

PLANNING THE DIAMETRICAL GROWTH OF DEVELOPMENT AND WELFARE (LEGAL ASPECT OF HUMAN CAPITAL INVESTMENT TOWARDS QUALITY IMPROVEMENT OF INDONESIAN LABOR FORCE)

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ABSTRACT

This article is entitled "Planning the Diametrical Growth of Development and Welfare (Legal Aspect of Human Capital Investment towards Quality Improvement of Indonesian Labor Force). The problems arise when priorities in the Indonesian government policies towards development (investment) are not in accordance with the current needs of the society, namely with the need for welfare (consumption). Population density and unemployment also present their own complex problems in Indonesia so that a large number of Indonesians are willing to go abroad for employment. The role of the state in establishing people's welfare is the demand of the constitution which represents the rational choice of Indonesian people. By becoming labor force abroad, it does not mean that the rights of the citizens to get the necessary education, employment and a living are no longer the State's obligation to realize them. Determining the priority choices become difficult for the decision makers and the law establishment body to cope with this antinomy condition between development growth and wellbeing. Therefore, alternative rational choices should be made, among other things through education, in order to achieve both growth and welfare at the same time.

Key words: Growth Development, Human Capital, welfare, Labor Force.

Introduction

Among the goals of Indonesia are to become an intelligent nation and to establish people's welfare. The State guarantees that the right of every citizen for employment and decent living is fulfilled. However, to realize such goals is not easy. The State is always faced with determining priorities in terms of policy choices and this in the end means discarding other choices. The State Constitution of 1945 provides for the right of every citizen for employment and improvement of quality of their life and, therefore, it becomes the obligation of the State to provide social security as provided in the article 28C paragraph (1), article 28D paragraph (2), article 28 H paragraph (3), which therefore imparts no right for the State to forbid its citizen to get employment beyond the territory of Indonesia, which, therefore, obliges it to protect them.

Indonesia possesses legal regulation concerning labor, namely the Act Number 13 of 2003 concerning labor. Indonesia has also established a regulation concerning the placement and protection of labor abroad, namely the Act Number 39 of 2004. Those Acts are all based on the requirements included in the Indonesian State Constitution. Article 1 paragraph (2) of the Act Number 13 of 2003 concerning labor states that manpower is everyone who is capable of assuming work for producing goods and/or services for fulfilling both his own need and that of the society. The State should facilitate its every citizen who wants to get an employment as provided for in those Acts.

Global migration of labor has increased exponentially for the last 20 years. At present around 90 million migrant workers have been employed for such important services as domestic job, nursing, construction work, agriculture, fishery, manufacture, and service sector. All over the world, the private commercial institutions, private mediators, and business people in both the origin and destination countries do the most part of the recruitment and placement of the low-pay migrant workers. The migration of low-pay workers has raised the anxiety upon the complex human rights the right of labor, including treatment of those not counted as citizens; namely equal treatment without discrimination due to race, ethnicity, and gender; right for employment and appropriate living standard; and responsibility of companies upon human rights. These low-pay migrant workers are constantly under threat of being not paid, of insecure work condition, too short break time, and inhuman housing condition (Bassina, Eleanor, & Sarah Paoletti, 2013:23).

As an example, can be presented the Indonesian workers working in the Middle East. The data of the government indicates that the Indonesian workers to that area are mostly women (an average of 95% in all countries of that area) and most of them employed for domestic works in private individual homes. A small-scale study on the workers returning from the gulf countries finds that the majority of the workers are still young (51% below the age of 21 years, and first-time migrant workers) with very low levels of

education and literacy (56% with elementary school education or even less with no previous working experience beyond own homes (Bassine, Eleanor, & Sarah Paoletti: 38). The last data of 2014 shows that over 63% of the Indonesian workers assume jobs as domestic workers, and only around a bit over 37% work in the formal sector. The latest data in 2015 shows that the number of the Indonesian citizens to overstay as problematic workers in Malaysia reaches 1.250.000, while in Saudi Arabia the number reaches 588.075, and in other countries 32.073. Of all those numbers, the Indonesian government had sent them back home in 2014 as many as 20.379 from Saudi Arabia, and 26.428 from Malaysia (Mass media news: 2015).

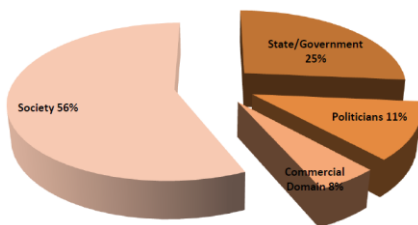
It is worrying to witness such problem so that a concrete action is needed by the government for the solution of the nation's problem pertaining to manpower, particularly to Indonesian workers working abroad so that they can have a good bargaining position in their work place. This article aims to provide input for the government to determine the direction of government policy to enhance competitiveness and welfare of Indonesia labor force.

