

Nationalization of Foreign Companies

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ABSTRACT: The sovereignty of a country to determine economic activity in the jurisdiction has long been accepted in international law. A country has a goal to realize the welfare of the people. By the sovereignty, the country absolutely can act in accordance with the needs of the State in achieving economic growth. Each of Indonesia's government eras has its own mechanism and characteristics in the economic policies that are imposed, this situation will refer to the economic system that will be applied in the implementation of country's government. The nationalization of Dutch companies and other foreign companies was a policy that was imposed during Sukarno's leadership, this policy applies when Indonesia is in an unstable economic condition, while public expectation toward the government is so high. The problem that accrued at the time (the case of West Irian and the Round Table Confirmation) also did not get the meeting point as expected. Thus, the policy to nationalize Dutch companies and foreign companies was a policy that was considered appropriate by President Sukarno and was wrapped up by the guided democratic system he espoused.

KEYWORDS: nationalization, foreign companies, economic system, Pancasila, government

I. INTRODUCTION

The problem in recapturing West Irian in the lap of the motherland could deny the existence of the TNI as an army that had the power and authority in resolving issues that threaten state sovereignty. President Soekarno provided a strategic place for TNI in the nationalized company. In this case, the nationalization had not produced the expected result, the lack of professional staff and qualified human resources became the main cause [1].

This condition caused the Dutch companies decreased their performance and production capabilities. Dutch companies that had been taken over were previously large companies that controlled extensive trade networks, and the takeover of these companies was apparently not accompanied by the ability to continue the network that had been built beforehand so as to cause a stagnation in the running of the company [2]. Another case in managing the nationalization companies was that there were various scattered regulations in regulating the nationalization companies, in fact, almost every form of company was governed by its own regulations which established various forms of companies. This condition caused President Soekarno issued a calm regulation on State Companies which was a way out of the chaotic regulations [3].

Nationalization, the role of TNI and various policies imposed by President Soekarno in principle were to place the Indonesian economy in order to realize a people-based economy. Popular economy grows from the noble values of the Indonesian people, and popular economy is a form of embodiment of the basic values of the Republic of Indonesia in the form of social justice for all Indonesian people and Article 33 of 1945 Constitution.

II. BUILDING ECONOMIC SOVEREIGNTY

The aim and direction of national development as stipulated in the National Development Program (Propenas) is to realize a just and prosperous society by realizing the development of various fields, including in the economic field. Economic development is identical to the development of economic sectors found in Indonesia, such as; agriculture, forestry, fisheries, animal husbandry, mining, industry, trade, services and others [4]. The foundation of the Indonesian economy is also clearly stated in the state constitution in Article 33 of 1945 Constitution, the economic system is structured to realize economic democracy and serve as the basis in implementing economic development. The Indonesian economic system based on Pancasila and 1945 Constitution is called the democratic economic system. Thus, the democratic economic system can be defined as a national economic system which is an embodiment of the philosophy of Pancasila and 1945 Constitution which is based on kinship and mutual cooperation from, by, and for the people under the leadership and supervision of the government [5].

In a system of economic democracy, the government and all people both economically weak groups must be active in entrepreneur sector to achieve national prosperity. In addition, the state plays a role in planning, guiding, and directing economic activities. Thus, there is cooperation and mutual assistance between the government, the private sector, and the community. A sovereign country has the authority to set the country including economic case. Therefore, every activity carried out by the society must follow the rules regulated by the state. Likewise, Indonesia, which has explicitly stated in its Constitution, that Indonesia is a state of law. This means that all activities must be based on existing legal norms, even the government activity when making policies involving the national economy [6].

The aim of the state is at least to provide welfare for its people, so that theoretically it can be stated that all countries have the same goal, namely, to provide welfare for their people even though with different emphasis both in the past, present, and future which will come. Instead of having a general goal, every country have certain or specific goals. The goal is generally contained in each country's constitution [7].

In addition, many experts put more emphasis on the tasks or roles of the state. As Moss stated that the main task of the state is to create a legitimate monopoly of power and ensure the implementation of law throughout its territory. This is in line with the view of Webber who emphasizes the state as a monopoly on the use of legitimate power in a certain area. Three conceptions about the tasks or roles of the state, namely:

1. An authoritative policy-making system, which is also called a decision making state;
2. Giving collective goods and distribution or often referred to as production state;
3. Depositors, creators, and intermediaries of public interests or referred to as intermediary state.

The same thing related to state functions, according to him state functions fall into three categories, namely the entrepreneurial function, the building function, and the regulatory function. Furthermore, the state carries out some minimum functions that are absolutely necessary, namely:

1. Implement law and order, where this function is carried out to achieve common goals and prevent clashes in the community. This function is also called the "stabilizer" function;
2. Strive for the prosperity and welfare of the people. Nowadays welfare functions are considered very important, especially for new countries;
3. Defense, where needed to guard against possible attacks from outside; and
4. Uphold justice carried out through judicial bodies.

