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Main Report:

The Efforts to Strengthen and Accelerate the Indonesian Carbon Exchange

Law

- The Ratio Decidendi Analysis of Decisions on the Formal Test of Law Number 6/2023 on the Stipulation of Perppu on Job Creation
- Freelance Workers Regulation after the Job Creation Perppu
- Legal Framework for Carbon Trading in Indonesia: Evaluation and Recommendations
- Carbon Trading in the Power Plant Subsector: Analysing Legal and Sustainability Issues

Politics

- Democracy and the Urgency of Political Party Reform in Indonesia
- Conflict Studies in the Implementations of the Special Autonomy Policy in Papua
- 2024 Election Campaign and Bureaucratic Neutrality

Social

- Considering the Importance of Policy-Based Psychological Wellbeing
- Bullying and the Roots of Violence: Impact and Sentencing Analyses in the Juvenile Justice System (CJS) in Indonesia

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CONTENTS

FOREWORD 1

MAIN REPORT

The Efforts to Strengthen and Accelerate the Indonesian Carbon Exchange 3

LAW

The *Ratio Decidendi* Analysis of Decisions on the Formal Test of Law Number 6/2023 on the Stipulation of Perppu on Job Creation 10

Freelance Workers Regulation after the Job Creation Perppu .. 15

Legal Framework for Carbon Trading in Indonesia: Evaluation and Recommendations 19

Carbon Trading in the Power Plant Subsector: Analysing Legal and Sustainability Issues 23

POLITICS

Democracy and the Urgency of Political Party Reform in Indonesia 27

Conflict Studies in the Implementations of the Special Autonomy Policy in Papua 32

2024 Election Campaign and Bureaucratic Neutrality..... 38

SOCIAL

Considering the Importance of Policy-Based Psychological Wellbeing 42

Bullying and the Roots of Violence: Impact and Sentencing Analyses in the Juvenile Justice System (CJS) in Indonesia 46

INSTITUTIONAL PROFILE 51

RESEARCH PROGRAMS, SURVEY AND EVALUATION 53

PUBLIC DISCUSSION 57

TRAINING & WORKING GROUP FACILITATION ... 58

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FOREWORD

The October 2023 edition of the Indonesian Update highlights a main report on the enormous potential of Indonesia's carbon exchange. In order to strengthen and accelerate the Indonesian carbon exchange, the government needs to improve regulations by including stricter sanctions on business actors or sectors that do not comply with carbon trading regulations, to maintain the integrity of MRV, to strengthen transparency, to review emission quotas or allowances on an ongoing basis, and to strengthen integration and collaboration. and communication in the implementations of the carbon exchange.

In the legal field, the Indonesian Update discusses the Ratio Decidendi Analysis of Formal Test Decisions of Law Number 6/2023 on the Determination of the Job Creation Perppu. In addition, while still discussing the Job Creation Law, we also discuss the regulation on freelance workers after the Job Creation Perppu. Next, in the legal field, we discuss the importance of the legal framework for carbon trading in Indonesia, providing broad opportunities for both the industrial world and various other parties to contribute to reducing emissions. Furthermore, still related to carbon trading, we also discuss the analysis of legal and sustainability issues regarding carbon trading in the power generation subsector.

In the political field, the Indonesian Update raises the urgency of reforming political parties in Indonesia. This is important because political parties are bridges between the government and the society in terms of capturing aspirations. Next, we also discuss conflict studies in the implementations of special autonomy policies in Papua. Apart from that, we also discuss the importance of bureaucratic neutrality ahead of the 2024 election campaign. This is important as the candidates competing are candidates who have occupied positions in both central and regional governments. This will clearly affect the neutrality of the bureaucracy in terms of public services.

In the social sector, the Indonesian Update focuses on considering the importance of policies based on psychological well-being. In addition, we also discuss the cases of bullying that occur among children, and those experienced by teachers in the world of education as a warning in responding to the proliferation of seeds of violence that live in the society. Various forms of bullying have become an important momentum in reforming effective and meaningful forms of punishment for child perpetrators in the Juvenile Criminal

Justice System (SPPA).

It is hoped that the monthly publication of the Indonesian Update with current themes will help policy makers in government and business institutions - as well as academic circles, think tanks and elements of civil society, both at home and abroad, to obtain actual information and contextual analysis about economic conditions, politics, social and law in Indonesia, as well as an understanding of public policy in Indonesia.

Happy reading.

The Efforts to Strengthen and Accelerate the Indonesian Carbon Exchange

On September 26, 2023, President Joko Widodo inaugurated the Indonesian Carbon Exchange (IDXCarbon). The inauguration of this carbon exchange is one of Indonesia's concrete steps to mitigate climate change that is in line with the mandate of the Paris Agreement and the ambitious target of reducing greenhouse gas (GHG) emissions from 31.89% to 43.20% in accordance with Enhanced Nationally Determined Contribution (ENDC).

In general, the carbon trading mechanism is almost akin to the trading mechanism in the capital market. However, there are differences between the two. According to IDX President Director Iman Rachman, the first difference is the trading mechanism. There are four trading mechanisms at IDXCarbon; namely, through the auction market, regular market, negotiated market, and marketplace or non-regular market. Meanwhile the trading mechanism on the capital market is through the regular market, spot market, and market negotiations (Putri, 2023).

Secondly, the time period for the payment of funds and receipt of the products. The settlement time on the stock market is T+2, as transactions are today, and the purchased shares will be received two days later. However, products at IDXCarbon are immediately obtained on the day of the transactions if there are funds and so on. Lastly, there is no payment guarantor in IDXCarbon, while there is the Indonesian Clearing and Guarantee Corporation (KPEI) to guarantee payments in stock trading (Putri, 2023).

On the inauguration day, the total transaction value recorded at IDXCarbon was IDR 29.2 billion with a total carbon units of 459,953 tons CO2 and an additional 14 tons of carbon units with a transaction value of IDR 974,400 on October 4, 2023 (Adventy, 2023). President Joko Widodo also said that Indonesia's carbon credit potential reached IDR 3,000 trillion (Yanwardhana, 2023).

Carbon Markets: Types, Examples, and Comparisons

There are at least two types of carbon markets in accordance with the basis of their formation. Firstly, the compliance carbon market (CCM) or the emissions trading scheme (ETS). As the name suggests, CCM is a carbon market regulated by carbon reduction regulations on a national, regional, and international scale. CCM is using cap-and-trade. The European Union (EU) Emission Trading System (ETS), launched in 2005, is an example.

EU ETS is a carbon market to reduce GHG emissions produced in the European Union (EU), which is also the largest carbon market in the world in terms of volume and trading value. In short, the EU ETS goes through several phases, namely:

1. The first phase, or pilot phase in 2005-2007, only covered CO2 gas and several sectors of power plants and the incentive energy sector. Almost all GHG emission allowances were free. Additionally, the non-compliance fine was €40 per tonne of CO2e.
2. Iceland, Norway, and Liechtenstein joined the EU ETS in the second phase (2008-2012). The coverage of GHG emissions increased and included the aviation sector within the borders of countries covered by the EU ETS. Non-compliance fines increased to €100 per tonne of CO2e.
3. Structural reforms to strengthen the system and increase regulatory harmonization occurred in the third phase (2013-2020). An auction system was used rather than a free allowance.
4. The fourth phase is currently happening (2021-2030). EU ETS raises its emissions reduction target by 2030. Emission caps are tightened in several sectors, and the Carbon Border Adjustment Mechanism (CBAM) will be introduced in 2026. In addition, EU ETS 2, which is a new and separate ETS, will be implemented in 2027 or 2028, depending on future oil and gas prices (European Commission, 2023; ICAP, 2023; Chandreyee & Velten, 2014; European Union, 2015; World Bank, 2023).

Since its inauguration, the EU ETS has done quite well for the economy. Löschel, Lutz, & Managi (2019) find that the EU ETS improves the economic performance of regulated paper sector firms. Moreover, Dechezleprêtre, Nachtigall, & Venmans (2023) argued that there was a significant increase in the revenues of companies regulated in the EU ETS. Additionally, they said that the company also reflected an increase in their fixed assets. The funding collected was also very massive. Since its launching in 2005, the value that

has been collected amounted to US$80.7 billion, of which in 2020 it was recorded at US$21.8 billion (Carbon Credit, 2023).

The EU ETS reduces GHG emissions quite significantly. By analyzing the experience of France, the Netherlands, Norway, and the United Kingdom, Dechezleprêtre, Nachtigall, & Venmans (2023) found a 10% reduction in carbon emissions during 2005-2012. The GHG emissions only decreased by 1.2% compared to 2021; namely, 1,320 million tons of CO2 equivalent in 2022, due to the Ukrainian-Russian geopolitical crisis and the energy crisis, which affected the availability and price of natural gas, causing coal to return to use as an energy source, even though the price itself is skyrocketing (Faure & Obienu, 2023).

The second type of carbon market based on the formation is the voluntary carbon market (VCM). VCM is a carbon market that allows emitters to purchase carbon credits voluntarily to offset the emissions they produce. Due to its voluntary nature, this market is not involved in government supervision or regulation. VCM has the same goal as CCM, which is mitigating climate change by reducing GHG emissions released into the atmosphere.

However, the fundamental difference is the applied mechanism. If CCM uses cap-and-trade, then VCM uses a project-based system. For example, an Indonesian aviation company that wants to achieve carbon neutrality but cannot eliminate the resulting GHG emissions can buy carbon offset credits by investing in regenerative projects in Papua's forests.

Apart from the absence of regulations and using a project-based system, VCM carbon unit prices are based on several factors, such as project age, project type, project location, project size, and additional benefits provided, when compared to CCM which determines prices via command-and-control policies with the potential prices to become more expensive. VCM also has more entities that can transact compared to CCM (Carbon Credit, 2023).

It is no surprise that the growth of the voluntary carbon market can be said to be quite fantastic. The market value of VCM reached US$2 billion in 2021. Experts also expect VCM to have a market value of between US$10 billion and US$40 billion in 2030 (Terrapass, 2023). An example of a VCM market is the Malaysian Carbon Exchange (BCX).

The growth of CCM and VCM is caused by many things, such as climate change awareness. In other words, CCM and VCM can be an option to reduce GHG emissions. EU ETS is the largest CCM in terms of trade volume and value. The formation of the

EU ETS in 2005 through several phases and policy reforms did not immediately make the EU ETS free from various obstacles. The EU ETS also faced three main problems in its first two phases: price volatility, governance problems, and monitoring problems (Borghesi & Montini, 2016).

VCM also has disadvantages. A case that emerged several months ago was regarding phantom carbon credits from Verra. Greenfield (2023) explains that the emission certificates issued by world standards institutions and used by large, well-known companies are fake. As much as 90% of offset credits in project-based tropical rain forests are stealth credits and do not represent actual carbon reductions. Fraud also occurs here where companies buy emission certificates, even though they make no efforts to reduce emissions to market themselves as environmentally friendly companies and contribute to climate change (greenwashing).

The Analysis of the Implementation of Carbon Exchanges in Indonesia

The carbon exchange is regulated in Presidential Regulation (Perpres) Number 98/2021 concerning the Implementations of the Economic Value of Carbon to Achieve Nationally Determined Contribution Targets and Control of Greenhouse Gas Emissions in National Development (Perpres 98/2021), as well as the Minister of Environment and Forestry Regulation Number 21/2022 regarding the Guidelines of Carbon Economic Value Implementation (PM LHK 21/2022). The Financial Services Authority (OJK) has been given the mandate to regulate and supervise the carbon exchange in accordance with Law (UU) Number 4/2023 concerning the Development and Strengthening of the Financial Sector.