The Growth of Development and Economy (Investment) vs Welfare (Consumption)

The intellectuals see the discordance between democracy and economic and development growth in terms of economic as well as political reasons. The economic reason has to do with the fact that growth needs the availability of economic surplus for the investment. The surplus can be invested or consumed. Therefore, the only way to increase surplus for the investment is by decreasing the consumption. The argument for this is that a democratic regime will not be able to make a policy that limit the welfare (consumption) (for example, by decreasing the real wage, decreasing the tax) because the society which gets the impact of such a policy are also the voters, and they will have a chance to punish the politicians in the ensuing general election by their votes (George Sorensen, 2003:114-115).

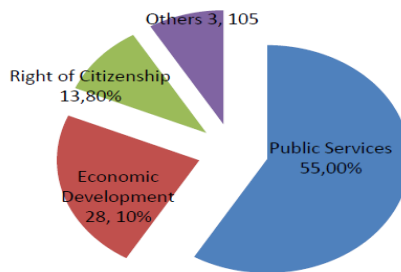
The society is one of the strong democratic pillars, and the society can influence the public policies through political mechanism as well as through participation in their discussion. Following are presented the research conducted by Power, Welfare and Democracy Project (PWD), a research conducted by the Department of Politics and Administration Faculty of Social and Political Science Gadjah Mada University in collaboration with the University of Oslo. The data collection involved the employment of 117 local researchers. The researchers collected the data from 628 informants who possessed knowledge of and deep involvement in the issues under study, spreading in 30 regencies/municipalities in Indonesia. The purpose of the survey was to evaluate the challenges and opportunities for the democracy in Indonesia based on David Bentham's theory. Bentham defines democracy as "the popular control over public and political matters based on equality of the citizens' right". This survey has been done twice, 2003/2004 and 2007. In its executive summary it is mentioned that society is the actor most frequently discussing public issues reaching the number of over 56% compared to other actors such as the State/government (25%), politicians (11%), and actors from the commercial domain (8%), as presented in the following figures.

Figure 1: Actors involved in discussion
Public issues



Source: PWD, 2014:11.

Figure 2: Most important public issues



Source: PWD, 2014:10.

The development and welfare issues remain to become unsolvable problems, being still a concern only at the discourse and regulation level, never optimally brought into the implementation level. There is still welfare-related public service which has not been fully implemented despite the fact that Indonesia is a State adopting the conception of welfare State with the state's active role directed to establishing people's welfare. Riawan Tjandra says that ideologically the concept of welfare state is considered to be the most conforming to the creation of welfare society, which technically is marked by the escalation of the role of the state both qualitatively and quantitatively through its regulating and distribution role in leading the society towards welfare (Riawan Tjandra, 2004:4).

Figure 2 shows the important public issues as identified through survey, which comprise public services (such as health, education, security and transportation) reaching 55,00%, i.e. higher than economic development reaching only 28,10%; and this is then followed by the issue on the right of citizenship reaching 13,80%, and others reaching only 3,1%. Such public issues are much expected by the people to be given necessary implementation by the government/the State.

Apart from those public issues, the reciprocally excluding interest between development and welfare still present their own problems faced by the government which influence it in determining the necessary policy, because such problems will after all be related to how big the budget of the government for funding the two polar programs which equally claim priority. George Sorensen's view in giving a response is that there is inconformity between the short- and long-terms economic growth (investment) and welfare (consumption). Those who have economic problems in coping with democracy would focus their attention on persuading the democratic leaders by electoral means in order to increase welfare, and as its consequence the growth rate becomes low. Their action would endanger all of the bases for the improvement of welfare in the long term (George Sorensen, 2003:115).

In the literature of political economy, Amartya Sen is in the opinion that democracy can serve as one of the determining factors in the economic growth and in decreasing poverty. Taking the tragedy of starvation in China in the era of 1980s which caused the

death of tens of thousands people, such tragedy seems to be impossible in the countries which highly advocate democracy (Alfred A. Knopf, 1999:147).

Amartya Sen is in the opinion that democracy can be used as an important tool for economic growth as well as for decreasing poverty and even for the fulfillment of the democratic rights of the people. There three functions of democracy (Iranda Yudhatama, 2007:viii):

1. Direct, i.e. creating the opportunities for participation or implementing the people's civil and political rights.
2. Instrumental, i.e. assisting in increasing the opportunities for the people to express their aspiration and supporting the people's claim including that of their economic needs.
3. Substantive, i.e. the idea that democracy can give clear indication of what is needed by poor people in the development.