Adam Smith as a originator of a pure capitalist economic system with his theory of laissez faire, argues that the scope of activities of the state for the government is very limited, namely only carrying out activities that are generally not carried out by the private sector and only covers three fields, namely carrying out justice, conducting defense and security, and carry out public works. According to Adam Smith's theory, from the legal point of view argues that the slogan laissez faire (let everything run independently) emerged in the nineteenth century which accordingly the legal task was only to keep individuals from interacting freely without interference. Intervention by anyone, including the state must not be carried out. This is the nature of liberal type legal work [8].

In further developments, the society apparently could not stand the operation of the law (liberal) which only paid attention to the independence and freedom of individual. The public wants the law to also actively pay attention to the actual welfare of the society. Then, it was born a new era, namely post-caliberal, in which the state actively intervened in carrying out society's welfare. This is known as the "welfare state" (Welvaartstaat).

The law also participates in organizing various welfare efforts such as health, education, and other public needs [9].

III. NATIONAL ECONOMIC DEVELOPMENT

The purpose of the Republic of Indonesia as stipulated in the preamble of 1945 Constitution is "to establish an Indonesian government that protects all Indonesian people and all Indonesian blood and to promote public welfare, educate the nation's life, and participate in carrying out world order based on independence, eternal peace, and social justice ". What is stated in the preamble of 1945 Constitution shows that the existence of the State cannot be merely interpreted as a goal, but rather a means to achieve the state goal. This must be embedded in the mindset of state life, both all Indonesian people and the government [10].

National economic development is part of the efforts made by the state government to realize the goals of people's welfare. Economic growth is a prerequisite in accelerating overall economic development. The key to get successful development is a high economic growth, equitable distribution of development, and dynamic social stability [11].

The economy of a country is one of the important topics that is constantly being discussed, because the economic conditions in a country always show changes that result the economic dynamics which greatly affect the whole state. The economic condition of a country is closely related to the government that plays a major role in determining economic policies. Therefore, the change of leadership in a country can be a momentum of economic change.

Since Indonesia became an independent country and was able to carry out its economic sovereignty, the Indonesian economy has been characterized in accordance with the period of national leadership. Both the old order, new order, and post-reform era showed different development orientations from one another. This development orientation is the orientation of development inward and outward. Inward-oriented development, namely economic stabilization efforts by strengthening domestic businesses, while outward-oriented development, namely development by stabilizing the country's economy by utilizing foreign sources [12].

During the Old Order era, the orientation of economic development in Indonesia tended to be inward orientation. In his leadership, Sukarno did not prioritize economic aspects in Indonesia's development, but rather emphasized the national development through fostering the national unity and national character. Therefore, the term 'politics as commander' is often heard during his reign [13].

The orientation of Indonesian economic development during the Old Order tended to be inward because Soekarno-era government was famous for its anti-foreign aid government and also the 'Down with Malaysia' campaign which discouraged foreign investors entering the Indonesian economic sphere. Indonesia's independence in economic aspects during the Old Order era did not necessarily bring benefits to Indonesia. Because, at the end of Soekarno's administration, Indonesia suffered from high inflation, a deficit in the balance of payments, depletion of foreign exchange reserves, and difficulties in paying foreign debt.

As a young country, between 1945 and 1960s, Indonesia faced various problems. Various attempts and policies have been carried out by the Indonesian government to establish political and economic conditions in transition situations. Indonesia's independence gained many challenges from the Dutch colonial government that sought to restore its power in Indonesia, so that Indonesia again had to fight in the period of physical revolution (1945-1949) to maintain its sovereignty.

Although the Dutch government gave recognition of political sovereignty to Indonesia in 1949, this has not yet affected the Indonesian economy. In 1950s, Indonesia's modern economic sector was still dominated by Dutch-owned companies. These Dutch companies had been operating since the colonial rule of the Dutch East Indies still had power in Indonesia. Even though Indonesia was politically independent, the Indonesian economy was still dominated by companies inherited from the colonial government. The presence of foreign companies (especially those owned by the Dutch) who made the most profits since the colonial period should be paid attention, this condition is very painful for the Indonesian people. This impacted on state intervention in the economic world in the 1950s, Beside the desire to form a resilient native middle class, it also stemmed from an antipathy attitude towards foreign capital itself [14].

Beside the domination of the Indonesian economy by foreign capital (especially the Dutch), the thing that constrains Indonesia in establishing its economy was the unstable domestic political situation and conditions due to the many regional upheavals against the sovereignty of the Republic of Indonesia. At the same time, relations with the Netherlands were also getting worse. The West Irian problem has become a major obstacle of relations between Indonesia and Dutch. The Round Table Conference did not include West Irian in the sovereign territory

agreement which was submitted by the Dutch. The resolution of the problem became protracted because of Dutch refusal to negotiate the surrender of West Irian to Indonesia.