OJK issued OJK Regulation (POJK) Number 14/2023 concerning Carbon Trading through Carbon Exchanges (POJK 14/2023) as well as OJK Circular Letter (SEOJK) Number: 12/SEOJK.04/2023 concerning Procedures for Organizing Carbon Trading Through Carbon Exchanges (SEOJK 12/2023), which followed up with the appointment of the Indonesian Stock Exchange (BEI) as the organizer of the carbon exchange through the Decree of the OJK Board of Commissioners Number: KEP-77/D.04/2023 dated 18 September 2023 concerning the Granting of Business Licenses as Organizers of the Carbon Exchange to PT Indonesia Stock Exchange.

There are two carbon products transacted on the Indonesian carbon exchange; namely, the Technical Approval of Upper Emission Limits for Business Actors (PTBAE-PU) and the GHG Emission

Reduction Certificate (SPE-GRK). In the Ministry of Energy and Mineral Resources Regulation Number 16/2022 regarding the Procedures for Implementing Carbon Economic Value in the Power Generation Subsector (PM ESDM 16/2022), PTBAE-PU is "the determination of emission quotas given to business actors for emitting GHG within a period of time. Certain conditions expressed in tons of equivalent carbon dioxide".

In other words, PTBAE-PU is a traded allowance akin to EU Emission Allowances (EUAs). Meanwhile, SPE-GRK is "a letter of proof of emission reduction by businesses and/or activities that have gone through Measurement, Reporting, and Verification and are recorded in the National Registry System for Climate Change Control (SRN PPI) in the form of a number and/or registration code." or in other words a VCM unit.

According to the previous description, from the implementation side, the implementations of the Indonesian carbon exchange is similar to the EU ETS or is a CCM by trading allowances, which in this case is PTBAE-PU. The allocation of allowances has also been determined in regulatory provisions. Apart from that, the Indonesian carbon exchange also has an upper limit on GHG emissions, or a cap, in this case, PTBAE. The mandatory sectors included in the Indonesian carbon exchange have also been regulated in Presidential Decree 98/2021. If we look at the product being transacted, the existence of the SPE-GRK unit, which is a VCM unit, means that the type of Indonesian carbon exchange is VCM.

However, the Indonesian carbon exchange is currently in the form of a VCM, although technically it is a CCM because the Indonesian carbon exchange is regulated by the government. This is because the carbon units transacted are the Lahendong Unit 5 & Unit 6 Project of PT Pertamina Geothermal Energy Tbk (project-based).

Recommendations for Strengthening and Accelerating the Indonesian Carbon Exchange

IDXCarbon is a form of long-term inevitability carried out by Indonesia. The inauguration of IDXCarbon itself is a form of Indonesia's commitment to mitigate climate change based on the ratification of the Paris Agreement and reduce GHG emissions based on ENDC.

Currently, the transaction process on the Indonesian carbon exchange is still voluntary, which will become mandatory in the future. This is because the government has issued governing regulations, such as PM ESDM 16/2022, which regulates the electricity generation subsector, sector coverage for compliance with Presidential Decree 98/2021, caps and allowances that have

been determined, in this case by the Ministry of Energy and Mineral Resources, MRV processes, compliance mechanisms, as well as the existence of supervisory institutions. However, there are several things that the government still needs to do to strengthen and accelerate the carbon exchange in Indonesia.

First, the government through the relevant Ministries/Institutions needs to improve regulations by including stricter sanctions. For example, by imposing monetary sanctions on business actors or sectors that do not comply with carbon trading regulations. For example, in the Frequently Asked Questions of PM ESDM 16/2022, sanctions for electricity generation business actors who do not submit corrected GHG emission reports within the specified time period only to the extent that it is not considered to submit a GHG emissions report.

Another sanction is that when power generation businesses participate in carbon trading and do not submit a report on the power plant's GHG emissions, they will only be subject to a penalty for not taking into account the carbon trading carried out. Therefore, in this case, the Ministry of Energy and Mineral Resources needs to improve the PM ESDM 16/2022 regulations by stating and providing stricter sanctions or disincentives.

Second, maintaining the integrity of measurement, reporting, and verification or MRV of SPE-GRK issued on a project-based basis by the Ministry of Environment and Forestry (KLHK) as described in PM LHK 21/ 2022. This is to avoid a repeat of Verra's fake carbon credit case. Apart from that, the potential for companies to transact carbon through SPE-GRK, which, in fact, is a VCM unit, will also increase with the integrity of MRV and the trustworthiness of the institution or agency carrying out this MRV process.

Third, there is a need to strengthen transparency regarding business actors or sectors that do not fulfill their obligations in accordance with statutory provisions. By opening up entities; for example, entities that do not comply with the requirements for reporting GHG emission levels and GHG mitigation actions can provide a deterrent effect to violators, as well as provide information disclosure to the public.

Fourth, it is necessary to carry out continuous reviews regarding the allocation of quotas or allowances or what is called PTBAE-PU, in this case for electricity generation business actors, which do not follow the provisions of the applicable laws that are considered too high; that is, 75%. This is in line with the first recommendation

regarding improving regulations in the future. A review of the allocation of allowances for those who comply and those who violate it will also be carried out in other industrial sectors and subsectors in the future.

Finally, it is necessary to strengthen integration, collaboration, and communication in the implementations of this carbon exchange so that the Indonesian carbon exchange can grow and is not just an effort to cover the fear of missing out (FOMO) because other countries have held carbon exchanges.

- Putu Rusta Adijaya -

The potential of Indonesia's carbon exchange is enormous. In order to strengthen and accelerate Indonesia's carbon exchange, the government needs to improve regulations by including stricter sanctions on business actors or sectors that do not comply with carbon trading regulations, to maintain the integrity of MRV, to strengthen transparency, to review emission quotas or allowances on an ongoing basis, and to strengthen integration and collaboration and communication in the implementations of the carbon exchange.

The *Ratio Decidendi* Analysis of Decisions on the Formal Test of Law Number 6/2023 on the Stipulation of Perppu on Job Creation

On Monday, October 2, 2023, the Constitutional Court (MK) issued rulings on 5 (five) cases on the formal review of Law Number 6/2023 on the Stipulation of Government Regulation in Lieu of Law Number 2/2022 on Job Creation into Law (Law on Job Creation Perppu); namely, Cases Number 50/PUU-XII/2023, 40/PUU-XXI/2023, 41/PUU-XXI/2023, 46/PUU-XXI/2023, and 54/PUU-XXI/2023. The five cases had the same points of appeal. The five cases were rejected in their entirety by the Constitutional Court (MK), in which the petitioners' main points were declared unreasonable according to the law. Specifically for Case Number 40/PUU-XXI/2023, it continued for material testing.

This paper will summarize and analyze the considerations of the decisions made by the judges (*ratio decidendi*) on the petitions. The author will analyze the Constitutional Court's arguments that have answered the main points of the petitions in the considerations and their relevance. Ratio decidendi is important to analyze because it will set a precedence for future similar cases.

It needs to be investigated whether the *ratio decidendi* of the decisions on the formal review of the Law on Perppu on Job Creation has reflected the principles of applicable laws and regulations to be used as a useful precedence for future cases.

The Ratio Decidendi Analysis in Deciding the Main Points of Each Case Application

The Constitutional Court in all decisions on the formal reviews of the Law on Perppu on Job Creation discussed in this paper explains that Perppu is a statutory regulation formed on the basis of a compelling urgency based on Article 22 paragraph (1) of the 1945 Constitution. The parameters of a compelling urgency refer to Constitutional Court Decision Number 138/PUU-VII/2009 where there

are three elements that can be categorized as a compelling urgency; namely, the existence of an urgent need, a legal vacuum or inadequate regulation, and the need for fast procedures.

The Constitutional Court mentioned that the considerations of the DPR and the Government -- which mentioned that the effects of the Russian and Ukrainian wars and Covid-19 had the potential to cause a domestic crisis situation from the aspects of the economy, public welfare, employment, layoffs, impacts on micro, small and medium enterprises and vulnerable communities, legal certainty for investors, and government stagnation after the Decision on the Job Creation Law -- have completed the elements of a compelling urgency.

According to these considerations, the Court further stated that since the Perppu on Job Creation was made due to a compelling urgency, implementing meaningful participation in its drafting as mandated in the Job Creation Law Decision was irrelevant. The Court mentioned in all five decisions that Perppu was a presidential prerogative formed as an extraordinary rule formed due to crisis conditions or urgent situations. The Constitutional Court also added in the five decisions that because it was urgent, it required swiftness and not "wasting time" (54/PUU-XXI/2023, 2023, 424).

The author agrees with the definition of Perppu given by the Constitutional Court, but the author has not found justification for the urgency in the case of the Job Creation Perppu. In determining the urgency, there are 3 (three) elements that must be completed as explained earlier and have been declared complete by the Constitutional Court. However, in the five Constitutional Court decisions, it has not been fully explained how the Perppu on Job Creation completes all of these elements, especially in the aspects of legal vacuum and the inability to form laws that follow the normal formation process.

On the other hand, the petitioners explain more clearly how the Perppu on Job Creation does not complete the remaining two elements; namely, there is no legal vacuum because the Job Creation Law was declared "conditionally unconstitutional" not "permanently unconstitutional". As for the time period, the Constitutional Court in its decision on the Job Creation Law gave 2 (two) years since it was decided to improve the Job Creation Law before it was declared permanently unconstitutional. According to the author, by not explaining the completeness of the elements of *legal vacuum*

and the short period of time, the completeness of the elements of urgency needs to be questioned again.

Not explaining the completeness of each element of compelling urgency leads to the inability to call it a critical situation in the formation of the Perppu on Job Creation. Because it cannot be categorized as a compelling urgency, meaningful participation must still be carried out as mandated by the Job Creation Law Decision. Meaningful participation must be carried out within a period of 2 (two) years as mentioned in the Decision of the Job Creation Law. It can be concluded, the basis for the compelling urgency of the Perppu on Job Creation is irrelevant, so there is actually no need for a Perppu and can carry out amendments to the Job Creation Law as mandated by the Job Creation Decision.

On the basis of the request for a lack of forum quota in the session to ratify the Job Creation Perppu into Law by the DPR, the Constitutional Court answered that the session was attended by 348 (three hundred forty-eight) members of the DPR virtually or in person, minus 2 (two) factions; namely, the Democratic Party and the Prosperous Justice Party, who were absent due to objections, and approved by 285 (two hundred eighty-five) members (41/PUU-XXI/2023, 2023, 10). The session was not attended by 285 (two hundred eighty-five) members.

According to Article 281 paragraph (1) of the House Rules of Procedure, a DPR plenary session can be opened if more than ½ of the total number of members of the meeting consisting of more than ½ of the factions are present. The applicant disputes that the number of members who have permission is still recognized as present. Normally, if a member has permission, his/her presence cannot be counted in the quorum. The author has not confirmed the numbers of physical, virtual, and permission attendance because he cannot access Appendix 7 of Decision 41/PUU-XXI/2023, which is the Attendance Report of Members in Plenary Meetings of the House of Representatives. Thus, from the analysis above, it can be concluded that if it is true that the session meeting was attended by 348 (three hundred forty-eight) people virtually and physically, then it has completed the regulation on quorum. However, if it turns out that the number of permits is included in the quorum, then the quorum of the meeting is not met and decision-making is not legally valid.

