed by less or equal to 15 years, at a level of 35.50 %; and age 17 years, at 24.13 %.

The following is a table of the percentage of married girls aged 15-17 when pregnant for the first time:

Region Type	Age when pregnant for the first time		
	<=15 Years	16 Years	17 Years
Urban areas	35,66	43,52	20,82
Rural areas	35,43	38,87	25,70
Both	35,50	40,37	24,13

Source: Susenas (2017)

Still related to the issue above, the National Population and Family Planning Agency (BKKBN) in 2018 also stated that every year there were two million dead women. Of these, 50% of the results of unsafe abortion due to unwanted pregnancy. Another study stated that this unwanted pregnancy was associated with a decrease in modern contraceptive use in the young age segment (15-19 years) of about 4% of the total population (*IDHS, 2017*).

Furthermore, pregnancy in adolescence affects the high maternal mortality rate. The 2015 IDHS data showed that 305 women died in every 100,000 births in Indonesia. The causes of maternal death included bleeding, infection, hypertension, abortion, and others.

In addition, another risk that must be faced is infant mortality. The data from the Ministry of Health (2017) showed that the infant mortality rate in 2017 was 24 infant deaths per 1000 births, with causes ranging from bleeding during labor, respiratory failure, and other related factors. On the other hand, the risk increases with the presence of child nutrition malnutrition; namely, the potential for stunting or chronic malnutrition. To date, there were 9.5 million Indonesian children experiencing stunting.

Another risk that women face is HIV and violence against women. From all data on the number of HIV infections from the Ministry of Health (2017), there were 813 cases of the number of HIV infections reported in the age group 15-19 years.

Meanwhile, data related to physical and sexual violence against women have also been disclosed by the National Commission on Violence against Women in the Year-End Notes (Catahu) in 2019. The number of violence against women in the private sphere was still occupied by violence against wives, with 5114 cases. According to the types of violence, physical violence was at 41 percent (3951 cases) and sexual violence was at 31 percent (2988 cases). The risk of violence is influenced by the psychological and financial maturity of the married couple.

What to do?

After the granting of a verdict on the marriage age limit for women and men, the Constitutional Court has given the DPR the next three years to discuss and revise the law. Various inputs regarding the age limit for marriage come from various parties. Considerations can vary, including ensuring psychological and reproductive maturity for women. However, the important issue here is that this input can accommodate the size of the marriage age gap between women and men.

It seems that policymakers, especially the DPR, pay attention to ideal considerations regarding the age of child marriage. In addition to having other regulations, such as the Child Protection Law, there is also input about gender equality so that the age limit is not too far away.

In addition to guarding the revision of the Marriage Law, the insistence on sexual and reproductive education in the education curriculum must be considered. There should also be monitoring over the implementation of adolescent health services mandated by Government Regulation Number 61/2014 on Reproductive Health. The evaluation of the existence of these services must be explored while keeping in mind the government's commitment to reduce the number of child marriages.

In addition, the regulation can be the basis for replicating the urgency of understanding with the community. Cognitive understanding must also be given to parents and the community. This can be attempted by inserting the information into existing community

programs, such as the Family Hope Program (PKH) and of course Public Health Efforts (UKM), which are included in the National Health Insurance scheme (JKN).

On the side of non-governmental organizations, the government can open cooperation as widely as possible to view the best practices that have been carried out by institutions on this focus. Hopefully, future child marriage cases can be suppressed by working together with various parties.

There is nothing to gain from child marriages. There are also the risks of the increase in early marriages involving girls.

- Nopitri Wahyuni -

Who are the Perpetrators, Who are the Victims: the Case of Sexual Harassment in Indonesia

The initial case review (PK) submitted by BN has been rejected by the Supreme Court (MA). As the PK Number 83 PK / Pid.Sus / 2019 has not been approved by the Supreme Court, she will face punishment. The appeal ruling issued on September 26 last year gave BN a sentence of six months imprisonment and a fine of Rp 500 million (or an additional sentence of three months imprisonment). The illegal recording of sexual harassment conversations with her superior at work had caused BN a guilty verdict at the appeal level.

