

The Indonesian Update

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



Main Report:

Strengthening the Role of Strategic Actors ahead of
the Recruitment of State Civil Apparatus in 2019

Economics

- Four Challenges for the Ministers for the Economy Volume II ■
- Looking at the benefits of the IEU-CEPA Trade Cooperation ■

Legal

- Amnesty For Baiq; a Portrait of Law without Justice ■
- Justice for Novel: a Portrait of the Absence of the State in Corruption Eradication Agenda ■

Politics

- The Speaker of the People's Consultative Assembly: Historical Record and Future Potential ■
- A Look at DPD RI in the Post-2019 Election Period ■
- Election Polemics of DKI 2 ■

Social

- Work and Disabilities: Efforts to Eradicate Discrimination ■
- Challenges of Gender Issues in Jokowi-Ma'ruf Cabinet ■

CONTENTS

FOREWORD	1
MAIN REPORT	
Strengthening the Role of Strategic Actors ahead of the Recruitment of State Civil Apparatus in 2019	3
ECONOMICS	
Four Challenges for the Ministers for the Economy Volume II..	9
Looking at the benefits of the IEU-CEPA Trade Cooperation ..	13
LEGAL	
Amnesty For Baiq; a Portrait of Law without Justice	16
Justice for Novel: a Portrait of the Absence of the State in Corruption Eradication Agenda.....	19
POLITICS	
The Speaker of the People's Consultative Assembly: Historical Record and Future Potential	22
A Look at DPD RI in the Post-2019 Election Period	27
Election Polemics of DKI 2.....	30
SOCIAL	
Work and Disabilities: Efforts to Eradicate Discrimination.....	34
Challenges of Gender Issues in Jokowi-Ma'ruf Cabinet	38

INSTITUTIONAL PROFILE	42
RESEARCH PROGRAMS, SURVEY AND EVALUATION	44
PUBLIC DISCUSSION	47
TRAINING & WORKING GROUP FACILITATION ...	48

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FOREWORD

The August 2019 edition of the Indonesian Update raises a major report on strengthening the role of strategic actors ahead of the recruitment of the State Civil Service in 2019. This theme is very relevant because this year around 200,000 vacancies will be opened. Therefore, ahead of the opening of this recruitment, strengthening the synergy between actors is needed to support the readiness and success of the 2019 ASN recruitment.

In the economic field, this edition of the Indonesian Update discusses the challenges faced by the economic ministers in the Joko Widodo-KH Ma'ruf Amin cabinet in the next five years. In addition, we also discuss the benefits of trade cooperation between Indonesia and the European Union, which was titled "the Indonesia-European Union Comprehensive Economic Agreement" (I-EU CEPA).

In the field of law, we discuss the Amnesty given to Baiq Nuril Maknun. The amnesty given by President Joko Widodo to Baiq has solved injustice in one case of law enforcement, which still emphasizes legal certainty over justice. In addition, we also discuss cases of violence experienced by investigators of the Corruption Eradication Commission (KPK), including Novel Baswedan, whose case has entered a new phase after the case was brought to various international forum discussions.

In the political field, the Indonesian Update discusses competition between political parties to get the position of Speaker of the People's Consultative Assembly (MPR). In addition, we discuss the new faces that dominate the Regional Representative Council (DPD). This theme is relevant to be discussed because the election of new faces is expected to return DPD back to its spirit. Then, we also discuss the polemics that are transpiring in the election of the Deputy Governor of DKI Jakarta.

In the social field, the Indonesian Update raises the right to decent work for persons with disabilities. This theme is relevant to discuss because there is still discrimination against people with disabilities. One of them was the decision to take out drg. Romi Syofpa Ismael from the list of 2018 Civil Servant Candidate selection results (CPNS) in Solok Selatan Regency, West Sumatra. In addition, this edition of the Indonesia Update also addresses the challenges of gender

issues in the Jokowi-Ma'ruf Cabinet, including the issue of gender responsive policies and budgets.

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.

Strengthening the Role of Strategic Actors ahead of the Recruitment of State Civil Apparatus in 2019

With the issuance of the State Civil Apparatus (ASN) Recruitment Letter in 2019, automatically, ASN recruitment will be held again. This year, around 200,000 vacancies will be opened. Periodic salary increases and old age savings are alluring. Public interest has therefore increased. ASN are the vanguards of public service towards the 2025 Dynamic Governance. Ahead of the opening of this recruitment, strengthening the synergy between actors is needed to support the readiness and success of the 2019 ASN recruitment.

Basic Foundations for the Recruitment of ASN

The State Civil Apparatus consist of civil servants (PNS) and government employees with work agreements (PPPK / P3K). According to the Head of the State Personnel Agency (BKN), Bima Haria Wibisana (07/30/2019), this year, the ASN recruitment will open as many as 100 thousand vacancies, while the P3K Phase II recruitment will open 100 thousand vacancies.

Creating employment is one of the government's obligations. Every year, the number of graduates of basic education to universities continues to grow. There is always a gap between the number of graduates who are ready to work and employment. It is undeniable that the abilities that prospective workers have with those needed by job providers are still not in line. As a result, not all graduates can be absorbed by the labor market.

Those conditions have created unemployment. The Deputy for the Coordination of Creative Economy, Entrepreneurship, and Competitiveness of Cooperatives and Small and Medium Enterprises of the Coordinating Ministry for Economic Affairs (Kemenko Perekonomian), Rudy Salahuddin, said that currently the unemployment rate in Indonesia was at a level of 5 percent (*www.liputan6.com, 03/08/2019*).

Salahuddin added that although better than a number of neighboring countries, the number of unemployed people in Indonesia is quite large, about 7 million people. One step that can be taken by the central government is open the ASN recruitment.

In Government Regulation No. 11/2017 it is explained that the recruitment of CPNS aims to fill administrative positions, specifically in executive positions; functional positions of expertise, specifically in the functional positions of the first expert and young expert; and functional skilled positions, specifically in expert and beginner functional positions (*setkab.go.id, 18/04/2017*).

The decision of the Central Government to open recruitment is also based on the National Medium-Term Development Plan (RPJMN) 4 of 2020-2024. In the RPJMN, the Central Government has set a target to achieve the SMART ASN by 2024. In this target, two competencies are added; namely, ASN must have hospitality and entrepreneurial character. Through the Ministry of Administrative and Bureaucratic Reform (Kemenpan RB), the government has also launched the 2025 Dynamic Governance movement. This movement is held so that the public gets satisfaction and has trust in the government even more.

In Government Regulation Number 11/2017 on the Management of Civil Servants (PNS), Article 5 Paragraphs (1) and (2) regulate that each government institution is required to arrange the needs for the number and types of PNS positions based on job analysis and workload analysis. The compilation of the needs for the number and types of PNS positions as referred to Paragraph (1) is carried out for a period of five years, including the detailed yearly priority needs.

The number of employees that matches the needs of the organizations (rightsizing) will improve government performance. In practice, rightsizing aims to reduce the number of staff members to meet the needs of the organizations and identify and eliminate unnecessary work for the effectiveness of organizational performance.

The Involvement of Strategic Actors in the ASN Recruitment

The ASN recruitment is carried out through a series of stages; namely, the preparations / planning, the announcement of vacancies, the applications, the recruitment, the announcement of recruitment results, the appointment and trial period, and the appointment of ASN. The Head of BKN estimates that as many as 5.5 million applicants will participate in ASN recruitment admissions in October (30/07/2019). In each of those stages, there are strategic actors.

The first actor is Kemenpan RB, which is in charge of the utilization of the state apparatus and bureaucratic reform. Kemenpan RB also has a role to carry out the oversight over the Ministries / Institutions/ Local Governments (K / L / Pemda). Thus, it is the duty of the Kemenpan RB to assist in supplying human resources. In addition, Kemenpan RB is also authorized to determine the number of formations.