As the Law on Perppu on Job Creation was decided during an improper session, the Constitutional Court considers this to be un-

reasonable according to the law. Chronologically, the submission of Perppu on Job Creation into law was submitted at the end of the second session of the DPR. According to Article 22 paragraph (2) of the 1945 Constitution, the DPR's approval should have been given in the following session. The Constitutional Court responded that the passing of the Perppu on Job Creation into law as soon as possible was a form of good faith from the President to quickly provide legal certainty. Since the Perppu on Job Creation was considered a compelling urgency by the Constitutional Court based on Decision 138/PUU-VII/2009, the need to approve it in the next session was irrelevant. This was unconstitutional, because the elements of urgency were not met, so the normal hearing mechanism must be carried out in accordance with the provisions in Article 22 paragraph (2) of the 1945 Constitution. The argument of "good faith" to provide legal certainty as soon as possible was irrelevant because there is no urgency to immediately obtain legal certainty as explained in the previous paragraphs.

The basis of the next petition is the non-application of the principles of conformity between types, hierarchy, content material, clarity of formulation, and openness in the formation of laws and regulations. The Constitutional Court states that the principles of conformity between types, hierarchy, and content material are principles used for material testing, not formal (41/PUU-XXI/2023, 2023, 281). And the principle of openness is irrelevant because again Perppu is a legal product in a state of compelling urgency that does not require meaningful participation. However, the Constitutional Court in Decision 54/PUU-XXI/2023 (2023, 405) recognized these principles as formal/formal principles in the formation of legislation.
Decision 54/PUU-XXI/2023 was the same family in the case of a formal examination of the Law on Perppu on Job Creation, but the perception of the principle of legislative formation was different. Therefore, the author considers the difference in the considerations between decisions that were still in the same case family to be an inconsistency in judging the cases.

On the basis of the request for legal products for the Law on Perppu on Job Creation to be executive heavy like the New Order era, the Constitutional Court stated that this was unreasonable according to the law. The Court said that currently, the function of making Perppu was in the hands of the executive and its promulgation is in the legislature. Normally, there are still checks and balances that occur. In this case, the author agrees with the Constitutional Court's argument that the ratification of Perppu into law was still carried out with checks and balances and could not be equated with the

New Order era. In the New Order era, there was no clear division of checks and balances and the conception of executive heavy because according to the Explanation of Article 5 of the 1945 Constitution, the President together with the DPR exercised the legislative power of the state. It is therefore irrelevant to equate the current situation of legislation formation with the executive heavy New Order era.

In the judicial review of the Law on Job Creation Perppu, it is hoped that the Government, DPR, and MK can undergo the trial by prioritizing the principles of good governance so as to produce a decision that reflects the public's interest.

In the formation of the Law on Job Creation Perppu, the House of Representatives and the Government have utilized legislations with a clever "strategy". However, upon closer examination, the parameter of compelling urgency in Constitutional Court Decision Number 138/PUU-VII/2009 which was the key to the "strategy" of passing the Law on Job Creation. Perppu has not been accommodated properly. The steps taken by the DPR and the Government to pass the Law on Perppu on Job Creation were not taking the path as mandated by the Job Creation Law Decision to conduct meaningful participation, showing that the DPR and the Government have not implemented the principles of public interest in the general principles of good governance.

Recommendations

According to the analysis in the previous chapter, it can be concluded that the Constitutional Court has not correctly categorized the urgency of the Job Creation Perppu as a compelling urgency in accordance with Constitutional Court Decision Number 138/PUU-VII/2009 and has not consistently interpreted the principles of legislative formation as formal principles. It is unfortunate that the Constitutional Court's decisions in cases of judicial review of the Law on Perppu on Job Creation were final in accordance with Article 10 paragraph (1) of Law Number 24/2003, so further legal remedies cannot be filed. Thus, the Law on Perppu on Job Creation is constitutional and has binding legal force.

Another path that can be taken is judicial review, which in Case 40/PUU-XXI/2023 will still be continued to the judicial review stage. In the material test stage, it can be utilized as much as possible to test articles that have an impact on the applicant that are contrary to the 1945 Constitution. In the judicial review of the Law on Job Creation Perppu, the Government, DPR, and MK must continue to be encouraged to be seriously committed to running the trial by prioritizing the principles of good governance so as to produce decisions that reflect the public's interest.

- Christina Clarissa Intania -

Freelance Workers Regulation after the Job Creation Perppu

The term freelancer in the Cambridge Dictionary is defined as someone who is not employed by only one institution but does work for several institutions (Cambridge Dictionary, 2023). In the Indonesian context, freelancers are more appropriately referred to as freelancers as stated by Firdasanti, Khailany, Dzulkirom, Sitompul, & Savirani (2021), which in the Decree of the Minister of Manpower Number KEP-150/MEN/1999 of 1999 concerning the Implementations of the Labor Social Security Program for Daily Freelance Workers, and Certain Time Work Agreements (Decree of the Minister of Manpower 150 of 1999) is defined as "workers who work for employers to perform certain jobs that change in terms of time and continuity of work by receiving wages based on daily attendance." However, they are also sometimes interpreted as specific time workers.

Freelancers are vulnerable to the security of their employment status and the stability of their income (Shevchuk & Strebkov, 2012). In the previous Law Number 13/2003 on Manpower (Manpower Law), there was no regulation on freelancers. The same goes for Law Number 11/2020 on Job Creation that used to be in effect. Currently, a Government Regulation in Lieu of Law Number 2/2022 on Job Creation has been enacted through Law Number 6/2023. Despite its problems, this law is now in effect and has amended the Manpower Law. Therefore, it is necessary to re-examine whether the Law on Job Creation Perppu has accommodated the regulation of freelancers.

The Arrangement of Freelance Workers after the Job Creation Perppu

Before the Perppu on Job Creation, there was already a Labor Law. Under the old Manpower Law, freelancers were not regulated. Similarly, the Job Creation Perppu does not regulate freelancers. The closest arrangement for freelancers in the Job Creation Perppu is the fixed-term employment agreement (PKWT). PKWT is regulated in Article 59 of the Job Creation Perppu, where in paragraph

(1), PKWT can be made for work: a) which is once completed or temporary in nature; b) which is expected to be completed in a short period of time; c) which is seasonal in nature; d) which is related to new products, new activities, or additional products that are still being tested or tested; or e) which is of an irregular type and nature or activity. It is not mentioned even in the Explanation section if freelance is recognized as part of PKWT. If the type of work done by *freelancers* still covers the PKWT classification, then it can be assumed that freelancers can execute contracts based on PKWT in the Job Creation Perppu.

Furthermore, according to Article 184 of the Job Creation Perppu, the implementing regulations of the old Manpower Law are still valid as long as they do not conflict with the Job Creation Perppu. One of the implementing regulations related to Job Creation is Minister of Manpower Regulation Number 23/2021 on the Revocation of Minister of Manpower Regulations as a Result of the Promulgation of Law Number 11/2020 on Job Creation Along with Implementing Regulations (Permenaker Number 23 of 2021), which regulates which implementing regulations are still valid. Based on Permenaker No. 23 of 2021, the implementing regulations related to freelancers that are still in effect are Minister of Manpower Decree 150/1999, and one of the local regulations that recognizes the term freelancer is Depok City Regional Regulation No. 10/2014 concerning Specific Time Work Agreements and Daily Freelance Work Agreements (Depok Regional Regulation No. 10 of 2014).

Another regulation is Minister of Manpower Decree 150/1999. This decree regulates the amount of contributions, types of programs, and the basis for determining contributions for social security, as well as the procedures for making payments. Manpower Decree 150/1999 recognizes the term daily casual worker in Article 1 as also explained at the beginning of this paper. However, although this Decree is still in force, it is certain that the social security system stipulated in this Decree is no longer relevant. Decree 150/1999 still uses the social security system of Jaminan Sosial Tenaga Kerja (Jamsostek), which currently uses a new name and system that has been adapted again; namely, the Employment Social Security Organizing Agency (BPJS Ketenagakerjaan).

The existence of Manpower Decree 150/1999 shows that the term casual worker is still recognized, but the regulation is no longer relevant today. The existence of Manpower Decree 150/1999 is very good because it provides legal certainty and more specific arrange-

ments to provide social security for casual workers. The relevance of the content of the regulation makes the validity of this decree questionable and can lead to a legal vacuum so it needs to be re-evaluated.

Furthermore, one example of a local regulation is Depok Local Regulation No. 10/2014. According to Article 2 of this regulation, it covers the regulation of PKWT and casual work agreements. However, Article 1 of the general provisions does not explain the definition of casual workers or casual work agreements. As for PKWT and Indefinite Time Work Agreements, they are explained in Article 1. Article 7 paragraph (1) and paragraph (2) of Depok Regional Regulation No. 10/2014 states that casual daily work agreements (PKHL) are only intended for certain jobs that change the volume of work based on attendance and have a wage of at least 1/20 of the city sector minimum wage per day. According to Article 7 paragraph (3) of Depok Regional Regulation Number 10/2014, it is also stated that in a casual daily work agreement, workers work less than 21 (twenty-one) days in 1 (one) month.

Depok Regional Regulation No. 10/2014 recognizes PKHL, but it does not define casual workers in Article 1 on general provisions, and it only applies to Depok. This regulation is also incomplete in regulating PKHL, as it is only limited to work that includes daily casual work, the minimum wage, and the duration of work per month. This regulation does not regulate the rights and obligations that need to be included in PKHL, including work duration, wages, job protection, dismissal, and other provisions referring to PKWT and PKWTT.

As explained above, the term freelancer has not been officially recognized using the PKWT system or freelance arrangements in the laws and regulations. PKWT in the Perppu on Job Creation has not literally mentioned that it also applies to freelance work. On the other hand, regulations that recognize the term freelancers are no longer relevant or nationally binding. In the midst of the rise of freelance labor or freelancers, there is no legislation that clearly regulates it.

Recommendations

According to the discussion above, it is important to encourage the Ministry of Manpower to ensure that the classification of freelance is using the PKWT system or daily freelance workers, which

will have its own regulatory and contract system. If included in the PKWT system, then:

a. The House of Representatives needs to amend the Job Creation Perppu to include *freelance* criteria in Article 59 paragraph (1) of the Job Creation Perppu; namely, "certain jobs that change in terms of time and continuity of work by receiving wages based on daily attendance"; or
b. The House of Representatives needs to amend the Job Creation Perppu to mention in the Explanation of Article 59 paragraph (1) that work using the PKWT system also covers *freelance* work.

In the midst of the rise of freelance labor, there is no legislation that clearly regulates it. For this reason, the Ministry of Manpower needs to ensure that the classification of freelance is to use the PKWT system or daily freelance workers, which will have its own regulatory and contract system.

If the Ministry of Manpower recognizes freelance as freelance work and does not use the PKWT system, then the Ministry of Manpower needs to regulate freelance in the implementing regulations of the Job Creation Perppu at the level of Government Regulations, Ministerial Regulations, and so on as needed. The recommended freelance regulations include the definition of freelancers or freelancers and the type of work, setting the rights and obligations in the contract which at least includes the principal work, wages, duration and working hours, health protection, social security, and dismissal mechanisms.