BN, a former honorary female teacher at Mataram Public High School 7, has been proved to have conducted a criminal offense as regulated in the Electronic Information and Transaction Law (ITE). Referring to Article 27 Paragraph 1 and Article 45 paragraph 1 of the Law, BN has been proven to distribute or transmit immoral content intentionally or without rights. Of course, the BN case shows the complexity of cases of sexual harassment in Indonesia.

The National Commission on Women against Violence's 2019 Year End Note (Catahu) also highlights the high number of cases of violence against women in the public or community sphere. Of the 3,616 cases of violence against women reported, the number of cases of sexual abuse ranks third with 394 cases. Furthermore, based on the category of perpetrators of sexual violence in the community, the data also show that as many as 73 cases were carried out by work superiors.

The BN case is also an important part of the note. Sexual harassment experienced by BN is categorized as forms of non-physical sexual abuse and of the humiliation of women's dignity. Not once

or twice, immoral acts have disturbed BN. Unfortunately, the legal umbrella in Indonesia has actually backfired and led to the criminalization of victims. There should not be any justification for this situation.

Sexual Harassment and Victim Protection

The Supreme Court's decision on the BN case has been criticized. The Supreme Court has been considered to be partial in looking at the case so that the aspects of gender-based violence are put aside. Disturbing and degrading experiences in the context of sexual harassment are ignored. In fact, the existence of MA Regulation Number 3 of 2017 concerning Guidelines for Judging Women's Cases Dealing with Law was not able to ensure gender equality and realize justice for victims.

The above case is one of the few cases of sexual abuse in Indonesia. The unavailability of a legal foundation to ensnare sexual harassment verbally or non-physical contact also complicates the process of reporting cases of sexual abuse. Moreover, if you remember that sexual harassment was not recognized in the Criminal Code (KUHP). The rules regarding decency and decency crime currently include adultery, obscenity, and rape whose criminal acts are physical.

The International Labor Organization (ILO) has a definition of the terminology of sexual harassment. Sexual harassment is defined as an act of unwanted sexual persuasion or physical or verbal sexual behavior that results in work performance and creates a non-conducive work environment (*ILO, 2011*). Unequal power relations allow immoral actions to be released.

In the National Commission on Women against Violence's report (2019), at least sexual abuse is defined in two categories. The first category is non-physical sexual abuse and humiliation. Non-physical contacts such as this include insults, humiliation, and assaults of a person so that they feel humiliated, insulted and certainly violate modesty.

These acts of non-physical abuse can be carried out by telephone, showing sexual activities and social media. Another form is peeping, camera recording, and body shaming that are filled with sexual nuances. The case above and the case of the VV initial singer who was uprooted in the middle of last year could also be an example of a form of non-physical sexual abuse.

In addition, this type of sexual abuse is also physical. In positive law, this type is called sexual abuse in the area of violation of decency and decency. Physical contact that often occurs is fingering or squeezing the breasts or rubbing the genitals into the victim's body. Such cases often occur in public spaces, health services or even public transportation modes.

Unfortunately, cases of sexual abuse are often marginalized. The unavailability of supporting evidence to find the perpetrators guilty has become a separate weapon to bring down victims in various forms of criminalization.

Impacts that occur at the individual level, psychologically, socially and economically, are not considered. In fact, even at the level of institutions/institutions that affect productivity, it has not become energy to build safe spaces for women. Moreover, concerning the wider community, awareness of vulnerability to sexual harassment is nullified by the absence of an adequate legal umbrella. Victims, who should be protected, just don't move.

Recommendation

The chaotic sexual harassment case has urged the government's commitment to the issue of gender-based violence in Indonesia. The need for comprehensive regulation to protect victims is a strong impetus to ratify some rules relating to sexual violence.

The main rule that must be paid is the Bill on the Elimination of Sexual Violence.