To simplify the preparation process, especially in proposing CASN formations, an e-Formation application has been made (E-Formation Guide, 2017). The application was made by the Information Technology (IT) Team of Kemenpan RB. This application can be accessed online.

Since 2015, each K / L / Pemda must use this application to propose the formations. Now, some of K / L have not submitted the formations, including the number of CPNS needed. There are 70 Pemdads that still have not submitted the formations, meanwhile most of Central K / L have submitted the formations (*national.kompas.com, 7/30/2019*).

In implementing the ASN management, the local governments must implement the zero growth system that does not increase the number of ASN but only replaces the ASN who are entering retirement (*www.liputan6.com, 07/14/2019*). Formation planning is implemented in a bottom-up approach by adjusting the regional budgets and paying attention to the PNS ratio to the population and area. It was also mentioned that many regions did not submit CASN formations due to other priorities.

This time, the Kemenpan RB has not yet decided on the formations for CASN recruitment. That is because there are a number of agencies, both central and regional, which have not submitted the formations (*CNN Indonesia, 08/08/2019*). The Deputy of Human Resources at Kemenpan RB, Setiawan Wangsaatmaja, said that there are around 14 K / L and 77 Pemdads that need to be clarified.

However, in addition to clarification, Kemenpan RB must be able to identify problems that arise behind the inclusion of the number of formations that should have been submitted. Kemenpan RB also needs to review the process of making the number of formations to be submitted. The K / L / Pemda have not been able to decide on the number or priorities or do not understand how to make an appropriate ASN needs analysis. This is the reason why the importance of strengthening the role of Kemenpan RB is very important.

The second actor is BKN. BKN is coordinated by Kemenpan RB, Indonesian Non-Ministry for Government Institutions (LPNK) which has a special role in ASN management. BKN is also authorized to develop ASN recruitment system. In addition, BKN is also responsible for technical implementation, such as cooperating with computer vendors.

Furthermore, the Head of BKN said that there would be ASN recruitment planning in October 2019. In the context of recruitment infrastructure, there are 108 locations throughout Indonesia that will be utilized in collaboration with a number of K / L / Pemda (*tribunnews.com, 31/07 2019*).

The third actor is the National Selection Committee (Panselnas). In order to guarantee the objectivity of CASN, the recruitment will be led by the Head of BKN. The roles of Panselnas are to prepare a recruitment implementation schedule, to compile questions, to recommend to the Minister about the previous thresholds of passing basic competency selection for each government agency, process the results of basic competency selection, oversee implementation, to determine and submit the results of basic competency selection and integrate the results of basic competency selection and selection of field competencies, and evaluating and developing civil servant recruitment systems (*www.asncpns.com, 2019*).

The fourth actor is Ombudsman. Considering that the large number of reports that had been received in last year recruitment, coordination with the Ombudsman also needs to be carried out by the Kemenpan RB, BKN, and the National Committee. The Ombudsman is expected to receive and forward reports that will happen in the future to prioritize which reports should be follow up immediately by providing recommendations as precisely as possible.

The the role of the Ministry of Communication and Information Technology (Kominfo) is also very necessary to combat the hoaxes in the name of the K / L /. Hoaxes that appear are usually related to the type of vacancies and the number of formations in the name of certain K / L / Pemda. To overcome that problem, Kemenpan RB and BKN or through the National Committee can also consider to make centralized information system platform related to the recruitment announcements through the application or website, so that the public will get information about the formation of K / L / Pemda recruitment should be conducted effectively and should not be confused with the hoaxes that circulate. That action also needs the support of all ASN and the media.

Learning for Strategic Actors and the Challenges facing the ASN Recruitment Process

The Ombudsman had received as many as 1054 public reports related to the recruitments of ASN in 2018 (*ombudsman.go.id, 12/03/2018*). The report is addressed to almost all K / L that open recruitment. Several reports are on the unclear classifications of scientific classifications, on the accreditation of tertiary institutions, on BKN slow service to handle reports about administration, and the allegation about the manipulation of the data of those who passed the selection.

The government utilizes the BKN Computer Assisted Test (CAT) system in implementing the recruitment system. CAT uses computer as a recruitment tool. This is also implemented to support the era of good governance. Technology-based recruitment makes it easy for BKN to present test results through the CAT. After the test, participants can see the results immediately before an official announcement by the K / L / Pemda is issued.

However, technology is not always introduced in every recruitment process. In 2018, the ASN recruitment in Palembang, South Sumatra did not run optimally due to the unpreparedness of the computer system (*CNN Indonesia, 01/11/2018*). A total of 3,300 out of 4,125 CPNS in Palembang were unable to take the CAT test as the 825 computer devices failed to function. This was caused by the unpreparedness of the vendors that supplied the computers.

The problem appears to be very technical. If the implementation is delayed due to technological devices, shifting the schedule requires coordination. In addition, the calculation of the costs incurred will include rental locations.

In addition, understanding the requirements of the ASN Candidates (CASN) must also be a concern for the K / L / Pemda. A young dentist, Romi, received a letter from the Regent of South Solok, stating that she did not meet the general criteria for serving because of disabilities (*tirto.id, 07/24/2018*). Earlier on December 31, 2018, Romi officially received the announcement of graduation, achieving the best grades.

As explained by the Deputy V of the Presidential Staff Office, Jaleswari Pramodhawardani, the Romi case arose because the Solok Selatan District Government had misinterpreted both physical and spiritual health as one of the requirements to become a CASN in general formation (*CNN Indonesia, 05/08/2019*). She hopes that Romi's case becomes a lesson for other Pemdads. According to Jaleswari, people with disabilities have the same rights and opportunities to become ASN.

With a variety of challenges, it is hoped that each strategic actor can strengthen his or her position and role and be able to work together so that the recruitment process from the opening recruitment to the announcement of the final results can proceed in accordance with the target.

- Vunny Wijaya -

Becoming ASN is the hope of many Indonesian people. Periodic salary increases and old age savings are alluring. Kemenpan RB, BKN and all supporting actors must be able to synergize and prepare every recruitment carefully. They should provide transparent processes in terms of acceptance, accompanied by supervision and rapid response in handling each report.

Four Challenges for the Ministers for the Economy Volume II

Elected as the President for the 2019-2024 period, Joko Widodo (Jokowi) is currently busy with preparing a brand-new cabinet, especially the economic ministers who will help him realise his vision for the next five years. This paper will discuss some notes related to the work of the ministers of the economy that must be approved in the next period.

Quantity of Economic Growth

First, if we look at the data from the Central Statistics Agency (BPS), Indonesia's average growth rate in these two decades (1999 to 2018) is at a level of 5.27% year on year (yoy). This figure is in fact still below the achievement of the average rate of economic growth in the New Order era, which reached a level of 5.98% (BPS, 2000). In fact, if we refer to the 2015-2019 National Medium-Term Development Plan (RPJMN), the government targets the economy to grow by an average rate of seven percent.

As a result, the economic ministers in cabinet will have a lot of work to accelerate economic growth by more than five percent. Besides that, the world is currently facing high global issues, including the US-China that has caused the world trade to continue to decline. However, economic growth is an important factor considering that a high-growth economy will have a positive impact on various other welfare indicators. This is also a stepping stone to get out of the middle income trap, which has been an obstacle for Indonesia to move up to become a developed country.

The Quality of Economic Growth

Apart from the quantity side, the quality of growth also needs attention. To measure the quality of economic growth? we can see it from the Gini ratio figure. By definition this Gini ratio is one tool to measure the degree of inequality of population income distribution. Gini ratio values range between 0 and 1. Gini coefficient value of 0 indicates the existence of a perfect income distribution.