- Christina Clarissa Intania -

Legal Framework for Carbon Trading in Indonesia: Evaluation and Recommendations

President Joko Widodo officially launched carbon trading through an exchange on 26 September 2023. The Indonesia Stock Exchange (IDX) was appointed by the Financial Services Authority (OJK) to host the carbon exchange through Decree No.KEP-77/D.04/2023 dated 18 September 2023. It was the momentum to end Indonesia's lag in the implementations of carbon trading that has been started by several countries in the world since 2005.

The initiation of carbon trading through an exchange did not come from a blank slate. Since Indonesia ratified the Paris Agreement through Law No. 16/2016, it should be recognised that many legal instruments have been introduced to provide a basis for achieving emission reduction targets. Carbon trading is one such mechanism that is believed to contribute significantly to Indonesia's climate ambitions.

The availability of a legal framework for carbon trading in Indonesia provides extensive opportunities for both industry and the public to contribute to emission reductions. In addition, the presence of carbon trading through exchanges within two decades is predicted to provide additional state revenues of up to Rp180 trillion (Irama, 2020).

The fundamental role of the legal framework for carbon trading needs to be further evaluated given the dynamic development of emission transactions in the global market. This article will evaluate the legal framework of carbon trading and then provide recommendations for the direction of carbon trading policy in Indonesia.

Carbon Trading from an Environmental and Climate Change Law Perspective

The existence of carbon trading cannot be separated from the Kyoto Protocol, which is a continuation of the United Nations Convention on Framework for Climate Change. The carbon trading mechanism initiated after the adoption of the Kyoto Protocol was then improved in the Paris Agreement ratified by Indonesia in 2016. According to this narrative, it can be understood that carbon trading was born from a joint effort to protect the environment and mitigate climate change. Therefore, the legal framework of carbon trading from the aspect of environmental law and climate change is a set of legal products that regulate the environment and climate change.

Law No. 32/2009 on Environmental Protection and Management as the main environmental legal instrument in Indonesia does not recognise the term carbon trading. However, this legislation has recognised the concept of environmental funding and economic instruments to preserve the environment. The term carbon trading is recognised in its derivative regulation, Government Regulation No. 46/2017 on Environmental Economic Instruments.

The following legal instrument in the field of environment and climate change is Presidential Regulation Number 98 of 2021, which regulates the procedures for implementing carbon economic value and achieving emission reduction targets. This regulation has clearly mentioned carbon trading as an instrument to reduce emissions. The carbon exchange has also been clearly recognised and it can be said that this regulation is the forerunner of the carbon exchange launched in 2023.

The Presidential Regulation was then followed up with the adoption of the Minister of Environment and Forestry Regulation No. 21/2022 on the Governance of the Implementations of Carbon Economic Value. This regulation regulates the technicalities of carbon trading either directly or through an exchange. In addition, the regulation has also classified the implementations of carbon economic value in the largest emitting sectors and subsectors, such as energy, agriculture, and transportation. The regulation issued by the Ministry of Environment and Forestry cannot be implemented immediately. The relevant technical ministers need to issue sectoral carbon trading regulations.

The legal framework for carbon trading in the field of environment and climate change provides a strong foundation for increasing the economic value of carbon through economic transactions. The main objective remains to preserve the environment and mitigate the impacts of climate change. The economic aspect is an instrument to achieve these goals.

Carbon Trading from an Economic Regulatory Perspective

Law No. 4/2023 on the Development and Strengthening of the Financial Sector, also known as the Financial Sector Omnibus Law, is a legislative product that acts as the main basis for the implementations of carbon trading, especially through exchanges. The law also specifies that carbon units traded in carbon exchanges are securities equivalent to shares.

The Financial Sector Omnibus Law gives full authority to OJK to regulate carbon trading on the exchange. The OJK followed up on this full authority by issuing regulations and circular letters. OJK Regulation No. 14/2023 and OJK Circular Letter No. 12/SEOJK.04/2023 are technical regulations for organising a carbon exchange. The terms and conditions of carbon exchange providers are also specified in detail including the type of entity and minimum capital that must be owned.

The detailed requirements set by OJK for carbon exchange providers can be interpreted that carbon trading organised in the market must be done seriously and only involve entities that have experience. Therefore, until now, only the Indonesia Stock Exchange (IDX) can obtain a licence to organise a carbon exchange. However, it does not rule out the possibility that other institutions may become the next carbon exchange provider.

The IDX, as the provider of the carbon exchange, has also issued a Decree of the IDX Board of Directors on the Regulation of Carbon Exchange Service Users as a guideline for actors transacting on the exchange. This regulation issued by the IDX, although internal in nature, must be complied with by all elements involved in the carbon exchange organised by the IDX. The IDX Board of Directors also determined the postponement of carbon trading by foreign entities on the carbon exchange. The postponement can be interpreted that the carbon exchange organiser needs a transition period to realise it.

The legal framework for carbon trading in the economic sphere determines the conditions that must be met by the carbon exchange

organisers. The carbon exchange organiser then regulates the requirements for business actors who wish to transact carbon trading on the exchange. The requirements for users of carbon exchange services include administrative, financial, domicile requirements, and there is also an obligation to attend training for the person in charge of the company that transacts on the carbon exchange. This type of regulation gives the carbon exchange organisers the freedom to determine the rules of the game and the entities that can conduct transactions.

The presence of a legal framework for carbon trading in Indonesia provides extensive opportunities for both industry and various other parties to contribute to emission reduction. It is important to ensure the relevance and interconnectivity between environmental and carbon trading motives. The nexus of effective carbon trading policy is reducing emissions and achieving Indonesia's climate ambitions by 2050.

Recommendations for Carbon Trading Policy Connectivity

The fundamental difference between carbon trading from an environmental and economic perspective is the motive and objective. As an environmental instrument, carbon trading has the motive of preserving the environment with the aim of reducing carbon emissions. Whereas as an economic instrument, carbon trading aims to increase the economic value of carbon for financial benefits.

However, environmental motives and carbon trading must always be connected and interrelated. The main goal of reducing carbon emissions must be achieved significantly. If emissions do not decrease within a certain period of time, then the government needs to improve the carbon trading mechanisms either directly or through an exchange.

The intersection of the effectiveness of carbon trading policy is the reduction of emissions and the achievement of Indonesia's climate ambition by 2050. Currently, carbon trading in Indonesia is regulated separately in environmental and economic legal instruments. This should not be seen as an abandonment of the original goal of carbon trading, which is to reduce emissions.

This article proposes three recommendations to keep carbon trading on track. First, the government needs to integrate carbon trading policies by establishing a legal umbrella regulation in the form of a Government Regulation that regulates both environmental and economic aspects. Second, OJK as the regulator of carbon exchange needs to integrate sustainable finance policy with the implementations of carbon exchange. Third, the IDX as the organiser needs to ensure that businesses conducting carbon trading transactions through the exchange are truly committed to preserving the environment through emission reduction.

- Asrul Ibrahim Nur -

Carbon Trading in the Power Plant Subsector: Analysing Legal and Sustainability Issues

According to the data released by the Ministry of Environment and Forestry, the energy sector produces emissions of 1,845,067 CO2e, or around 34.49% of total national emissions. One of the subsectors that contribute a large amount of emissions is electricity generation, especially the coal-fired power plant (PLTU).

Efforts to reduce emissions will not succeed without involving PLTU, which is the largest and most common type of power plant in Indonesia. Currently, there are 253 PLTUs operated by PLN and private companies spread throughout Indonesia. PLTU locations are concentrated in East Kalimantan, Banten, and East Java.

The Ministry of Energy and Mineral Resources (ESDM) has endeavoured to reduce emissions produced by PLTU through various mechanisms. The latest is by implementing carbon trading for the power plant subsector through Minister of Energy and Mineral Resources Regulation Number 16/2022 on the Procedures for Implementing the Economic Value of Carbon in the Power Plant Subsector (PM ESDM 16/2022), which was enacted in the latter half of 2022.

This legal instrument determines that carbon trading is one of the mechanisms to increase the economic value of carbon and to reduce emissions from the energy sector. The presence of carbon trading for the power generation subsector is interesting to study from a legal and sustainability perspective. This article will focus on discussing carbon trading in the power generation subsector from these two aspects.

Mandatory or Voluntary Participation?

The introduction of PM ESDM 16/2022 cannot be separated from the momentum of Indonesia's presidency of the G20 in 2022. One of the issues strengthened in high-level meetings at the G20 in 2022 is related to the issue of energy transition and emission reduction.

Previously, President Joko Widodo had enacted Presidential Regulation Number 112/2022 on the Acceleration of Renewable Energy Development for Electricity Supply (Perpres 112/2020). One of the substances regulated is the termination of PLTU construction by determining several criteria.

The adoption of PM ESDM 16/2022 three months after Perpres 112/2020 has further strengthened the Government of Indonesia's commitment to achieve emission reductions in accordance with the commitments in the Paris Agreement. However, the two regulations have a similar character in that they do not include clear sanctions and instead provide various options for business actors to comply with the stipulated provisions.

Law is actually regulating and coercive to create the desired conditions (Schwartz & Orleans, 1967). When reading the provisions on carbon trading in MEMR 16/2022, there is no compelling element and only a regulating element. There is only an obligation for businesses that have participated in carbon trading to report the implementations of the transactions.

In general, the mechanism of participation of emitting industries in carbon trading used by various countries in the world consists of mandatory or voluntary participation. This fragmentation, according to Hasselknippe (2003), leads to carbon trading disharmony. However, the use of carbon trading mechanism is highly dependent on the readiness of each country.

The carbon trading mechanism for the power plant subsector in PM ESDM 16/2022 is through the trading of greenhouse gas (GHG) emissions and offsets that can be implemented through or without a carbon exchange. This provision can be interpreted that the regulator provides flexibility for PLTU owners to choose the best way for carbon trading. Regulators also provide flexibility for business actors to conduct carbon trading both at the domestic and the international level.

The pattern regulated in PM ESDM 16/2022 raises the assumption that carbon trading in the power plant subsector is voluntary. Moreover, there are no specific sanctions as a consequence if business actors do not participate in carbon trading. Sanctions are only given to businesses that have committed to carbon trading in the power generation subsector.

There are at least three reasons why regulation without sanctions in the context of carbon trading in the power generation subsector is appropriate. First, as a relatively new mechanism, carbon trading actors need to be provided with the autonomy to determine the method and model that best suits the target of achieving emission reductions. Second, the dynamics of carbon trading both domestically and internationally require rapid adaptation and responsiveness from both regulators and businesses. Third, the multi-sectoral nature of carbon trading requires the cooperation of many parties to implement it.

The absence of sanctions will give room for innovation, creativity, and collaboration without worry. This condition is also expected to stimulate business actors who manage PLTU to implement carbon trading without worrying about failing and getting sanctions from regulators.

Nevertheless, PM ESDM 16/2022 contains aspects of mandatory participation, especially if it is associated with the existence of ESDM Ministerial Decree Number 14.K/TL.04/MEM.L/2023 concerning Technical Approval of the Upper Limit of Greenhouse Gas Emissions of Coal-fired Steam Power Plants Connected to the Electricity Network of PT PLN (Persero) Phase One (Kepmen ESDM PTBAE PLTU).