The refusal of the BN case review efforts is related to the lack of supporting evidence that is expected to be accommodated in the Bill. For example, the rules relating to sexual harassment are detailed in terms of defining the types of sexual harassment and criminal sanctions that affect them. One of the most specific explanations related to sexual harassment is stated in Article 12 Paragraph 1 of the Draft Bill on the Elimination of Sexual Violence which explains non-physical actions.

Another important rule is the ratification of the ILO 190 Convention on Violence and Harassment. The Convention regulates the elimination of violence and harassment in the workplace. By adopting this convention, the practice of protection from sexual violence can be applied in various sectors, both public and private, and includes the formal and informal economy with broad coverage of workers' status.

In addition, the convention also urged the government to issue national rules or practices related to violence and harassment in the workplace. This is expected to guarantee workers from the practice of violence or harassment at a place or outside the workplace that is threatening and endangering them physically, sexually and economically.

The two important rules above are needed for the alleviation of gender-based violence. With comprehensive efforts, the existence of clear legal rules can create a safe environment for women. Of course, these rules apply to anyone in order to gain space to develop themselves and protect victims of sexual violence without exception.

- Nopitri Wahyuni -

Clear legal rules are needed to protect victims of gender-based violence.

Strategic Efforts to Boost Health Services amid The Health Care and Social Security Agency's (BPJS Kesehatan) Deficit

Law Number 40/2004 on the National Social Security System (SJSN) explains that social security is a form of social protection to guarantee that all people can meet the basic needs of a decent life. Meanwhile, SJSN is a procedure for organizing social security programs by several national guarantee delivery agencies.

One of the implementations of SJSN is National Health Insurance (Jamkesmas). With the passage of Law Number 24/2011 on BPJS on November 25, 2011, PT Askes (Persero) was transformed into BPJS Kesehatan to implement National Health Insurance (JKN) (www.jamsosindonesia.com, 25/11/11).

BPJS Kesehatan is a public agency that organizes health insurance programs by serving public interests by collaborating with various health facilities.

According to the data from 2018 (bpjs-kesehatan.go.id, 5/2/2018), out of 27,694 First Level Health Facilities (FKTP) in Indonesia, currently 21,763 FKTP's have partnered with BPJS Kesehatan. The FKTP consist of 9,842 Community Health Centers (Puskesmas), 4,883 Family Practice Doctors or General Practitioners, 4,603 Primary (Pratama) Clinics, 1,188 Dentists, 669 the Indonesian Armed Forces (TNI) Clinics, 562 Indonesian National Police (POLRI) Clinics, and 16 Primary Grade D Hospitals. At the referral level, from around 2,733 registered hospitals, 2,268 hospitals have become BPJS Kesehatan partners.

BPJS Kesehatan's Deficit and the Follow-Up Scheme

On the other hand, BPJS Kesehatan is still experiencing a deficit until today. The burden of the treatment of severe diseases (cat-

astrophic) including payment of claims to health facilities that are partners of BPJS Kesehatan (*money.kompas.com*, 6/27) is one of the causes.

Daeng Faqih, the President of Indonesian Medical Association (IDI) (*finansial.bisnis.com*, 31/3) explained that the fiscal deficit has the most impact on health facilities' services to patients. Hospitals must be in arrears in financing medicines and supporting health equipment, such as medicines.

Taiwan has also experienced a deficit of NT \$ 11 billion (US \$ 374 million) at the end of 2017 (*www.taiwannews.com.tw*, 3/2/2018). This made the authorities decide to raise the contributions by around 21.32%, or NT \$ 126 (US \$ 4.29).

Vietnam has the lowest payment that touches a level of US \$ 27, which is equivalent to Rp.38,205.00. According to the Advocacy Coordinator of BPJS Watch, Timboel Siregar (*www.cnnindonesia.com*, 9/19/2018), Article 16i of the Presidential Regulation Number 111 of 2013 states that tariff adjustments should be conducted every two years.

BPJS Kesehatan must immediately raise the rates before the deficit becomes greater. Of course, this requires an effort of harmonization and strengthening, especially from various stakeholders.