According to BPS records, the Gini ratio in March 2018 had managed to be the lowest since the last seven years, or since September 2011. This indicates that there is indeed an improvement in the distribution of expenditure in Indonesia.

However, if we look deeper, in fact since September 2016, the Gini ratio in rural areas continued to creep up. Last in March 2018 it amounted to 0.324, or up 0.004 compared to March 2017, which only amounted to 0.320. That is, inequality in villages tends to increase.

One of the causes of the Gini ratio in rural areas rose due to an increase in the average expenditure per capita / month of the population of the bottom 40% which is faster than the population of the middle 40% group. However, this increase is slower than the top 20% population.

For details, the average increase in per capita expenditure in the period September 2017-March 2018 in rural areas for the lowest 40%, 40% middle, and top 20% in a row is 2.93%, 2.35%, and 4.95% (CNBC, 2018).

A Look at the Fiscal Side

Moving into the fiscal realm, another homework that is no less challenging is government debts. If we look at the trend of government debts from 2012 - 2018, the ratio of debt to Gross Domestic Product (GDP) is increasing.

Recorded in 2014?, the ratio of debt to GDP of 14.6 percent. This figure had risen to 29.78 percent in 2018. The increase in debts is also due to higher state spending to pursue Indonesia's development targets. However, the government must also remain cautious about safeguarding debt instruments so as not to become a parasite that continues to surround Indonesia.

In addition to the debt ratio that continues to increase, the burden of debts and interest payments to the state budget also continues to increase every year. According to the data from the Ministry of Finance (2018), the burden of debt interest payments on central government spending from 2014-2019 is sufficient to show an increasing trend. In 2014, Indonesia's debt interest expense reached a level of 11 percent in central government spending. And in 2019 this debt interest expense jumped to 17.13 percent.

Current Account Deficit

The problem of transaction deficit is also important to be addressed. In principle, the current account deficit is actually a normal problem in the development stage. Almost all developing countries in the early stages of development experienced a current account deficit. This happens because countries that are still in the development phase do not have enough capital goods, so they must import them from developed countries. However, this deficit issue also cannot be underestimated because it has a continued effect that can undermine the internal resilience of the domestic economy.

According to BI calculations, the current account deficit in the first quarter of 2019 touched the USD7 billion figure, equivalent to 2.6% of Indonesia's GDP. Furthermore, entering the second quarter, Indonesia must also face an annual tradition with the need for repatriation of dividends and payment of foreign debt interest that will further widen the current account deficit. Consequently, the current account deficit in the second quarter is predicted to grow by around 3% of GDP (*Kuncoro, 2019*).

The current account deficit will bring economic consequences that are not light. To rebalance the balance of payments, Indonesia inevitably has to rely on the flow of funds through the financial account and capital account. As a result, the economy is burdened by the risk of hot money flows and debt.

Throughout 2019, according to Indonesian Stock Exchange (IDX), the total net sell of foreign investors in the stock market reached IDR 2.6 trillion in the regular market, from the period of 18 April to 6 May 2019. (*CNBC, 2019*). Meanwhile, BI noted that capital inflows or capital inflow into Indonesia as of July 4, 2019 had reached Rp170.1 trillion. This hot money is temporary which at any time and in an instant, can get out of the market.

The above description is actually a strong warning that economic structure is still fragile. The fragility of economic structure represents an increased level of vulnerability to external shocks. The depreciation of the rupiah to penetrate the psychological level of Rp15,000 per US dollar last year seems to be the justification.

This is a bit of homework. Many challenges must be resolved, and there are also hopes that there will be many changes in the future.

This homework is also a test of the consistency of the responsibilities of the ministers of economics volume 2. There are 250 million Indonesians hoping that in the future Indonesia can become a far more developed country. So, are you ready, ladies and gentlemen?

- M. Rifki Fadilah -

The elected president (2019-2024), Joko Widodo, is currently busy brewing for a brand-new cabinet, especially the economic ministers who will help him realize his vision for the next five years. There are several challenges the next elected cabinet must face from economic growth to the current account deficit.

Looking at the benefits of the IEU-CEPA Trade Cooperations

The world is now afflicted by a slowdown in the global economy. In its report, the World Bank's June 2019 Global Economic Prospects, it cuts global economic growth forecast by 0.3 percentage points to 2.6% (*Global Economic Prospects, 2019*).

Not only that, the warming of trade tension between the United States and other major countries has halted the pace of world export growth. As a result, the volume of world trade is projected to decrease by one percentage point to 2.6% compared to the previous projection (*Investor Dially, 2019*).

Indonesia's Conditions

As a developing country, Indonesia inevitably has to experience increased vulnerability in the external sector due to weakening world demand. Not to mention that currently the world is also faced with the era of the end of the surge in global commodity prices.

Of course this is a challenge that is not easy for Indonesia, which still relies on exports of the processing industry based on natural resources. As a result, the pace of Indonesia's export growth has also been stifled amidst high domestic imports.

This thesis seems to be close to reality. According to calculations by the Central Statistics Agency (BPS), recorded export values in June 2019 reached USD11.78 billion, down 20.54% compared to exports in May 2019.

Meanwhile, import value in June 2019 reached USD11.58 billion, also decreased by 20.70% compared to May 2019. During the first six months of this year (January-June 2019), the cumulative trade balance still recorded a deficit of USD1.93 billion.

As a consequence, Indonesia's Current Account Deficit (CAD) will be deeper. According to the calculation of Bank Indonesia CAD in the first quarter of 2019 through the figure of USD7 billion, equivalent to 2.6% of Indonesia's Gross Domestic Product (GDP) (Bank Indonesia, 2019).

Looking at I-EU CEPA Opportunities

A bit of the problem above in the end makes Indonesia have to immediately think of a solution that is solutionable. For this reason, diversification of exports by strengthening trade cooperation and opening new trade cooperation with other countries is one of the solutions that can be taken by Indonesia at this time.

Indonesia is currently in the midst of developing a trade cooperation agreement with the European Union, which was given the title of the European Union Comprehensive Economic Agreement (I-EU CEPA). By definition, CEPA is an economic partnership agreement being explored by the Government of Indonesia and in particular with the European Union to revitalize and strengthen trade and investment relations between the two partners (*Ministry of Finance, 2013*).

This cooperation is projected to be able to support the resolution of the problems being faced by the two countries. Optimizing this cooperation is expected to bring more benefits for Indonesia in increasing the intensity of trade relations and increasing investment flows from the European Union.

The calculation of the Ministry of Industry (2017) shows that the total value of trade between Indonesia and the European Union in 2017 reached USD25.2 billion, with Indonesia's exports to the European Union amounting to USD14.5 billion and imports around USD10.7 billion, resulting in a surplus of USD3.8 billion. Meanwhile, the value of EU investments in Indonesia in 2016 amounted to USD2.6 billion with a total of 2,813 projects.

Globally, the European Union is also one of the major trade forces in the world that has strong multilateral commitments. The single market of the European Union, which is a set of trade, excise and joint procedures that apply in all 27 member countries, makes the European Union a very attractive market for other countries.

Meanwhile, Indonesia is the largest economy in Southeast Asia and one of the important partners for the European Union both in trade and investment. Furthermore, for Indonesia, the European Union is the largest non-oil and gas export destination, and the volume of trade between the two sides has continued to experience growth trends in recent years. European investors have also proven that they are one of Indonesia's most stable and reliable partners.

Therefore, through the comprehensive I-EU CEPA economic partnership, it is expected to increase exports of traditional sectors, such as leather products, wearing apparel, and textiles. In addition, this collaboration also intends to encourage the opening of access of EU investment to Indonesia in the energy and mining sectors.