This Ministerial Decree will indirectly force PLTU owners to implement carbon trading if the emission ceiling has been exceeded or there is a surplus of tradable carbon. Under such conditions, the nature of carbon trading is no longer voluntary but becomes pseudo-mandatory. Once again, the government provides various options in an effort to reduce emissions from the power generation subsector.

The Future of Carbon Trading in the Power Plant Subsector

The energy transition commitments contained in Presidential Regulation 112/2022 will be better implemented with the implementations of carbon trading in the power generation subsector. Before the entire power plant stops operating in 2050, carbon trading can be a temporary solution to reduce emissions from power plants. In other words, the future of carbon trading in the power generation subsector for the next three decades will be very promising.

Especially with the commencement of carbon trading through exchanges regulated in Law Number 4/2023 on Financial Sector Development and Strengthening (Law 4/2023) and Financial Services

Authority Regulation Number 14/2023 on Carbon Trading through Carbon Exchanges (POJK 14/2023). These two legal instruments confirm the existence of carbon trading through an exchange.

The institutionalisation of carbon trading through exchanges paves the way for PLTU emissions trading. The challenge is the readiness of PLTU managers to transact in the exchange and also the consistency of regulators to reduce emissions amid the increasing demand for electricity for both households and industries.

Carbon trading in the power plant subsector plays a significant role in achieving Indonesia's targets and commitments in the Paris Agreement. A gradual reduction in emissions from power plants, including through carbon trading mechanisms, is expected to contribute significantly, especially in reducing energy sector emissions.

The Ministry of Energy and Mineral Resources has endeavoured to reduce emissions produced by PLTU through various mechanisms. The future of carbon trading in the power generation subsector for the next three decades will be very promising.

Recommendations

Regulators are expected to consistently implement PM ESDM 16/2022. In addition, efforts are needed to synchronise and integrate carbon trading in the power generation subsector with the carbon exchange system managed by the Indonesia Stock Exchange. The government should also maximise carbon trading through GHG emission offsets by involving trusted carbon project developers.

Businesses that manage PLTU must be ready to implement carbon trading by ensuring they have the necessary human resources and internal systems in place. In addition, compliance with regulations must also be implemented consistently. Reporting of carbon trading transactions must be carried out regularly in accordance with regulatory mandates.

- Asrul Ibrahim Nur -

Democracy and the Urgency of Political Party Reform in Indonesia

Political Parties (Parpol) are some of the crucial democratic tools. This is because political parties are bridges between the government and the society in terms of capturing people's aspirations. This means that the ideals of an ideal democratic system cannot be separated from the role of political parties and especially from the members within the political parties themselves. From here, a good political party system and mechanism are needed to be able to produce a good democratic order.

Political parties, in the Indonesian context, are still far from perfect. This statement has emerged considering that there are many studies that explain that our system does not have an ideal *check and balances mechanism (International Republican Institute, 2001), and it is still oriented towards identity in the form of ideology, religion, race and ethnicity. Also, there is no emotional closeness between parties and their constituents.* them (Prasetyo, 2001).

Therefore, Indonesia needs to carry out a comprehensive evaluation of how democratic mechanisms and political parties have worked so far. Where can we start talking about this?

Corruption and the Electoral System

It is common knowledge that the high number of corruption cases in the Indonesian government system is caused by the high political costs here (Masyukrilla, 2021). These high political costs cannot be separated from how the electoral system has been implemented; namely, an open proportional system that allows voters to directly elect legislative candidates who will represent their respective electoral districts. With a system like this, it means that the campaign is deployed not only to attract votes from political parties, but also to attract the votes of every individual who runs for office in it.

This then has implications on campaigns that always focus on individual identity. The phenomenon can be clearly seen from how; for example, political parties aggressively recruit celebrity cadres.

This aims to ensure that celebrities can be elected by their fans and successfully enter the Parliament, thereby automatically increasing the parties' votes. Another model that is also commonly used in this case is highlighting the physical advantages of the prospective candidate. It is not uncommon for campaigns to be carried out by; for example, including the slogan "*handsome legislative candidate*" or "*beautiful legislative candidate*" .

Of course, this kind of campaign model can only be carried out by those who have the resources. For those who do not have these resources, another alternative campaign model that can be used is by distributing basic necessities, certain items and even cash. Even though it is a clear violation of the Election Law, the facts on the ground show that this is still commonly done, especially when entering the quiet period of the General Election or Pilkada (Perludem, 2017).

In running a campaign model like this, of course the relevant legislative candidates need a lot of funds. This is then widely believed to be the origin of corruption with the motive of wanting to return the political 'capital' that has been spent so far to be able to occupy a parliamentary seat. The bad news is that even a closed proportional system cannot eliminate the frequent practice of money politics.

Representation

What are political parties in Indonesia offering and trying to fight for? It is believed that this question will often arise in many people's minds, especially during the campaign period. Naturally, many people have questions, because party ideological polarization is no longer clearly visible in post-reform elections (Purbolaksono, 2019). This then has an impact on the visions, missions and programs they try to offer which all have the same pattern and tend to be the same. Narratives about advancing Indonesia, eradicating poverty, advancing education and other things of a populist nature have become people's daily diet ahead of the general elections.

In fact, if we compare it with countries whose democratic systems are more ideal, such as the United States and Australia; for example, they tend to believe in a party system that focuses on ideology, not programs. This system is called a two - party system (Prasetyo, 2012). The political spectrum then becomes important here. The two political spectrums usually consist of the left political spectrum and the right political spectrum. In the context of the United States, there are two major parties in power; namely, the Democratic Par-

ty that holds the ideology of liberalism/progressivism, so it is on the left of the political spectrum, and the second is the Republican Party, which tends to be more conservative towards the views of new liberalism, so it is on the right spectrum of politics. Likewise in Australia, there are the Labor Party and the Liberal Party, which have different ideological lines, where the Labor Party is on the left, and the Liberal Party is on the right.

In the Indonesian context, of the many political parties that exist, none of them has a clear spectrum. The Indonesian Democratic Party of Struggle (PDIP) as the largest party, claims to be a nationalist party that fights for the rights of ordinary people (PDIP Official Page, 2023). This claim is then followed by other political parties, such as the Greater Indonesia Movement Party (Gerindra), the Golongan Karya Party (Golkar), the National Democratic Party (NasDem), and other small parties under it.

Meanwhile, other parties such as the United Development Party (PPP), National Awakening Party (PKB), Crescent Star Party (PBB) and the Prosperous Justice Party claim to be nationalist parties based on Islamic teachings.

By clarifying the ideology held by the party, it will also clarify what struggles the party wants to achieve. A paradigm like this then makes it easier to create a system of checks and balances between the governing party and the opposition party because they have very different goals and foundations.

Internal Party Dynamics

There are several important points that need to be discussed regarding the internal dynamics of political parties in Indonesia. The first is the practice of dual functions, which often occurs, the second is cadre formation and the third is party funding.

We often encounter many political parties in Indonesia, where party officials have the dual role of being politicians in the Parliament at the same time. This will of course be a problem because apart from having to take care of party management, they also have to complete their work in the Parliament, which is clearly not simple. With a pattern like this, work in these two fields will not be optimal and full of conflicts of interest.

Several parties that implement dual functions for some of their members are PDIP, where for example Utut Adianto who serves as Deputy Secretary General for External Affairs also serves in the DPR RI, then Puan Maharani who serves as Head of Political and Security Affairs also serves as Speaker of the DPR RI. The same thing with other large parties such as the Golongan Karya Party, where; for example, Nurul Arifin, who serves as Deputy General Chair for Information and Communication, is also a member of the Indonesian DPR. Meanwhile, the in Gerindra Party, there is also Andre Rosiade who is a member of the Advisory Board and a member of the DPR RI.

A large number of party officials who hold concurrent positions as politicians in the Parliament can occur because the party lacks cadres. However, this is not surprising considering that most political parties in Indonesia only carry out cadre formation just before the elections.

A very interesting idea was conveyed by Professor James Fox from the Australian National University, where it turns out that most political parties in Australia have a cadre formation system that is carried out long before entering the political year (International Republican Institute, 2008). With a system like this, cadre formation is seen as not just a routine activity, but rather a long process that is continuously maintained to produce the best leaders from the relevant parties.

The problem of the dual function of party cadres and impromptu cadre formation is of course inseparable from budget problems. In the Indonesian context, political parties in Indonesia receive a budget allocation from the APBN of 1000 rupiah per vote. This means that the party that gets the most votes will also get the most budget. This then makes the budget one of the crucial things for political parties because they will use it for operational activities and internal organizational development. Parties that have financial constraints will of course also have their operational activities hampered.

Recommendations

Based on the explanations above, here are several recommendations that the author would like to convey:

1. Political parties should create Research and Development (R&D) bodies for the purpose of increasing the party's internal capacity. Internal policies that are based on research data will certainly be more optimal and better implemented. This can also help in terms of how parties prepare campaign strategies,

how to recruit quality cadres, and how to raise funds in order to increase party income. The existence of R&D in the parties also will also help party cadres to convey the parties' position based on reliable data and references and mature analysis.

2. Party cadre formation should be carried out long before the political year approaches. The longer someone is in the cadre and receives training, as well as materials related to political education, the better his or her quality in terms of becoming a politician and the people's representative.

Political parties need to carry out internal institutional reforms to prepare qualified cadres and candidates. Capacity building and similar programs can be carried out by political parties by involving other relevant parties, such as civil society organizations, research institutions, campuses, media, professional training institutions, and so on.

- Felia Primaresti -

Political Parties (Parpol) are some of the crucial democratic tools. This is because political parties are bridges between the government and the society in terms of capturing aspirations. This means that the ideals of an ideal democratic system cannot be separated from the role of political parties, especially from members within the political parties themselves. "A good political party system and mechanism are needed to be able to produce a good democratic order.

Conflict Studies in the Implementations of the Special Autonomy Policy in Papua

A Conflict Overview

The Papuan conflict began in 1945 when Indonesia became independent and claimed Papua as part of its territories, but the Dutch had a different view. This dispute lasted for decades and reached resolution with the New York Agreement on 15 August 1962, in which the Netherlands agreed to hand over Papua to Indonesia under the supervision of the United Nations Temporary Executive Authority (UNTEA). Then, before the end of 1969, Indonesia held a referendum called the Determination of Popular Opinion (Pepera) to determine whether Papua would remain part of Indonesia or become independent. The Pepera decision supported the idea of Papua remaining part of Indonesia, but many indigenous Papuans felt that the referendum did not represent their wishes, and this gave rise to conflicts and dissatisfaction.

Over time, there has also been debate about whether the referendum was truly fair, especially as several non-Papuans were also involved in the process. In addition, there is a growing disagreement regarding the exploitation of natural resources in Papua, such as the mining agreement with the United States company, Freeport, before the referendum.

As a result, Papuan people continue to experience dissatisfaction and conflicts. Several parties, such as the Head of the Legal Aid Research of the Study and Development Institute (LP3BH), emphasized the importance of recognizing and resolving the root causes of the Papua conflict so as not to give rise to larger conflicts in the future (McGibbon, 2004).