It is known that BPJS Kesehatan has also signed a Memorandum of Understanding (MoU) with South Korea's Health Insurance Review and Assessment Service (HIRA) regarding cooperation in the field of social health insurance (*keuangan.bisnis.com*, 8/4). The scope of the memorandum of understanding includes the development of a digital claim system and the development of a payment system to the provider. The forms of cooperation include sharing expertise, information and experience and organizing joint seminars, conferences, training, other professional level meetings, joint research, training, consultations, and publications.

The cooperation that will be carried out with the HIRA needs to be focused so that each collaborative program undertaken can give a big an impact on the priority issues, especially management.

Improving Health Services in the Era of BPJS Kesehatan

Basically, the existence of BPJS Kesehatan is also driven by an Indonesian agreement to join Universal Health Coverage (UHC), which

has health targets in 2023. The UHC target includes one billion people who can benefit the UHC, one billion people are protected from health emergencies, and one billion people enjoy better and healthier lives (<http://www.depkes.go.id/>, 02/13/2018).

Basically, the UHC means that all individuals and communities receive the health services they need without suffering financial hardship. It includes the full spectrum of essential, quality health services, from health promotion to prevention, treatment, rehabilitation, and palliative care (www.who.int, 1/24).

Observing the implementation of UHC, BPJS Kesehatan is more likely to pursue target participants. Health promotion and disease prevention efforts should be done more. Collaboration between the Central Government and Regional Governments (Pemda) with other institutions or actors is also needed. The other institutions include the Faculty of Public Health (FKM) in various universities. According to Winslow (1920; Leavel & Clark, 1958, p. 3), public health science focuses on disease prevention, prolonging life and promoting physical health and efficiency through organized community efforts.

The examples of some efforts that can be made are education for personal hygiene and medical health services, including the enforcement for early diagnosis and treatment. By cooperating with FKM, including involving students or alumni, promotion and prevention efforts should be implemented more optimally.

Strengthening health services, including treatment, rehabilitation, and palliative treatment, also requires competent quality of health personnel (doctors, nurses and others). According to Daeng Faqih, according to WHO standards (1 doctor / 2,500 people), 172 thousand Indonesian doctors should be able to meet the needs of health workers, even though the distribution is currently uneven (tirto.id, 3/14).

Incentives for health workers, especially those in remote regions, must also be a concern. Incentives should not only encourage health workers to serve.

In the era of regional autonomy, Pemda also has an obligation to provide basic health services as stipulated in Article 12 Paragraph 1 of Law Number 23/2014 concerning Regional Governments. In the 55th Indonesian Forum of the Center for Public Policy Research,

Prof. Ascobat Gani as a Professor from the Faculty of Public Health at University Indonesia states that regional fiscal capacity is now becoming increasingly heavy including managing human resources, hospital licensing, community empowerment, and health services (2/7).

Both monitoring and evaluation need to be implemented carefully. If the budget is sufficient, the Central Government can focus on approaches, giving motivation, or assistance, especially in the provision of adequate health care facilities. If health workers are available, but facilities do not support this will hamper the health service efforts.

Regarding the availability of health facilities and infrastructure, one of the future agendas that the government still has to prioritize under the leadership of President Joko Widodo is infrastructure development, especially in the eastern part of Indonesia. In this case, the opening of access to an area is the key to enter health care efforts.

- Vunny Wijaya -

In the era of BPJS Kesehatan, revamping health services has increasingly become the focus of the government, including the issue of the distribution of health workers. However, management, especially finance, is equally important. Therefore, increasing the number of rates is a risk that must be taken. Certainly, by continuing to harmonize and strengthen, especially opinions from various stakeholders.

 **THE** **INDONESIAN INSTITUTE**
C E N T E R F O R P U B L I C P O L I C Y R E S E A R C H

The Indonesian Institute (TII) is a Center for Public Policy Research that was established on 21 October 2004 by a group of young, dynamic activists and intellectuals. TII is an independent, non-partisan, non-profit institution, whose main funding stems from grants and contributions from foundations, companies, and individuals.