Recommendations

Departing from the above, in order to optimize CEPA I-EU cooperation, Indonesia must also prepare itself, especially by strengthening the domestic upstream industry against surging demand. Then, it is also necessary to reform the upstream industrial infrastructure such as mineral, chemical, rubber and plastic processing, and metal products, accompanied by an increase in domestic investment.

To support increased investment, Indonesia needs to create a conducive investment climate, strengthen coordination between the central government and the regions better, and also legal certainty. With the strengthening of the domestic sector, Indonesia can make profits from the I-EU CEPA increase significantly in the long run.

Thus, the increase in investment is expected to encourage the creation of an effective technological spillover, increase the absorptive capacity, and increase labor standards. The presence of EU investments can also strengthen research and development to increase productivity, and strengthen product standards.

- M. Rifki Fadilah -

Diversification of exports by strengthening trade cooperation and opening new trade cooperation with other countries is one of the ways that Indonesia can now take to mitigate the risk of a global economic slowdown.

Amnesty For Baiq; a Portrait of Law without Justice

Each court decision must be considered correct and respected (*Res Judicata Pro Veritate Habetur*). Such is legal fiction, which has generally been accepted but often manages to escape from ordinary understanding. A court's decision is sometimes perceived not fulfilling a fair sense, so it is not uncommon to undermine public confidence in the judicial institution.

In the doctrine of positivism that is most rooted in our legal system, law is believed to be like that, cruel and rigid, but that is how it reads (*Lex Dura Sed Tamen Scripta*). However, defining justice does not seem to be a simple job, as with another legal adage that is no less famous; that is, the highest level of justice can mean the highest injustice (*Summum Ius Summa Inuria, Summa Lex Summa Crux*).

One case that seems to narrate the antinomy is the case that currently befalls Baiq Nuril Maknun. She is a part-time teacher from Lombok, who has been reported and sentenced to imprisonment for 6 (six) months and a fine of 500,000,000.00- (five hundred million) IDR for distributing electronic conversations containing immoral contents with her supervisor.

As can be seen in the Supreme Court Decision (MA) Number 574 K/Pid.Sus/2018, Baiq was convicted because he had been legally and convincingly proven to have committed a crime as regulated in Article 27 paragraph (1) of the Information and Electronic Transaction Law (ITE Bill). The Article states that acts of distributing, transmitting, and making accessible of information and/or electronic documents that violate decency intentionally and without the rights be regulated as a criminal offense.

Interestingly, before being convicted in the Supreme Court appeal process, the case experienced by Baiq was once declared unproven by the Mataram District Court, and she was acquitted on July 26,

2017. Baiq was actually a victim, as she had been sexually verbally abused by her supervisor in the conversation.

Between Justice and Legal Certainty

Unfortunately, despite trying to seek justice by submitting Re-Filing of the appeal (PK), the Supreme Court still believed that the elements of the article Baiq was charged with were still fulfilled. Baiq had been proven “without rights” to distribute recorded conversations containing immoral content. This was stated in the Supreme Court Decision Number 83 PK/Pid.Sus/2019, which was issued to reject the PK request on July 4 yesterday.

If using legal normative reasoning, Baiq who is domiciled as reported, of course, has clearly fulfilled the formulation of the article as charged. But the law, of course, does not only talk about certainty. The law should examine the facts and the actual legal events.

In addition to legal certainty, the law must also guarantee expediency and justice. Even further, for the sake of justice, legal certainty can and should be abandoned. As stated by Gustav Radbruch, in his doctrine known as the Radbruch Formula (1946); that “[...] extremely unjust law is no law”, and if “[...] the conflict between statute and justice reaches such an intolerable degree that the statute, as” flawed law “, must yield to justice.”

The guilty verdict on Baiq, shows that the mindset of ‘Judges are the mouthpiece of the Act (Bouche de la loi)’ is still entrenched in our judicial institutions. However, the Supreme Court Judges have neglected a regulations that they had issued themselves; namely, the MA Regulation Number 3/2017 regarding the Guidelines on Judging Women’s Cases, which requires them to pay attention to inequality in social status, psychological impacts, and power relations. This should make Baiq not only a victim of sexual harassment by her supervisor but also as a victim of criminalization for her efforts to see justice.

Resolving Injustice

On this basis, the amnesty which was finally issued by the President to end the polemics (29/07), deserves appreciation and praise. At least, this can be seen as an effort to clarify the injustice that occurs behind our good portrait of law enforcement, which is still muddled with a view that puts forward the rule of law above justice.

Nevertheless, this remains an irony. The intention to carry out substantive and restorative justice does not even come from the au-

thority of the jurisdiction itself. In the future, it is not impossible that there will be another Baiqs who have the potential to be criminalized for his or her efforts to seek justice.

If it is not the Supreme Court which acts as a court of justice, then in which institution should the public depend on for justice. Amnesty or the other state intervention efforts will not always be available. Therefore, a paradigm shift in law enforcement is needed. Specifically, it is needed for judges who hold the hammer and power over the convictions. At the very least, the criminal guideline for judges (which has adopted the Radbruch Formula in Article 53 of the Draft Criminal Code (RKUHP or RUU HP), needs to be immediately issued. At least, this can serve as a lever if the direction of law enforcement has turned away from its course.

A paradigm shift is needed in law enforcement, especially for judges who hold the hammer and powers over the convictions.

- Muhammad Aulia Y Guzasiah -

Justice for Novel: a Portrait of the Absence of the State in Corruption Eradication Agenda

The violence experienced by a Corruption Eradication Commission (KPK) investigator, Novel Baswedan, entered a new phase after his case was brought into various international forums. Some of these forums were the US Congress' hearing session and the Human Rights in Southeast Asia forum: A Regional Outlook, initiated by Amnesty International.

This effort was pursued after a number of parties had been disappointed with the results of the Investigation Team of the Joint Fact-Finding Team (TGPF) formed by the Indonesian Police Chief. Since the launch of the Team on January 8 until until its extermination on July 7, 2019, TGPF (which consisted of 65 people, who were dominated by police investigators) had been considered not successful. The Team only managed to produce an investigative report of approximately 2,700 pages with no definitive clues about the identities of the perpetrators of the attack. Eventhough they had examined 74 witnesses, 38 CCTVs, and interviewed 40 people in 180 working days (*cnnindonesia.com 27/07*).

Instead of thoroughly investigating this matter, TGPF instead recommended the re-establishment of a follow-up team, or termed a Technical Team, in an effort to further investigate the findings of the investigation. This team initially was supposed to work during an investigation period of six months, before being cut short by the President Jokowi to only three months.

However, this time trimming certainly does not make the fact finding process end more quickly. Even though the investigation period is shorter, the composition of resources was more than qualified. In addition to 52 police investigators, TGPF also had seven experts from various backgrounds, as well as six people from KPK representative. All of these resources did not secure a success for TGPF (*national.tempo.co 12/01*).

A Look at Various Cases of Weakening Corruption Eradication

The acid attack that damaged Novel's left eye was not the first violence case experienced by KPK investigators. Violence, threats, and terrors, often target employees and leaders of KPK when investigating mega corruption cases or investigating the alleged involvements of a number of high-ranking state officials.

Prior to the violence case, Novel was involved in the investigations into the E-KTP mega corruption case and into the SIM simulator corruption involving several high-ranking police officers. Previously, there were threats of bomb terrors against KPK facilities and buildings. There were also threats of kidnapping, attempted murders and ill-treatments against KPK investigators (*new.detik.com 04/02*).