The LIPI Study Team has created a road map that tries to explain the roots of the problem of the Papua conflict. The main problem is the process of integrating Papua into Indonesia that was problematic and has given rise to a separatist movement demanding for Papuan independence. This conflict also includes military operations carried out by Indonesia, which have resulted in human rights

violations. This prolonged conflict has also hampered development in the fields of education, health, economy, and creates marginalization and discrimination against the Papuan people (Ika, 2021).

President Habibie proposed resolving the Papua conflict through a democratic mechanism by providing regional autonomy in accordance with the Constitution and regulations. This idea emerged after the 1999 national dialogue with "Team 100" who demanded for Papua's independence. The MPR RI formulated a new policy in 1999 to respect the equality and diversity of the Papuan people through special autonomy (Briantika, 2021).

In April 2001, Papuan Governor-elect Jacobus P. Salossa presented the Special Autonomy Bill to President Abdurrahman Wahid. The substance of the bill tried to create a legal, peaceful and dignified channel for Papua's independence aspirations without muting its voice (CNN Indonesia, 2019).

After 10 years of implementing the affirmation mechanisms, the conflict in Papua has still not subsided, the government even planned to continue with the second phase of Special Autonomy (CNN Indonesia, 2019). LIPI researchers criticized the government for failing to implement development in Papua even though Special Autonomy funds had been allocated. On the contrary, the poverty rate is increasing and the Human Development Index is getting lower in Papua (Fundrika, 2021). Apart from that, human rights violations by authorities in Papua continue, with cases of discrimination and stigmatization of the Papuan people. Controversial incidents such as alleged racism against Papuan students in Surabaya in 2019 have also created tensions (Ika, 2021).

As a result of these facts, the Papuan people, especially students, rejected the idea of extending special autonomy. They had voiced their opposition in a peaceful demonstration in Jakarta in July 2020, arguing that the government failed to understand the true needs of the Papuan people.

Actor Mapping

Actor mapping is an important step in analyzing the Papuan conflict. The aim is to better understand who is involved in the conflict, either as direct actors, affected parties, or as mediators or parties trying to find a solution.

In order to explore the role of various parties during the Papuan conflict with the Indonesian government in a more holistic manner, the author has compiled the data in the following table based on research conducted by various non-governmental organizations and researchers.

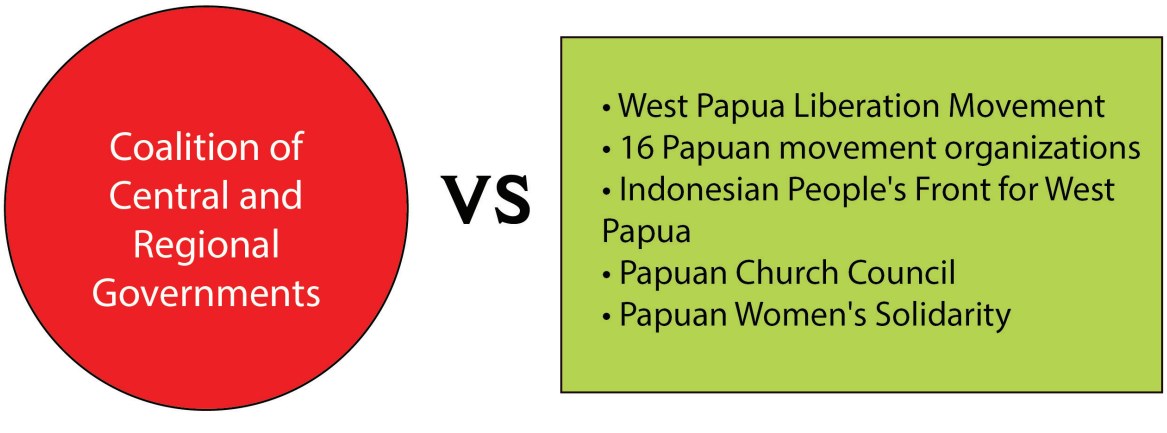
Table 1. The Distribution of Actors Involved in Conflict

Aktor	Peran
Public	Within the Special Autonomy (Otsus) framework, communities at the basic level will be the targets of policies and will also play a role in their implementation.
Civil Society Organizations	A clear example of community groups that play an active role in this conflict is religious organizations that come from various beliefs. Their roles include providing recommendations and coordinating efforts to promote positive peace in Papua.
Local governments	In principle, local governments must play an active role as the representatives of central government policies for the community.
Women	According to local traditions, traditionally, women in Papua are the group that has the right to access resources. This means that any conflicts related to resources will have a major impact on women and children as the more vulnerable groups in the region.

Aktor	Peran
Military	The only explanation why Papua has more military personnel per inhabitant than any other region in Indonesia is because of the frequency of conflicts that occur there. In some situations, the military presence in Papua is related to policies following regional division.
Central government	The central government was the first to initiate the Special Autonomy policy, which in turn triggered conflicts between them.

Source: (Yulia Sugandi, 2008)

In this table, it can be re-analyzed how the competition between advocacy coalitions and stakeholder parties is depicted. The diagram will show how the central and regional Governments collaborate to maintain the policies they support. Of course, this collaboration is influenced by various existing interests. This government coalition often finds stronger resistance from the civil society, such as Papuan movement groups, the Papuan Church Council, Papuan Women's Solidarity, and others. For more details, you can see the diagram below.



Officials in regional government strengthened the argument regarding the existence of a government coalition by expressing support for the Special Autonomy policy. For example, the Papua Police Chief stated that Special Autonomy had made a lot of progress and should be continued (CNN Indonesia, 2019). Apart from that, the Regional Heads Forum throughout the Tabi and Saireri Traditional Lands also agreed to continue this policy after conducting an evaluation. The agreement includes 11 points and was signed by eight regents and one mayor of the Seireri and Tabi traditional areas. In addition, 13 tribal chiefs in the central mountains also expressed support for the extension of the Special Autonomy Law in Papua (CNN Indonesia, 2019).

Conflict Resolution

The government has adopted an approach known as ***the conventional Solomon-trap*** , to manage the Papuan conflict. In this approach, the public manager acts as the main actor, but often this is only done as a formality to comply with applicable procedures. Although there have been many recommendations from various institutions and universities, such as the UGM Papua Task Force, to improve the situations, this approach has drawn opposition from some Papuans, who feel that the policy does not reflect their interests, especially those who support Papuan independence. The government has recently invited input from the community regarding the Papua Special Autonomy policy, but concrete steps to realize the community's aspirations have not yet been seen. On the contrary, there have been strong actions taken by the government against demonstrations by the Papuan people (Prihati, 2019).

The Papuan conflict, as highlighted by Amnesty Indonesia and LIPI, will continue for a long time if the root causes of the problem are not addressed. Core issues include the integration of Papua into Indonesia, as well as open mandates such as education and the enforcement of human rights. LIPI has identified four problems that are difficult to solve at their roots. First, there is a conflict over the integration of the Papua region into Indonesia that has existed since the beginning. Second, there is a mismatch between development plans in Papua and the allocation of Special Autonomy funds. Third, the issue of discrimination and stigmatization that are often experienced by the Papuan people. Lastly, there is the problem of human rights violations by the authorities, which still frequently occur against the indigenous Papuan community.

Recommendations

To overcome this problem, the Indonesian Government needs to open space for inclusive discussion that involves all parties. This is necessary because so far the government has not substantially supported and accommodated the aspirations of the Papuan people regarding Special Autonomy. Apart from that, here are several recommendations that we feel can help resolve the conflict between the government and the Papuan people:

a. Central and Regional Governments must manage horizontal inequality with efficient fund allocation.
b. Non-governmental organizations can help overcome inferiority complexes, involving physical and psychological inadequacies, and protect vulnerable groups such as women and children.
c. Reducing violent approaches by the military and police that are triggered by racial issues .

- Felia Primaresti -

To reduce conflict escalation, Central and Regional Governments must manage horizontal inequality with an efficient allocation of funds. Non-governmental organizations can help overcome inferiority complex, which involves physical and psychological inadequacies, as well as protecting vulnerable groups such as women and children. There should also be reduction of violent approaches by military and police triggered by racial issues

2024 Election Campaign and Bureaucratic Neutrality

The implementations of the 2024 general election (election) campaign are only a month away. The issue that is often highlighted in election campaigns is related to bureaucratic neutrality. Moreover, in elections, especially the Presidential and Vice Presidential elections, the competing candidates are candidates who have occupied positions in the government, both at the central and the regional levels.

In order to safeguard this, on September 22 2022, the Government issued a Joint Decree (SKB) concerning Guidelines for the Development and Supervision of Neutrality of State Civil Service Employees (ASN) in the Implementations of General Elections and Elections.

The SKB was signed by Minister of State Apparatus Empowerment and Bureaucratic Reform (PANRB) Abdullah Azwar Anas, Minister of Home Affairs (Mendagri) Tito Karnavian, Acting Head of the State Civil Service Agency (BKN) Bima Haria Wibisana, Chair of the State Civil Apparatus Commission (KASN) Agus Pramusinto, and Chair of the General Election Supervisory Agency (Bawaslu) Rahmat Bagja (setkab.go.id, 22/9/2022).

The issuance of this SKB is very important to maintain bureaucratic neutrality in the 2024 Elections. However, the issuance of the SKB still needs to be strengthened by other policies to maintain bureaucratic neutrality, especially in the 2024 Election campaign. In the next section, this article tries to elaborate on the importance of bureaucratic neutrality and policy recommendations that can strengthen the SKB.

The Importance of Bureaucratic Neutrality

According to Marbun's opinion (1998), the meaning of neutrality is that the bureaucratic apparatus is free from the influence of the interests of certain political parties or does not take sides with the

interests of certain parties or does not play a role in the political process. However, bureaucratic officials still have the political right to vote and have the right to be elected in general elections. However, bureaucratic officials are not allowed to actively become party members and administrators. Furthermore, another meaning of neutrality is that if an active bureaucratic official becomes a political party administrator or member of the legislature, then he or she must resign. In this way, the government bureaucracy will be stable and can play a role in supporting and realizing the policies or political will of whatever is in power in the government.

Miftah Thoha (2008) states that bureaucratic neutrality towards political influence and intervention cannot be taken lightly. The bureaucracy should not take sides or be deliberately made to side with one political force or political party. If the bureaucracy is neutral, the people as a whole will be served well. In other words, the bureaucracy does not prioritize or side with the interests of certain groups of people. Therefore, in an effort to maintain the neutrality of the bureaucracy from the influence of political parties and to ensure the integrity, cohesiveness and unity of the bureaucracy itself, as well as being able to focus all attention, thoughts and energy on the tasks assigned, the bureaucracy is prohibited from becoming members and/or administrators of political parties.

To enforce bureaucratic neutrality, there are a number of statutory regulations, including: Law Number 5/2014 concerning State Civil Apparatus; Law Number 1/2015 concerning Stipulation of Government Regulations in Lieu of Law Number 1/2014 concerning the Election of Governors, Regents and Mayors (UU Pilkada) and its amendments; Government Regulation (PP) Number 42/2004 concerning the Development of Corps Spirit and the Code of Ethics for Civil Servants; and PP Number 53/2010 concerning Civil Servant Discipline. However, the existence of a number of these regulations does not necessarily mean that violations of neutrality will disappear in elections or regional head elections (pilkada).

Sirat (2022) states that in elections there are at least two forms of bureaucratic involvements in practical politics that interfere with its independence and neutrality. First, the bureaucracy openly or secretly becomes a supporter (success team) for regional head candidates in regional elections. Second, the bureaucracy participates in campaigning to support political candidates. A portrait of bureaucratic apparatus participation in elections can be seen in a number of reports received by the State Civil Apparatus Commission (KASN).