TII has the aim of becoming a main research center in Indonesia for public policy matters and has committed to giving contribution to the debates over public policies and to improving the quality of the planning and results of public policy by promoting good governance principles and public participation in the policy processes in Indonesia.

TII's visions are public policies in Indonesia which highly uphold human rights and rule of law, as well as involve participation of various stakeholders and practice democratic good governance principles.

TII's missions are to conduct reliable research that is independent and non-partisan and to channel the research to the policy-makers, the private sector, and academia in order to improve the quality of Indonesian policy-makers.

TII also assumes the role of disseminating ideas to the society so that they are well informed about the policies that will have a good impact on the people's lives. In other words, **TII** has a position to support the democratization process and the public policy reform, as it will be involved in the process.

The scope of the research and review on public policies undertaken by **TII** includes economic, social, and political factors. The main activities have been conducted in order to achieve vision and mission based on research, surveys, training, public discussions, working group, weekly editorial articles ("Wacana TII"), monthly analysis ("Update Indonesia" and "The Indonesian Update"), annual analysis ("Indonesian Report"), and monthly discussion forum ("The Indonesian Forum").

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RESEARCH ON ECONOMIC AFFAIRS

The economy tends to be used as an indicator of the success of the government as a policy-maker. The economy plays an important role as one of the fundamentals of national development. Limited resources have often caused the government to face obstacles in implementing economic policies that will optimally benefit the people. The increase in the quality of the people's critical thinking has forced the government to conduct comprehensive studies in every decision-making process. In fact, the studies will not be stopped when the policy is already in place. Studies will be continued until the policy evaluation process.

The implementation of regional autonomy that is based on Law No. 32 Year 2004 has demanded bottom-up planning processes, which are participatory in development process. However, fiscal decentralization is still seen crucial particularly for people living in the regions. This can be seen from the high number of gap, poverty, and unemployment. Therefore, there is a need for effective policy formula, which has the right targets.

TII has research focus on fiscal decentralization and sustainable development issues. Fiscal decentralization issues will focus on the discussion on financial matters, corruption, and development of local infrastructure development. With regard to sustainable development, TII focuses on productivity, competitiveness, infrastructure development and development gap. On poverty issues, TII focuses its research on social protection, human resources and employment, and government subsidy policies.

The TII Economic Research Division is present for those who are interested in the conditions of the economy. The results of the research are intended to assist policy-makers, regulators, and donor agencies in making decisions. The research that TII offers: **(1) Economic Policy Analysis; (2) Regional and Sectoral Prospects; and (3) Program Evaluation.**

RESEARCH ON LEGAL AFFAIRS

According to stipulations in Law No. 12 Year 2011 on the Formulation of Laws and Regulations, every bill which will be discussed by the legislative and the executive must be complemented with an academic paper. Therefore, comprehensive research is very important and needed in making a qualified academic paper. With qualified academic papers, the bills will have strong academic foundations.

TII can offer and undertake normative and legal research related to harmonization and synchronization of laws and regulations, especially in making academic papers and bills. In addition, the research will be conducted using sociological, anthropological, and political approaches in order to produce more comprehensive academic papers and bills. It is expected that the laws and regulations will be produced through such participatory processes, which involve the writing of academic papers and also focus group discussions (FGD), which will involve the stakeholders related to the laws and regulations that will be discussed.

RESEARCH ON THE POLITICAL AFFAIRS

Since the enactment of Law No. 22 Year 1999, which was then revised through Law No. 32 Year 2004 on the Local Government, powers are no longer centralized in the central government. Based on the Law, the local governments have wider autonomy to manage their own internal affairs. With the wider regional autonomy and obligation to create good governance, the local governments are demanded to be more responsive towards public aspirations. Therefore, public policy research has become more important for local governments to analyze contexts and issues in the regions, as well as the public's aspirations to formulate public policies.