Recently (3/02), two KPK employees experienced persecution, while conducting a direct investigation into the alleged corruption of the 2019 Papua Province Regional Budget at the Borobudur Hotel in Jakarta (*cnnindonesia.com 4/02*). Recently, the residence of the Chair of the KPK, Agus Rahardjo, was also terrorized by the discovery of a bag containing an object similar to a pipe bomb. It did not stop there, the residence of the KPK's deputy chair, Laode M Syarif, also experienced bomb threats with the discovery of two Molotov cocktails thrown by unknown people (*national.tempo.co 9/01*).

The violence and threats of violence can be seen as efforts to weaken the corruption eradication agenda. Unfortunately, the high tensions and the intensity of risks in investigating corruption cases are often neglected by the state. The state fails to protect KPK investigators.

The Urgency for the Independent TPF

Returning to the main theme of this paper, if we look carefully at the underlying problem, it is actually not necessary to cut the time of the investigation. The formation of the Technical Team by the INP Chief is too bureaucratic.

The basic problem, of course, lies in the authority of its formation, which had been pointed out earlier by Novel himself. The Technical Team has a conflict of interest issue (*cnnindonesia.com 18/07*). For this reason, the President, as the Head of State as well as the Head of Government, should step in.

The investigation certainly cannot be allowed to drag on. The au-

thority to establish TPF needs to be immediately returned to the President. The case of violence experienced by Novel does not only illustrate the state's negligence in protecting the rights of every citizen; namely, to be free from threats, violence and discrimination, as guaranteed in the 1945 Constitution, the case also shows the failure of the Government in ensuring and maintaining the agenda of corruption eradication, as stipulated in various laws and regulations.

Thus, a TPF, whose independence is guaranteed and is free from conflict of interest, should immediately be formed by the President. This step will show firmness, which will bring a positive assessment in the eyes of the community. This will prove that the issues of law enforcement and human rights, which were missed in the second victory speech of President Joko Widodo, are still on the President's agenda.

- Muhammad Aulia Y. Guzasiah -

An TPF, which is independent and free from conflict of interest, should immediately made be formed by the President..

The Speaker of the People's Consultative Assembly: Historical Record and Future Potential

The National Awakening Party (PKB) and the Golongan Karya Party (Golkar Party) expressed their desire to occupy the position of the Speaker of the People's Consultative Assembly (MPR) explicitly some time ago. This was responded with a similar desire from several other political parties; namely, the Gerindra Party and the Democratic Party. Which one deserves the most has immediately become an intense conversation. Because they are too busy talking about the Speaker, the political party elite then forget what components that they may and can do with the Speaker of the MPR position. This caused the role and function of the Chairman of the MPR not to be explained properly.

Therefore, this paper tries to explore some notes that need to be remember from the position of the Speaker of the MPR, by starting the discussion since post-Reformasi. The decision of the discussion period is important to capture what has been done by several Speaker of the MPR up until now.

The process of revisiting some of the roles of the Speaker of the MPR is based on the realization that this institution has several functions accommodated in the constitution as a result of the amendments and the Law on the MPR, DPR, DPD, and DPRD (MD3 Law which is now Law No. 2/2018). For example, from changing the constitution to stipulate, impeaching, and electing the President and Vice President under certain conditions.

Furthermore, this paper will open a discussion of the phenomenon of seizing the position of Speaker of the MPR after the 2019 Elections. Some of the issues voiced by political party elite will be juxtaposed with the group interests to personal interests, which might be the real intention behind the talk from the front stage.

A List of RI 5 on the Post-New Order Era

The decision of Reformasi as a starting point in discussing the position of the Speaker of the MPR was chosen because the process of transforming the authority of this institution began to take place at that moment. Amien Rais who occupies the highest seat of the post-Reformasi MPR plays a very dynamic role. Amien became a figure who played a major role in the constitutional amendment process that began from 1999 to 2002. Amien's leadership period was the last moment of the MPR to become the Highest State Institution.

Aside from playing his authority to amend and enact the 1945 Constitution (UUD 1945), the historical record also shows that Amien took part in the process of electing a new head of the state after the fall of President Soeharto. Even though afterwards, Amien actually became the motor of the impeachment process that happened to President Gus Dur, a figure he had previously supported to become President of the Republic of Indonesia after the Reformasi (*tempo.co*, 12/26/2018). This was done in response to the decree issued by President Gus Dur to dissolve the DPR. After the impeachment of President Gus Dur, the constitution from the third amendment changed the authority of the MPR so that it could no longer carry out impeachment.

Other than that, Amien also played his authority in supporting Vice President Megawati to succeed President Gus Dur through the Special Session of the MPR. Whereas before, Amien had actually become one of Megawati's obstacles to becoming President by forming the Central Axis along with the ranks of the Islamic parties. This axis rejects the leadership of the state by women, so that Gus Dur becomes an alternative at that time (*kompas.com*, 23/7). Amien's interests behind all of his actions were then revealed when he participated in the candidacy for RI I in 2004.

The strong role played by Amien as the Speaker of the MPR was not seen when the position was occupied by his successor, Hidayat Nur Wahid from the Prosperous Justice Party (PKS). The only thing that can be noted is the fact that Hidayat was the first Chairman of the MPR in the era of direct electionz for the President and Vice President. However, in terms of optimizing the authority, Hidayat's tenure in the MPR did not show the institution strategic position as indicated by Amien Rais.

The significance role of the Speaker of the MPR like Amien Rais was also not found during the leadership of the late Taufiq Kiemas of the Indonesian Democratic Party of Struggle (PDI-P). Until his death in June 2013, the four pillars of nationality became his most memorable heritage. On the other hand, there were also some criticisms of Taufiq's ideas which were considered to equate Pancasila with the 1945 Constitution, NKRI, and Bhinneka Tunggal Ika (*detik.com*, 10/06/2013).

Apart from the idea of four national pillars, Taufiq also played a role as a linkage between President SBY and Megawati, who had ups and downs after SBY's nomination as president (*tempo.co*, 8/6; *lipi.go.id*, 12/6/2013). No significant utilization of authority was found by Taufiq, neither did his successor Sidharto Danusubroto from the same political party, when they served the position as Chairman of the MPR.

Zulkifli Hasan from the National Mandate Party (PAN) was the last point in seeing the records on the role played by the Speaker of the MPR. Rather than using his authority as Speaker of the MPR, Zulkifli was more visible from his political movements during his tenure. Twice time shifting PAN's political support during President Jokowi's first period, and internal intrigue between himself and Amien Rais in determining party's position, are dominantly emerged compared to the utilization of his authority as Chairman of the MPR.

Looking at the Speaker of the 2019-2024 MPR: Several Discourses

When the description of previous MPR Speaker roles had been elaborated, the discussion was now drawn to the present condition. In addition to the emergence of a potential name, there are several other discussions ahead of the election of the MPR Speaker in the future.

First, related to the discourse of amending the 1945 Constitution relating to the reuse of the State Policy Guidelines (GBHN). The presence of GBHN is considered by several parties to be able to make the country's development more targeted compared to the current conditions (*cnnindonesia.co*, 30/7). On the one hand, the preparation and stipulation of the GBHN by the MPR will strengthen the position of the Chairman of the MPR against other institutions in the government, including the President. In the end, leaders at MPR who comes from political parties will have a higher bargaining value to the President.

Besides that, the presence of the drafting and determining process of the GBHN in the hands of the MPR must really be a concern. Do not let the GBHN eventually become a channel for political parties that occupy the MPR seats to open new access to a resources, which the benefits will only return to the group itself.

Therefore, it is important to examine more deeply and ensure that the basic arguments about the reuse of GBHN is only oriented to the desire for a more measurable development. Other objectives containing elements of political party pragmatism related to GBHN as a political bargaining tool must be dammed. This is important in order to maintain the MPR's authority in preparing and stipulating the GBHN so that it does not turn into an instrument for political parties to improve their position.