Those various functions can work well if the existing institutions and structures can work well too. Institutions refer to the actors involved, while structures pertain to policies and institutions which synchronize the activities of each actor.

It is very clear that the democracy intended by Sen in its correlation with economic development is different the democratic perspective as a political system which emphasizes only the individual and institutional freedom without necessary articulation and substantiation. Democracy is like flowing clean water, which flows through all cracks being passed. Cracks in this case can be taken as standing for the want and need of the people which have to be fulfilled.

Human Capital Investment as a Form of Long-Term Investment and Welfare for Indonesian Workers

Progressiveness in settling problems pertaining to public issues is obligatory to the policy makers, including those pertaining to welfare issues (such as social security, education, and implementation of basic services), which are now being reproached by the people for their implementation by the government. The trend in Indonesia now is that the central as well as the regional governments gives the priority on the physical development for supporting the economy, however, on the other hand, there keep increasing such things as number of population, unemployment, poverty, ill health of the people, and crimes.

Indonesia has established the program for sending Indonesian workers abroad sponsored by the government under the New Order regime of Soeharto as a method of decreasing unemployment in the home country and of creating foreign exchange. Besides the Philippines Indonesia now send more workers abroad than other countries in South East Asia, with about half a million workers officially leave every year. By May 2012, around 2,4 million Indonesian workers were recorded as officially working abroad as migrant laborers, while an unknown number of others perhaps work unofficially (Bassina, Eleanor, & Sarah Paoletti, 2013:35). A lot of Indonesian migrant laborers face problems while working abroad, and in fact cases of violence are frequently reported in Indonesia mass media. The data on the returning workers made by the Indonesian government shows that every year tens of thousands of workers returning home report that they face the problems reaching 14,5% in the work place of all the workers returning home in 2011, and 18% in 2010 (the problems not reported being likely higher in percentage) (Bassina, Eleanor, & Sarah Paoletti, 2013:36).

The lack of workers and the uneducated and unskilled manpower are the problems that can become the obstacles the functioning of the two diametrically polar conditions. Therefore, adopting a new policy for the problems likely to be settled as early as possible will become an ineffective measure for coping with such problems. Because the policy makers are always confronted with the limited time, resources and fund, it is therefore impossible to analyze all values and goals posed by the people, all alternative policies, the risks as well as the consequences, and therefore attention should be given to modifying bit by bit the previously existing policies. This decision making is based on the theory proposed by the economic theorist Charles E. Lindblom who proposed the model of decision making called disjointed incremental model or shortly incremental (M. Irfan Islamy, 2009:58-59). This model views the policy taken by the government as a continuation of the government's past activities by modifying it a little at a time.

Almost in all of the government regimes in Indonesia the problems of employment, education, and welfare always become the main agenda discussed by the decision makers, which is definitely provided for in the Preamble of the Constitution of Indonesia of 1945, which constitutes the goal of Indonesian nation to be realized, namely "...the advancement of public welfare, the intellectualization of the nation's life..." which is reformulated in various implement regulations. As obliged by Article 31 and Article 34 of the Constitution of the Republic of Indonesia of 1945, the government should increase the budget for education and that for the health treatment facilities. The government's innovations are needed for fulfilling the funding for those basic important sectors.

It is important to criticize the existing economic arguments concerning democracy which blocks growth (investment), namely democracy which in other words only increases the short-term expenditure for welfare (consumption). The achievement of both growth and welfare at the same time is quite possible. As an example, the state's/regional expenditure for health and education constitutes an investment in human capital which can at the same time improve the welfare of a large number of people (George Sorensen, 2003:117). Wanting to implement great (and sustainable) development without educated and healthy people is a utopia. The development which emphasizes only the pragmatic and instant goal without a strong foundation of human capital will only undermine gradually the strength in the foundation of the nation's development. From educated and healthy people can be derived skilled Indonesian workers who will be engaged not constantly with easily problematic informal employment, but with appropriate positions that guarantee the achievement of welfare. As an example, there is a high need of nurses abroad. The Philippines could compete in the world's market for the time being. The success of other countries should be noticed by the government and achieved for establishing the welfare of the Indonesian workers.

Conclusion

Human capital investment is a form of both long-term investment and welfare (consumption). Its welfare effect could be felt directly because it is related to the need of every citizen in terms of education and skill. Healthy and educated people will serve as development capital to the future. It is quite wise if the government give priority to human capital investment in the development which is framed by necessary regulations that allows for its sustainability even when there is a change of government regime. The improvement of education and skill of Indonesian workers will create some added values, which is strategic to guarantee the capability to compete in the world's market.

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