According to KASN data, the number of reports of alleged violations of ASN neutrality in the 2015 regional elections was 25 reports; in 2016 there were 54 reports, and in 2017 there were 38 reports. This shows that leading up to the regional elections, violations are increasing with the number of reports received (Complaints and Investigations Sector Report, KASN, 2017).

Furthermore, according to the data from the General Election Supervisory Agency (Bawaslu), there were 845 cases of violations of bureaucratic neutrality in the 2019 Elections that were submitted to KASN. Meanwhile, in the 2020 Simultaneous Regional Elections, 1,398 cases were submitted to KASN. The cases of violations of the neutrality of the bureaucratic apparatus in the 2019 elections included the presence of bureaucratic apparatus who acted as moderators of face-to-face campaigns for Regency DPRD legislative candidates. Another violation was deliberately participating in violating the prohibition on implementing campaigns in educational settings (https://www.bawaslu.go.id/, 27/9/2022).

In the 2020 Pilkada, there were also several cases of violations, including a village head in South Konawe sending a message to the WhatsApp Group that contained support for one of the candidate pairs. Another case was the Acting Head of the Social Service and Head of the Family Social Security Section in one of the districts in Riau who took action to benefit candidate pairs when visiting families who were beneficiaries of the Family Hope Program (https://www.bawaslu.go.id/, 27 /9/2022).

According to the explanations above, it can be concluded that the importance of efforts to maintain bureaucratic neutrality has been carried out by issuing several regulations. However, until now the rules regarding bureaucratic neutrality have not been fully implemented. This can be seen from the large number of violations discovered by Bawaslu and reported to KASN in the 2019 Election and 2020 Regional Election. Therefore, policy recommendations are needed that can maintain bureaucratic neutrality, especially in the 2024 Election campaign, as well as other elections and regional elections in the future.

Recommendations

According to the explanations above, there are several steps that can be taken to complete this policy. First, to encourage Bawaslu, the Ministry of State Apparatus Empowerment and Bureaucrat-

ic Reform (Kemen PANRB) and KASN to increase the outreach to bureaucratic officials about the importance of neutrality in the 2024 elections, especially during the campaign period.

Second, to encourage the Ministry of PANRB and KASN to make heavy sanction rules for bureaucratic officials who are proven to have violated neutrality rules during the 2024 election campaign or in other contexts.

The information dissemination of policies related to the neutrality of state apparatus should be followed by regulation of sanctions and their application in a standard and clear manner in accordance with applicable laws and regulations to provide legal certainty regarding violations of bureaucratic neutrality.

Third, to encourage Bawaslu to increase supervision of bureaucratic neutrality during the campaign. It is hoped that the central and regional Bawaslu will be able to increase supervision during the 2024 Simultaneous General Election and Pilkada campaigns. This supervision also needs to be carried out through collaboration with civil society groups and the mass media.

- Arfianto Purbolaksono -

The candidates competing are candidates who have held positions in both central and regional governments. This will clearly affect the neutrality of the bureaucracy in terms of public service. "On the other hand, in the context of the 2024 Simultaneous Regional Elections and Pilkada, the non-neutrality of the bureaucracy and state apparatus will also have an impact, especially during the campaign stage

Considering the Importance of Policy-Based Psychological Wellbeing

On 10 October, the world celebrates World Mental Health Day. This day is a momentum that invites the entire community to realize the importance of human mental health, including fighting stigma against individuals who face situations with mental health disorders.

Reporting from Kumparan.com (9/10/2022), Mental Health Day as a form of global awareness campaign was initiated directly by the World Mental Health Institution or the World Federation of Mental Health (WFMH). The day was first commemorated on 10 October 1992 and was initiated by the Deputy Secretary General of the World Federation of Mental Health (WFMH), Richard Hunter (Kumparan.com, 9/10/2022).

Furthermore, on this year's anniversary, the World Federation of Mental Health took the theme "Mental Health Is a Universal Human Right". The theme is an important campaign to remind people that mental health has become part of human rights.

The Lack of Mental Health-Based Policy Products.

The World Health Organization (WHO) defines mental health as a state of well-being that enables people to cope with life's stresses, to realize their abilities, learn well and work well, and contribute to their communities. It is also an integral component of health and well-being that supports individual and collective ability to make decisions, build relationships, and shape the world in which we live. Mental health is therefore a human right that is critical to personal, community, and socio-economic development (WHO.int, 17/6/2022).

The importance of maintaining individual mental health in a diverse society provides an opportunity for a higher recovery process, especially for every person with mental disabilities or so-called people

with mental health disorders, especially schizophrenia or other psychiatric disorders.

According to article 1 paragraph 3 of Law Number 18/2014 concerning Mental Health:
People with Mental Disorders, now on abbreviated as ODGJ, are people who experience disturbances in thoughts, behavior, and feelings that are manifested in the form of a set of symptoms and/or meaningful behavioral changes, and can cause suffering and obstacles in carrying out the functions of a person as a human being.

WHO noted that in 2016 around 35 million people were affected by depression, 60 million by bipolar, 21 million by schizophrenia, and 47.5 million by dementia (yankes.kemkes.go.id, 28/2/2023). In addition, the 2018 Basic Health Research (Riskesdas) data by the Research and Development Agency of the Ministry of Health (Kemenkes) conducted on 300,000 household samples (1.2 million people) in 34 provinces, 416 districts, and 98 cities revealed a significant increase in proportion. Compared to Riskesdas in 2013, it increased from 1.7 percent to 7 per cent. This meant that per 1000 households there were 7 households with ODGJ, so the number was estimated to be around 450 thousand severe ODGJ (Ditjen P2K Kemenkes, 2020).

According to the data that have been described, many people with mental disabilities (especially ODGJ) experience shackling by their families. Confinement of ODGJ in remote communities is an alternative choice due to the lack of community literacy about mental health and the absence of health facilities. Until now, it is still quite difficult to find the smallest health facilities, such as health centers (including quality medicines), which provide special health services for persons with mental disabilities.

Not only that, Salwa Paramitha (as an activist and survivor), in her official statement revealed that the Social Security Organisation (BPJS) as the basis for the first tier of protection against health actually provided a minimum access requirement for class II facilities so that users could obtain their right of access to consultations, both psychiatrists and types of drugs. This is despite the fact that promotion, prevention, and psychosocial recovery (rehabilitation) have been mandated by Law No. 18/2014.

However, through the Ministry of Social Affairs, the government has established Integrated Service Units (UPT) for social rehabilitation for persons with mental disabilities across several provinces.

However, this is still not enough, especially in treatment efforts that are still considered dehumanizing. Some of the social centers built only increase the severity of the disorder suffered.

Indonesian and Psychological Wellbeing at the World Stage

Mental health must be recognized as an issue that must be addressed by many parties. The success of a country is not only judged by its ability to create welfare that is visible on the surface (availability and fulfillment of access rights and facilities), including guarantees of individual freedom.

In a universal context, psychological well-being (subjective well-being) or another form of happiness is an appropriate term to describe the level of a healthy individual as a whole. Not only physically and mentally, the individual has even been able to make peace with uncomfortable situations. Therefore, individuals still feel and even share feelings of happiness with others, even though they are faced with shortcomings.

Referring to the policy context, since 2014 (and continued in 2017) the Central Bureau of Statistics (BPS) has measured happiness as an important aspect in evaluating the success of the state in creating prosperity. Although some observers consider happiness to be a very subjective concept, most countries use it to assess the level of welfare that has been achieved. Happiness is a form of psychological well-being that should be able to be enjoyed by every individual and even society.

According to the World Happiness Report 2023, Finland was declared back in the top position as the happiest country in the world this year and consecutively since 2017 (databoks.katadata.co.id, 24/3/2023). To measure happiness, the World Happiness Report uses six key variables measured by income (GDP per capita), social support, healthy life expectancy, the freedom to make life choices, generosity, and freedom from corruption. Most of these are based on life evaluations from the Gallup World Poll (Kontan.go.id, 28/3/2023).

Then what about Indonesia's position? According to the same source (World Happiness Report 2023) Indonesia ranks 84th out of 137 happiest countries this year. Nationally, the measurement of happiness according to BPS (in 2017) is through the Happiness Level Measurement Survey (SPTK). Indicators include three dimensions

of life, such as (1) Life Satisfaction Dimension, (2) Affection Dimension, and (3) Life Meaning Dimension (Eudemonia). The Life Satisfaction dimension is divided into the sub dimensions of Personal Life Satisfaction and Social Life Satisfaction (Kumparan, 21/6/2023).

The results of the World Happiness Report's measurement of the conditions of the Indonesian society explain that the happiness felt is considered in line with the situations of the Indonesian nation today. This situations can be felt from the economic slowdown that increases a number of other snowball effects, such as increasing unemployment, poverty, and increasing crime.

Other variables such as an unhealthy political climate, an increasingly degraded environment, the perceptions of corruption and the deprivation of human freedom also contribute to the difficulty of complete happiness being obtained by Indonesia as a developing country.

Therefore, to improve the degree of psychological well-being of the people, the government needs to collaborate with various stakeholders through the following three important things:

1. Guaranteeing the fulfillment of people's welfare through economic opportunities and freedoms that can increase economic growth. Economic opportunities and freedom can be obtained from proper education, access to health, and equitable access to other basic needs.
2. Ensuring the application of Gender, Equality, Disability, and Social Inclusion (GEDSI) aspects in the policy process.
3. Providing mental health facilities and services that are qualified and appropriate, and have a human rights perspective.
4. Creating a democratic climate that guarantees freedom, both individual and community.
5. In the legal context, the government needs to jointly build transparency and legal certainty to increase public trust.

- Dewi Rahmawati Nur Aulia -

In a universal context, psychological well-being or another form of happiness is an appropriate term to describe the level of a healthy individual as a whole. Not only physically and mentally, the individual has even been able to make peace with uncomfortable situations. It takes joint efforts between the government and other stakeholders to realize the ideal conditions."

Bullying and the Roots of Violence: Impact and Sentencing Analyses in the Juvenile Justice System (CJS) in Indonesia

The Indonesian Child Protection Commission (KPAI) has called for the protection of children involved in a child bullying case in Cilacap, Central Java so that their rights are fulfilled and protected. Dyah Puspitarini, Member of KPAI, in her statement on Monday, 2 October 2023, explained that children in conflict with the law should not be expelled from school while undergoing the examination and investigation process until the court (Antara, 2/10/2023). In addition, children who are witnesses and all students at school must also be given attention such as providing trauma healing, and education about preventing bullying, violence, and intolerance. This is important to do in accordance with the mandate of the Regulation of the Minister of Education and Culture Research and Technology (Permendikbudristek) Number 46 of 2023.

Repeated cases of bullying in children and experienced by teachers in the world of education are a warning in addressing the growth of seeds of violence that live in society. Various bullying cases have become an important momentum in reforming effective and meaningful forms of punishment for child perpetrators in the Child Criminal Justice System (SPPA).

Bullying and the Roots of Violence

Bullying is literally defined as the aggressive behavior of individuals or groups that continuously harass either by using direct hurtful words or physical actions, such as attacking with the aim of hurting the individual. However, along with the times and technology, the form of bullying has also evolved, where the behavior can be carried out online through social media (cyberbullying).