The second discourse that sprung up around the position of MPR Speaker was related to the national contestation in 2024. Some believe that this position is very strategic in facing the elections five years from now.

In fact, the position of the Speaker of the MPR did not have a significant impact on a person and his political parties. Amien Rais is a suitable example to illustrate this condition. In the 2004 Presidential Election battle, the KPU official website showed that Amien was only at the bottom 2 with 14.94% of the votes. PAN itself actually experienced a decline in voters compared to the previous election in 1999. Even though, Amien's figure was considered central when exercising his authority as the Speaker of the MPR.

The same fate was experienced by incumbent Speaker of the MPR, Zulkifli Hasan. His name did not even appear in the list of potential vice-presidential candidates at Litbang Kompas survey in April 2018 (*kompas.com*, 04/24/2018). Moreover, in several other survey results, Zulkifli also never reached a significant number. In the end, this condition was further confirmed by Zulkifli not being chosen as a companion by both contesting camps.

Those cases did not necessarily turn off the effect of MPR Chairman in the electoral realm. But on the other hand, the political party elite cannot close their eyes to the reality. It can be said that the chair of the MPR Chairman will be an experiment for political parties in facing the political year in 2024.

The third discourse is a more personal matter; namely, the rights that a person gets when occupying the chair of the MPR. The Speaker of the MPR gets an official car with RI 5 police number and official residence on Jalan Widya Chandra IV. Also, the Speaker of the MPR received other income, such as basic salary and allowance, hence this post became a very lucrative position.

The Speaker of the MPR also received formal forms of respect when attending various activities. In fact, the Chairman of the MPR is on the same level as the President. It became very easy for the MPR Chairman to build personal relationships with other high-ranking officials on the basis of his access. Thus, this position becomes a strategic step for political party leaders when they want to increase their influence in the circle of political elites.

- Rifqi Rachman -

The discussion about the Speaker of the MPR position has become one of the hot topics in Indonesian politics after the Legislative and Presidential Elections. It is important to understand the strategic position of the Chairman of the MPR, both from the legal aspect and its relationship with other state institutions, authority, access to the President, and the facilities and privileges that followed.

A Look at DPD RI in the Post-2019 Election Period

The 2019 general elections had ended in April 2019. The election frenzy was dominated by the presidential election issues. However, there were also fierce competitions between political parties in legislative elections. Unfortunately, amid the tumult of the 2019 elections, the elections of the members of the Regional Representative Council (DPD) have almost been forgotten.

DPD is a representative institution at the central level in addition to the People's Consultative Assembly (MPR) and the House of Representatives (DPR). This is regulated in Article 2 Paragraph (1) of the Third Amendment of the 1945 Constitution of the Republic of Indonesia (1945), which states that "MPR consists of Members of the DPR and DPD Members, whom are elected through general elections and regulated further by Law".

However, the functions and authority of the House of Representatives and the Regional Representative Council are juridically-constitutionally unequal. As a result, in their implementations, the position of the House of Representatives is much stronger, especially in the function of legislative formation as stipulated in Article 20 Paragraph (1) of the 1945 Constitution, which states that the People's Representatives hold the power to form a law".

New Faces in the 2019-2024 DPD

In the 2019 elections, many new faces succeeded in occupying the DPD seats for the next five years. Of 136 DPD candidates who managed to be in the top four in each province, only 44 people, or 32.35 percent, who are incumbent. The rest of them (92 members, or 67.65 percent) are new faces that were not around in the previous period.

Some of the incumbents that have managed to be re-elected are: Queen of the Jogjakarta Sultanate GKR Hemas, Nono Sampono, Maya Rumantir, and Fahira Idris. Meanwhile, the new faces in the DPD include Abdullah Puteh, Jimly Asshiddiqie, La Nyalla M. Matlitti, and Sultan Tidore Husain Alting.

Now, DPD is filled with non-party figures and non-party cadres. According to Constitutional Court Decision No. 30 / PUU-XVI / 2018, political party officials are not allowed to become DPD members. If they still want to compete, candidates must resign from their positions in party management, even though there is no obligation for them to withdraw from the party membership.

The decision of the Constitutional Court was a response to the issue of political parties in DPD. The current DPD members are dominated by 78 political party members. Some of them are party administrators, giving rise to a conflict of interest.

DPD's Challenged

Since its inception in 2004, DPD has often sparked polemics. Some parties consider that this high state institution does not have proper functions and duties.

The effectiveness of DPD has strengthened after internal disputes in the 2014-2019 period. These include the issue of DPD members who are party members and the dispute between the Chair of DPD Oesman Sapta Oddang and the General Election Commission (KPU) in relation to the nomination requirements for DPD members for the 2019 elections.

A researcher at the Concerned Community Parliamentary Forum (Formappi), Lucius Karus, considers that limited authority makes the performance of DPD never significant for the community. According to him, this situation has helped DPD escape from the public spotlight. As a result, intrigue appears to utilize DPD for the benefit of certain groups (*bbc.com*, 2/14/2019).

Meanwhile, an Indonesian Institute of Sciences researcher (LIPI), Siti Zuhro, stated that currently the existence of DPD has deviated from its historical course.. Siti Zuhro assessed from the perspective of the basic philosophy of establishing an institution, which should represent region. However, DPD has been filled with those who work in political parties. As a result of this bias, it will be difficult for DPD members to fight for the aspirations of their home regions (*bisnis.com*, 3/20/2019).

This condition, according to Siti Zuhro, was one of the causes of the non-optimal tasks and functions of the DPD, as envisioned at the beginning of its establishment 15 years ago. DPD should have been filled by regional delegates. (*bisnis.com*, 3/20/2019).

The election of new faces in DPD returns a hope that DPD will return to its spirit.

Notes

The election of new faces in DPD is expected to restore a hope that DPD will return to its original spirit. The spirit of DPD is intended to strengthen the legislative institutional structure, which has two chambers or bicameral systems. One chamber is filled by representatives of the people, and the other chamber is occupied by regional representatives (the Senate). The aim is to strengthen checks and balances between the executive and the legislative.

In addition to returning the DPD's spirit, elected DPD members must be able to carry out the three objectives of forming DPD. First, strengthening regional ties within the Unitary State of the Republic of Indonesia and strengthening national unity throughout the regions. Second, increasing the aggregation and accommodation of regional interests in national policy formulation. Third, encouraging the acceleration of democracy, development, and regional progress in harmony.

- **Arfianto Purbolaksono** -

Election Polemics of DKI 2

The process of selecting the Deputy Governor of DKI Jakarta has dragged on. After Sandiaga Uno left his position in August 2018, PKS has become a very vocal party. That is because PKS believes that they are the rightful party to claim the Deputy Governor position. One of the reasons is because the Anies-Sandi's rallies in the 2017 Gubernatorial Election had been supported to the maximum by this political party.

Therefore, this has led to various speculations. Also, at the national level, Gerindra Party as an ally of PKS has begun directing its support to another side. At the DKI Jakarta level itself, the discussion on the Deputy Governor is apparently not prioritized. In fact, the Chairperson of the Special Committee for Code of Conduct (Pansus Tatib) for the Jakarta Deputy Governor Election has stated the possibility that Anies will served without a companion until 2022 as recommended by the supporting political parties (*kompas.com*, 23/7).

From these conditions, this paper tries to assume two things that might occur as an implication of the political calculations between political parties that did not meet the agreement about the election of the Deputy Governor of DKI.

First Assumption

The uncertainty surrounding the Jakarta Deputy Governor has undermined the relations between PKS and Gerindra Party. After being dismissed during the 2019 elections, the discussion on the Jakarta Deputy Governor election is still suspended. Such conditions are also complicated by the post-election situation, which actually makes the relations between the two parties increasingly difficult to guess.