In order to respond those needs, TII research in political affairs offers policy assessments on various policies that have already been applied or will be implemented. TII will look at socio-cultural, economic, legal, and political aspects in assessing public policies. Our research will be useful to assist governments in formulating policies that are in line with contexts, priorities, and people's aspirations. TII also offers various breakthroughs of transformative policies that are in line with the Open Government principles' implementation in order to increase public participation in policy processes.

Political Research Division of TII provides analysis and policy recommendations in order to generate strategic policies in the strengthening of democracy and the establishment of good governance

both at the national and at the local levels. Political research forms that are offered by TII are **(1) Public Policy Analysis, (2) Media Monitoring, (3) Mapping & Positioning Research, (4) Need Assessment Research, (5) Survey Indicator.**

RESEARCH ON THE SOCIAL AFFAIRS

Social development needs policy foundations that come from independent and accurate research. Social analysis is needed by the government, the businesspeople, academia, professionals, NGOs, and civil society to improve social development. The Social Research Division is present to offer recommendations to produce efficient and effective policies, steps, and programs on education, health, population, environment, women, children, and elderly.

Social research that TII offers: **(1) Social Policy Analysis; (2) Explorative Research; (3) Mapping & Positioning Research; (4) Need Assessment Research; (5) Program Evaluation Research; and (5) Indicator Survey.**

EVALUATION OF A PROJECT OR A PROGRAM

One of the activities that have been performed by TII is the qualitative evaluations of projects or programs of non-governmental organizations or governments. The evaluation activities are offered by TII in stages; that is, mid-term evaluations of the projects/programs and also the final evaluations at the end of the projects/programs.

As we know, the evaluation is an important step in the implementation of a project or program. Mid-Term Evaluations of the projects or programs are intended to look at and analyze the challenges, the overall learning takes place during the projects or programs, and to make recommendations for the continuity of the projects or programs. Meanwhile, the final evaluations allow us to view and analyze the outcomes and the lessons learned to ensure the achievements of all the objectives of the projects or programs at the end of the projects or programs.

THE INDONESIAN FORUM

The Indonesian Forum is a monthly discussion activity on actual issues in the political, economic, social, legal, cultural, defense, and environmental fields. TII organizes these forums as media for competent resource persons, stakeholders, policymakers, civil society activists, academicians, and the media to meet and have discussion.

Themes that have been raised were the ones that have caught public attention, such as migrant workers, social conflicts, domestic politics, and local direct elections. The main consideration in picking a theme is sociological and political reality and the context of the relevant public policy at the time that the Indonesian Forum is delivered.

It is expected that the public can get the big picture of a particular event as the Indonesian Forum also presents relevant resource persons.

Since its inception, the Indonesian Institute is very aware of the passion of the public to get discussions that are not only rich in substance but also well formatted, which support balanced ideas exchanges ideas and the equal involvement of the different elements of the society.

The discussions, which are designed to only invite a limited number of participants, do not only feature idea exchanges but also regularly offer policy briefs (policy recommendations) to relevant policymakers and also summaries to the participants, especially the media people and the resource persons at the end of each discussion. Therefore, the discussions will not end without solutions.

LOCAL COUNCIL TRAINING

The roles and functions of local councils in monitoring local governments are very important. They need to ensure that participative and democratic policies will be espoused. Members of provincial and regent local councils are required to have strong capacity to understand democratization matters, regional autonomy, legislative techniques, budgeting, local Politics, and political marketing. Thus, it is important to empower members of local councils.

In order for local councils to be able to response every problem that will come out as a result of any policy implemented by the central government or local governments, the Indonesian Institute invites the leaderships and members of local councils to undergo training to improve their capacity.

WORKING GROUP

The Indonesian Institute believes that a good public policy process can be held with some engagement and empowerment of the stakeholders. The Indonesian Institute takes a role as one of mediator agencies to facilitate some forums in which the Government, Council Members, Private Sectors, NGOs and Academicians can meet in interactive forums. The Indonesian Institute provides facilitation on working groups and public advocacy.

The Indonesian Institute takes the role of mediator and facilitator in order to encourage the synergy of public policy work between the stakeholders and policy makers and also to have a synergy with funding agencies (donors).

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