Bullying cases in South Korea, for example, are considered by some observers to be more severe than those in Indonesia. The forms of violence occur not only between students and peers but also between parents and teachers as educators in their schools, causing some teachers in South Korea to commit suicide (BBC News Indo-

nesia, 4/9/2023).

When referring to the psychosocial approach, bullying is one of the actions taken in order to seek self-recognition (pkbi-diy.info.id., 10/10/2023). Self-recognition, which is reflected in individual dominance, can be obtained from parental treatment during the early years of a child's life. Parenting style, the form of application of punishment, and appreciation (gifts, praise, flattery) as part of behavior reinforcement are important factors in building a child's personality. Children raised with a permissive parenting style and a lack of self-control increase the potential to become characters who do not have an empathetic attitude towards their surroundings.

Furthermore, self-awareness and an empathetic attitude towards the existence of others in the surrounding environment can be a standard indication of individual morals to treat others equally. If this is not possessed, then the seeds of superiority can develop and create bullies who do not hesitate to subdue opponents, even injure them. Subduing and spreading fear are the key objectives of bullying behavior. Thus, it can be said that bullying is part of an act of violence whose relationship is based on unequal social interactions.

Building Meaningful Punishment in Indonesia's Juvenile Justice System (CJS)

Bullying is a violent behavior that falls into the category of criminal offenses. Law No. 35 of 2014 amending Law No. 23 of 2002 on Child Protection states that:

"Any act against a child that results in physical, psychological, sexual and/or neglectful harm or suffering, including threats to commit acts, coercion, or unlawful deprivation of liberty."

In addition, the limits of bullying behavior are also regulated in the Criminal Code (KUHP). Launching Tempo.co (20/11/2022), bullying behavior is contained in several articles of the Criminal Code. Some of the articles that ensnare the perpetrators of bullying are Article 351 of the Criminal Code on Persecution, Article 170 of the Criminal Code on Robbery, as well as Articles 310 and 311 of the Criminal Code on Bullying in Public Places and Humiliating the Dignity of a Person.

Punishment of child perpetrators who commit criminal acts of bullying needs to be carried out based on several principles, such as justice and avoidance of retaliation. This has also been contained in Law Number 11 of 2012 concerning the Juvenile Criminal Justice

System. According to Law No. 11/2012, the juvenile justice system can be carried out by diversion. Diversion is a form of justice that is carried out through a deliberation process and involves both the perpetrator and the victim accompanied by parents, community mentors, and child social workers based on a restorative approach.

Diversion is a form of justice that is carried out through deliberation and is considered to encourage forgiveness and agreement between the two parties, provided that there is no coercion from either party, especially from the child perpetrator. Although diversion is a form of justice that prioritises justice and the best interests of children (both perpetrators and victims), it must be realized that not every case of bullying victims can agree to this legal approach.

Bullying cases that have been handled and assisted by the Ministry of Women's Empowerment and Child Protection (KemenPPPA) in 2022 are examples of evidence where not every victim of bullying (especially physical) gracefully agrees to go through this process of punishing the perpetrator. For example, in the case of bullying that was assisted, it was known that there was a child with the initials MZA (16) and the alleged child perpetrator occurred in the South Tangerang area. Reporting from the Regional Integrated Implementation Unit of the Integrated Service Centre for Women and Children Empowerment (UPTD P2TP2A) of South Tangerang City stated that MZA was bullied in the form of physical violence by eight other alleged child perpetrators (Kemenpppa.go.id., 6/7/2022).

The violence was carried out on his hands and tongue, which were burned with cigarettes, and stabbed with a knife and screwdriver. According to Nahar, Deputy for Special Protection of Children at the Ministry of Women's Empowerment and Child Protection, the UPTD P2TP2A reported that diversion efforts had been made at the investigation level of the South Tangerang Police on 23 May 2022, but failed. The victim's parents refused to do diversion, and did not accept that their child was bullied by the alleged perpetrators, and wanted to continue the legal case to trial, so that the alleged child perpetrators would receive appropriate punishment for their actions, to create a deterrent effect for the perpetrators (Kemenpppa.go.id., 6/7/2022).

The Importance of Institutional and Community Participation to Promote Legal Awareness in the Education Sphere

The case above is one example of a case that explains that not every approach, especially diversion, is an effective solution in punishing every crime committed by children. This is because the impact of bullying experienced by victims can provide deep mental wounds (trauma) and it is not impossible that it will lead to new potential problems, such as retaliation either carried out directly by the victim or people who have a relationship with the victim.

Furthermore, although the government has provided alternative conflict resolution options through deliberation (diversion) and detention, the form of punishment for crimes such as bullying needs other alternative punishment options. What is important to consider is that the punishment given to perpetrators of bullying, including child perpetrators, should be able to provide a deterrent effect and prevent the emergence of repeated cases of bullying.
In order to have a deterrent impact on the punishment of child perpetrators in the context of peer bullying, the following are some policy recommendations that need to be encouraged by the government:

1. The government through KemenPPA, as well as the Ministry of Education, Culture, Research and Technology (Kemenbudristek) to more aggressively socialise the Regulation of the Minister of Education, Culture, Research and Technology (Permendikbud Ristek) Number 46 of 2023 concerning Prevention and Handling of Violence in the Education Unit Environment (PPKSP). It is important for this to be socialised so that every person in the scope of education can be aware of the activities of students at both the primary and tertiary levels.
2. Encourage the KemenPPA, the Ministry of Education and Culture, the Ministry of Research and Technology and the Indonesian National Police to the lowest regional work unit to work together in socialising the form of criminal articles that will ensnare every individual who commits bullying, especially within the scope of the education unit. Bullying is a form of criminal offence that must be prevented by raising awareness about the legal repercussions of bullying.
3. Encourage the Ministry of Research and Technology to issue regulations at the level of ministerial regulations on handling conflicts that occur in the scope of education, both children dealing with the law and teachers as implementers of education in schools. The regulations can include returning the child to the

In a universal context, psychological well-being or another form of happiness is an appropriate term to describe the level of a healthy individual as a whole. Not only physically and mentally, the individual has even been able to make peace with uncomfortable situations. It takes joint efforts between the government and other stakeholders to realize the ideal conditions."

parents/guardians and revoking their rights to government assistance, especially education subsidies. In addition, if it is done by the surrounding adults, especially teachers who have the status of (State Civil Servants/ASN), then the person concerned may be subject to action in the form of a delay in promotion.

- Dewi Rahmawati Nur Aulia -

THE INDONESIAN 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, political, and legal affairs. The main activities which have been conducted by **TII** in order to achieve our vision and mission, are: research, surveys, facilitation and advocacy through training and working groups, public discussions, public education, weekly editorial articles ("Wacana" or Discourses), Instagram Live Series and Space Twitter (Policy Talks and Initiative!), monthly analysis ("Update Indonesia" in Indonesian and "The

Indonesian Update" in English), mid-year policy analysis ("Policy Assessment"), annual policy analysis ("Indonesian Report"), and monthly discussion forum on policy issues ("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. 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.

TII focus on economic issues, such as monetary policy and fiscal policy, as well as issues on sustainable development by using analysis which refer to economic freedom principles. Monetary issues will focus on the Indonesian Central Bank to maintain economic stability, both regarding inflation and exchange rate. Meanwhile, fiscal policy will focus on the discussions over the National Budget and infrastructure development both in the regions and in the cities. In relation to sustainable development, TII research is focusing on productivity, competitiveness, infrastructure development, and development gap. In addition, TII also upholds economic freedom principles in highlighting the importance of individual freedom and involvement of private sectors in increasing development and improving welfare in Indonesia.

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 academic paper. This stipulation is also confirmed in Law No. 15 Year 2019 on the Amendment of Law No. 12 Year 2011 regarding the Formulation of Laws and Regulations.

Therefore, comprehensive research is very important and needed in making a qualified academic paper. With qualified academic papers, the bills will have strong academic foundation both from academic and content aspects. Furthermore, academic paper also functions as an early tracking over possibilities of overlapping laws and regulations, so that revocation of local regulations or other related issues which can be caused by legal, economic, or political aspects in the future, can be minimized as soon as possible.

TII offers normative and legal research related to harmonization and synchronization of laws and regulations, especially in making academic papers, legal opinion on harmonization and synchronization of laws and regulations, and legislative drafting for the formulation of local regulations bill drafts or other laws and regulations. In addition, TII also offers openly research on other legal issues related to Constitutional Law and Public Administration, Human Rights, and Political Corruption.

RESEARCH ON THE POLITICAL AFFAIRS

The enactment of Law No. 23 Year 2014 on the latest regulation on the Local Government, has created different relations between the Central Government and the Local Government. Entering the era of Bureaucracy Reform, specification of division of affairs of the Central Government and the Local Government has increasingly demanded the implementation of good governance principles. The government is demanded to be adaptive and responsive towards public aspiration and services. Therefore, public policy research become more important for both the Central Government and the Local Government to analyse context and current issues in the regions. The government must also consider various actors whether political actors or bureaucrats, as well as public's aspiration and other non-state actor in policy processes.

In order to respond those needs, TII research in political affairs offer policy assessment on various policies which were already applied or will be implemented. TII will look at socio-cultural, economy, legal, and political aspects in assessing public policies. Our research will be useful to assist government in formulating policies which are in line with context, priorities, and people's aspiration. TII also offers various breakthrough of transformative policies according to existing contexts in particular and Open Government principles' implementation in general, in order to increase public participation in policy processes, particularly in the era of the openness of public information.

Political Research Division of TII provide analysis and policy recommendations in order to generate strategic policy in the strengthening of democracy and the establishment of good governance both at the national and local levels. Political research forms are offered by TII **(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 a need for the government, the businesspeople, academia, professionals, NGOs, and civil society to improve social development. Social analysis is important to identify strategic issues which are developing and to make the right stakeholders' mapping to promote significant change in the context of development, public policy, and democracy in Indonesia.

The Social Research Division is present to offer strong and valid recommendations to produce strategic, relevant, efficient and effective, and impactful policies, in addressing to existing various issues. For example, issues related to 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.**

PRE-ELECTION AND REGIONAL HEAD ELECTION

One of the activities carried out and offered by TII is a pre-election survey as well as a pre-election and regional head election. The reasons underlying the implementation of pre-election and regional head election surveys, namely: (1) A good election is a democratic process that can be arranged, calculated, and predicted in the resulting process; (2) Survey is one of the important and common discussions to measure, calculate, and predict how the process and results of the General Election and the Regional Head Election will take place, in accordance to the expectations of the candidates; (3) It is very important to win in the General Election and the Regional Head Election based on empirical, scientific, measurable and supportable data.

As one of the important aspects of a strategic candidate's election, the survey is useful for monitoring political power. In this case, the success team needs to conduct a survey for: **(1) mapping the candidate's position in public perception; (2) mapping voters' desires; (3) publishing the most effective political machinery used as voters; and (4) Looking for the most effective medium for the campaign.**

EVALUATION OF A PROJECT OR A PROGRAM

One of the activities that have been performed and experienced offered by TII is a qualitative evaluation of the projects and programs of non-governmental organizations and government. Evaluation activities are offered TII stages of mid-term evaluation of the project/program (mid-term evaluation) and also the final evaluation at the end of the project/program (final evaluation).

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

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.

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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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