In fact, it must also be remembered that the submission of the names of two PKS cadres, Ahmad Syaikh and Agung Yulianto, as options for Anies's companion had appeared since mid-September 2018. That is, it has been almost a year since the process of the two names first burst into the public (*kompas.com*, 17/9/2018).

Reflecting on the current national political situation, the first assumption of this paper is reinforced by the fact of the silence shown by Gerindra Party when PKS explicitly declared its position as the opposition in the Parliament. PKS's invitation to the Gerindra Party to stand outside the government did not even get an enlightening response (*detik.com*, 13/7).

The current dynamic situation finally makes the adage "there are no eternal allies and no perpetual enemies, only interests that were eternal and perpetual" relevant to the conditions of PKS and Gerindra Party. Both political parties must immediately sit together and harmonize a number of things in order to find agreement. This is necessary to anticipate the flexibility of the political movements from both political parties at the national level ahead of President Jokowi's inauguration in October 2019. Moreover, the closeness between PDIP and Gerindra Party is increasingly showing signs of holding hands together (*katadata.co.id*, 5/8). Of course such a situation will put PKS in unfavorable conditions.

On the other hand, the tenure of DKI Jakarta Regional Legislative Councils (DPRD) members for the 2014-2019 period will also end on August 26, 2019. Automatically, the process of selecting the Deputy Governor of DKI for replacing Sandiaga is interrupted. The fact that some members of the Pansus Tatib for DKI Jakarta Deputy Governor Election were not re-elected in the new period were also another factor. Then, the DKI Deputy Governor selection procedure must be started again from the beginning.

Second Assumption

The discourse about the position of Deputy Governor of DKI can certainly also give excesses to the position of Governor. Anies Baswedan's attachment to his supporting political parties has become more distant, especially since Anies was not a cadre of one of his supporting parties during the 2017 Gubernatorial Election.

On the one hand, Anies also got an advantage from the current regulations. Law No. 10/2016, which generally regulates the regional elections (Pilkada), requires that the Deputy Governor's vacant seats will be filled through the DPRD. Two candidates' names were

proposed by the supporting political parties to the Governor, which were then forwarded to the DPRD. Therefore, the appointment as made by Governor Basuki Tjahaya Purnama to Djarot Saiful Hidayat in 2014 will not be repeated in the current era.

To recall our memories, the legislation product prior to the Regional Election Law presents the Governor's election process, which is carried out directly by the Governor. It is from the Governor's hand that the name of the candidate appears and is submitted to the President.

If the legislation product is still valid, Anies's position will actually be dilemmatic. Mainly because of the conditions of the two supporting parties, PKS and Gerindra Party, as if they are leaving unresolved issues. The appointment by Anies eventually has the potential to bring dissatisfaction to one of the political parties, or even both.

Therefore, the current situation actually facilitates Anies's position in preparing for the upcoming contestation. The absence of a companion figure for Anies from PKS or Gerindra Party will open a large enough space for other political parties who want to support Anies in the 2022 Gubernatorial Election. Of course this second assumption must also be, and can only be based on the scenario in which Anies will rerun for DKI I.

- Rifqi Rachman -

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Work and Disabilities: Efforts to Eradicate Discrimination

The right to decent work is an important element needed by persons with disabilities. The non-discrimination mandate continues to be echoed in various policy frameworks related to equal opportunity for all. The call for the role of the public, private and civil society is central. This has at least been stated in the General Provisions of the Law Number 8/2016 on Persons with Disabilities.

The case of drg. Romi Syofpa Ismael, whom was taken out from the 2018 list of candidates for Civil Servants recently, was a hard slap. The Government of the Regency of South Solok, West Sumatra, assessed that the disqualification was based on the assumption that drg. Romi did not meet the physical and spiritual health requirements. In fact, in the health certificate she attached, drg. Romi was declared physically and mentally healthy, with additional information that she experienced paraplegia in 2016.

Strong criticism has come from various groups. If we review Article 53 Paragraph (1) of Law Number 8/2016, it has been clearly stated that the central government, regional governments, state-owned enterprises, and regional-owned enterprises are required to employ persons with disabilities at a level of at least 2% (two percent) of the total number of employees. In the next article, private companies are also required to place at least 1% (one percent) of persons with disabilities from total workers in their places. The case of drg. Romi of the list was certainly a form of tarnishing the rules.

The above case should become a momentum to reflect the inclusion commitment of persons with disabilities in the workforce. Reflecting on the data of the Ministry of Social Data and Information Center in 2010, there were more than 11 million people with disabilities in Indonesia. Next, Ministry of Manpower and Transmigration (2010) showed the data that there were 7,126,409 people with disabilities.

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Then, the latest data on persons with disabilities was in the National Statistics Agency, particularly in National Labor Force Survey in 2016. According to the result, people with disabilities in Indonesia reached 12.15 percent or around 22.8 million people, with a proportion of 1.87 percent people having severe disabilities and 10.29 percent of people having mild disabilities.

In the labor market, the labor force participation rate of people with mild and severe disabilities was much lower than that of non-disabled people. From the same source, the labor force with mild disabilities was still at 56.72 percent and those with severe disabilities were at 20.27 percent. That figure was still far compared to non-disabled people who had reached 70.40 percent.

Not to mention, people with disabilities had a large percentage to be stuck in informal work. Research from the Institute for Economic and Community Research FEB UI (2017) shows that people with mild and severe disabilities tend to get stuck in informal work with percentages of 64.93 percent and 75.80 percent, respectively.

The figures above were still part of the facts about people with disabilities in Indonesia. The case of drg. Romi was a reminder of how people with disabilities face violent attacks to get equal opportunities in accessing decent work.

Decent Work for Persons with Disabilities

Employment opportunities for persons with disabilities have previously been regulated in Article 5 of Law Number 13/2003 concerning Manpower. In the explanation of the article, it is explained that the opportunity to obtain decent work and livelihood applies to every workforce without exception, including persons with disabilities.

Then, more detailed rules are spelled out in Law No. 8/2016, especially Article 11 that explains the rights of persons with disabilities in the workforce, entrepreneurship and cooperatives. Among these rights to work, it is important to remember that there is a commitment to equal opportunity to get work in various sectors, to get the same wages as non-disabled workers, to get adequate accommodation, and not to be dismissed for reasons of disabilities

The term decent work basically summarizes the aspirations of workers regarding their working conditions. According to the International Labor Organization (ILO) definition, decent work includes

opportunities to work productively and to earn a living wage, to get guarantee of safety at work and social protection for families, to have opportunities for self-development and social integration, and to have freedom to voice opinions and associations.

Decent work for people with disabilities often faces steep roads. Yeo and Moore (2003) explain that an important determinant that influences the impoverishment of persons with disabilities is discrimination. This occurs within the institutional, environmental and attitudinal discriminations.

Discrimination at the institutional level is the process when persons with disabilities are systematically marginalized by established regulations, customs or practices. Such discrimination is certainly very much rooted in the shared behavior, values and beliefs about persons with disabilities. In the work context, often people with disabilities are constrained by prerequisites and recruitment systems that still doubt the productivity of persons with disabilities.

Then, discrimination at the physical environment level includes the availability of adequate access that naturally limits the mobility of persons with disabilities. Can be found in various places, buildings with narrow entrances and stairs, public transport that is not disability friendly as well as industries that do not heed reasonable accommodations for workers with disabilities.

Lastly, attitudinal discrimination relates to attitudes and prejudices that lead to discrimination. There are still community groups that still exclude people with disabilities in various ways. Negative prejudice, isolation and exclusion, to very low expectations of people with disabilities, both in terms of their intellectual abilities and physical abilities, are dangerous to the functioning of people with disabilities in workforce.

The rash of discrimination has implications in the workforce. Apart from facing discrimination from the very beginning in achieving education, people with disabilities also have to face huge challenges in the labor market. As the figures in the previous section illustrate, persons with disabilities have not yet fully had equal opportunities in the workforce. This situation demands mutual attention.

Notes

The commitment of various parties, especially the government and the private sector, is being tested by increasing cases of discrimina-

tion against persons with disabilities in the workforce. With the Act No. 8 of 2016 concerning Persons with Disabilities, there guarantees of equal respect and treatment for people with disabilities. This has become a major focus in various fields.

The government needs to be literate with a variety of rules and derivative mechanisms that ensure the main regulation is implemented. For example, in the civil service recruitment system, there needs to be more adequate explanation without ignoring equal opportunities for persons with disabilities to obtain the desired formation. Improvements at the technical level can also be considered by industries that also have an obligation to employ persons with disabilities.

In addition, the private sector can also utilize collaboration with the application of information technology to open information channels on employment opportunities. This kind of innovation has emerged. What needs to be done is to expand the private industry network to inform employment opportunities in their place. This is also supported by the efforts of civil society to promote empowerment for persons with disabilities to access information and employment opportunities.

Finally, it is also important to ensure that anyone is not freed to marginalize the experiences and aspirations of persons with disabilities. People with disabilities certainly know their problems and needs. Thus, the important thing that they need to have is the ability to advocate for them (self-advocate). Of course, this has become awareness and working practices with various parties to realize decent work for all.

- Nopitri Wahyuni -

The right to decent work under the principle of non-discrimination is an aspiration for all workers, including persons with disabilities.

Challenges of Gender Issues in Jokowi-Ma'ruf Cabinet

In preparing the development budget, accommodation of the ideals of gender equality is very urgent. The opportunities to gain access, to benefit and to participate in decision-making and resource management are the basic substance of development agendas. Policy makers must be able to prepare strategies to include gender dimensions in each stage undertaken (*Ministry of Finance, 2012*).

In line with the end of this year's general elections, a gender responsive budget strategy should be a contentious topic. Although this round of leadership is not a completely new period, the elected leader must be aware of this urgency. Joko Widodo, basically, has re-emphasized the focus of the second period of his government. The narrative of the five visions in the next five years will highlight the priorities of human resource development (HR).

The discourse above is quite interesting as well as opening up critical space. The extent to which the gender dimension included in HR development and other development frameworks shall be a serious concern. Likewise, there is urgency of integrating these dimensions when questioning the use of a State Budget that is focused, targeted and useful. The above considerations should be able to become the main stream of conversation as one of the projected challenges of development in the next five years.

Considering a Gender Responsive Budget

The main awareness related to gender inequality has become an endless crisis. According to the 2018 Global Gender Gap Index report, it took 108 years to close the wide gap in gender inequality globally. If you look at the numbers, the global gender equality score touches 68 percent. Means, there is an inequality gap of 32 percent which must be closed.

Intrigued by the issue, Indonesia has at least reflected. In the same report, Indonesia ranked 85 out of 149 countries. Gender aspects related to education level, participation and economic opportunities, political empowerment, and health conditions are the main indicators.

Of the four general indicators, aspects of education and economics still require efforts that are very energy consuming. The issue of participation in the labor market, low per capita income and productivity, to the problem of literacy and education are really very unfavorable for Indonesia.

We can begin to look at the level of female labor force participation according to World Bank 2018 data. The participation of the workforce of women over the age of 15 in Indonesia in 2014 was at 50.5 percent. In 2017, the increase in labor force participation only increased by around 0.2 percent (Katadata, 9/5). Likewise, if linked to the population dependency rate, Indonesia is still at 50.5 percent in 2010 and projections in the coming years do not have a surprising decline (*BPS, 2014*).

Seeing this situation, the adoption of a gender responsive budget into the government budgeting system has been echoed. The mix of policies and budgets that have been poured in has included aspects of gender inequality. In many cases, assistance as a form of social protection and empowerment is still the first choice of service frameworks that are often attached to improving the quality of life of women.

One of the government's leading programs that intersects with women's issues is the Program Keluarga Harapan (PKH). According to the Ministry of Finance records in June 2019, the realization of the disbursement of the program reached 82.4 percent of the allocation. In 2018-2019, the Beneficiary Family's target is 10 million families with a significant contribution in reducing poverty to 9.8 percent (*BPS, 2018*).

As stated in a study by the Ministry of Finance, in addition to the empowerment program, PKH cash assistance is given to mothers or adult women, hereinafter referred to as the Family Managers. The involvement of women is quite significant here to manage social assistance funds, both for the education of school children and for access to health.

Then, the 2013 National Team Study on the Acceleration of Poverty Reduction can be the basis for finding gender slices in social protection programs. For example, when looking at the percentage of female households PKH recipients, it turned out that only a figure of two percent or around 64 thousand female households (TNP2K, 2013). In fact, it is easier to find female households that have access to the Beras Miskin (Raskin) program (86 percent) or Jaminan Kesehatan Masyarakat (Jamkesmas) (52 percent) than the PKH program.

Looking at the figures above, the gender dimension in determining the budget is very important. The Central Government has a difficult challenge to determine the proportion of the budget to parse the problems and needs related to women's and men's relations; Likewise at the regional level, the average does not yet have a full understanding of the importance of gender responsive budgeting in development.

The effectiveness of the program is another challenge. This relates to the stages of planning and the implementation to program evaluation. The challenges of gender responsive budgeting here are also related to decisions and sensitivity in determining programs that have an impact on reducing gender inequality. Not just starting from gender segregation, but also important to establish a program that really starts from the root of the problem.

Urgent Challenges and Issues

A gender responsive budget is expected to be able to answer the initial challenges of gender inequality in development. However, to ensure this statement is true, it is necessary to re-reflect the extent to which the strategy can widen women's choices to determine their lives; exploring the needs and problems of women is not only limited to promoting economic growth.

As already stated, the importance of being aware of the root causes of each gender issue will open understanding of program priorities. Moving on from this, there are pressing challenges and issues that need to be taken into consideration to mainstream gender in development in the vision of the next five years.

First, questioning the rights of women workers. Workers' rights as stipulated in labor regulations have more or less covered the basics needed to reduce inequality. However, we need to look more broadly at the issue of discrimination against women workers in the

workplace and the rights of women workers who are often ruled out, such as the rights of domestic workers and the protection of migrant workers. Guaranteed legal and social protection is a consideration.

Second, the high number of sexual violence in the private, public and state spheres needs to get comprehensive attention. Sexual violence not only gives an impact that physically destroys women, but also affects psychological conditions that prevent women from developing themselves. With the discourse on the stipulation of the Bill on the Elimination of Sexual Violence at the end of the current cabinet, in the future it is necessary to establish significant programs to protect anyone from sexual violence, from prevention to rehabilitation.

Finally, the access to sexual and reproductive health shall be promoted broadly. The existence of the National Health Insurance now has helped many women and girls to access health. However, in many studies it was found that women's understanding of access to sexual and reproductive health is very low. This certainly has implications for the high maternal and infant mortality rates, which are an important note in health conditions as a basis for development. The offers related to the challenges and issues above can be an illustration of how future development can touch the root of the gender problem. The hope, elected leaders can consider these issues in determining the budget and its realization so that the programs that are running really think about the impact on improving the quality of life of women.

- Nopitri Wahyuni -

Gender responsive budgeting is not only done to make gender programs solely for economic growth, but also to eradicate the root problems that have an impact on improving the quality of life of women.



THE NDONESIAN INSTITUTE

CENTER FOR PUBLIC POLICY RESEARCH

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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