Based on this situation as described above, at least the common thread can be taken that various programs and policies carried out by the government during the old order did not succeed in lifting the national economy, and on the other hand the whole socio-political condition which flared up worsened the national economic situation, this was added again with the failure of RI's diplomacy with the Dutch regarding West Irian, it established anti-Dutch sentiment which later regulate a policy to nationalize Dutch companies in Indonesia. The Indonesian government's efforts to nationalize foreign companies in Indonesia firstly began in 1958 with the enactment of Law No. 86 of 1958 concerning the Nationalization of Dutch Companies in Indonesia.

The next National leadership period was the Soeharto government or what was known as the New Order era. In his time, Suharto felt obliged to resolve all the economic downturns. In his efforts to improve the economic order in Indonesia, Suharto made the economy as a government sector that must be prioritized. A new slogan was then voiced to support the Suharto movement, namely "the economy as commander in chief". Economic stabilization and rehabilitation programs then began to be launched by considering Indonesia's post-Old Order situation, as revealed by Mochtar Mas'ood, economic development in the Soeharto regime was oriented towards economic development, Hence, various foreign capitalist governments and the international business community support became the main source to improve the Indonesian economy [15].

The Suharto government directed Indonesia's economic foreign policy to win the support of its creditors, such as Western countries and Japan. This is reflected in Soeharto's legal politics in the economic field which at the beginning of his leadership imposed Law No. 1 of 1967 concerning Foreign Investment. The government has enacted this regulation by considering a lot of potential economic forces as the gift of God Almighty throughout the country that have not yet been processed to become real economic forces, which caused by lack of capital, experience and technology.

A year later the new order government under Suharto's leadership re-enacted policies in the field of investment, namely Law No. 6 of 1986 concerning Domestic Investment. The general explanation of this regulation states that in Pancasila Democracy, capital must be given a reasonable place, in accordance with the meaning and importance of these factors in the development of a just and prosperous society. Development will not be possible without massive internal capital accumulation, while the use of such capital must be regulated and channeled until productive and efficient economic activities arise. Every underdeveloped country experiences a decline or stagnation in economic development because of the high cost of the community to foster its own capital, because of the weak ability of entrepreneurs, both from the private sector and from the Government. Therefore, it is necessary to establish provisions and arrangements that can increase the ability of the Indonesian people to try productively [16].

During the New Order administration, there were a number of policies in the economy that were implemented, including controlling inflation that occurred at the beginning of his administration, carrying out a general pattern of Long-Term Development up to 25-30 years, this policy was carried out periodically five years called the Pelita (Five-year Development). Besides, Soeharto also started to exploit natural resources in the oil and mining sectors, and was a success of Soeharto in agriculture when Indonesia was able to be self-sufficient in food in the 1980s.

Economic policies during the New Order had indeed produced a process of rapid economic transformation and a high rate of economic growth, but with high economic costs and fragile economic fundamentals. The last thing can be seen in the poor condition of the national banking sector and Indonesia's growing dependence on foreign capital, including loans and imports [17]. This made Indonesia hit by a major economic crisis which was preceded by a crisis of the Rupiah exchange rate against the US Dollar in mid-1997 which finally the crisis of public confidence stuck to the New Order government, so that Suharto stepped down from his power in May 1998.

By implementing an outward-oriented economy, it does not mean that after the new order, the role of the state will be entirely ruled by the world's capitalists as owners of capital. Although the owners of capital have a strong role to control the state in setting a policy, there are facts that can be taken as examples that the state's role in setting economic policies is still strong. The first example comes from the Habibie's government, who through his cooperative minister Adi Sasono took policies that could support the development of people's businesses. At that time, the policy adopted was to provide credit subsidies for small and medium entrepreneurs to the desire to confiscate the assets of troubled conglomerates and distribute them to cooperatives and small entrepreneurs [18].

IV. A PROSPEROUS SOCIETY IN A GLOBALIZATION ERA

The role of the government and economic actors will determine the realization of the country's ideals to create a prosperous society in a just and sustainable manner. The government with its power can regulate, supervise, and provide incentives so that economic actors can play an optimal role for their own interests without ignoring their responsibilities to the government and society. After the reformation in Indonesia, leadership exchange has happened five times. They are B.J Habibie, Abdurrahman Wahid (Gus Dur), Megawati Soekarno Putri, Susilo Bambang Yudhoyono, and the current national leadership held by President Joko Widodo.

The pattern of each post-reform leadership has its own ways in improving the country's economy through economic policies that were implemented at the time. However, it should be noted is how the current reformation era should be framed by promoting nationalism and staying oriented towards the Pancasila economy which aims to achieve prosperity for all Indonesian people. In the Big Indonesian Dictionary, Reform is defined as a drastic change for improvement (social, political, or religious) in a society or country; in the economic field, drastic changes to economic improvement in a society or state: the new prime minister has swept the opposition and made a severe attack on the economy; in the field of law, drastically for improvement in the field of law in a society or country; while in the political field, change is drastic for improvements in the political field in a society or country [19].

Indonesia is a rich country in natural resources, but poverty, unemployment, and economic and educational disparities still characterize the life of the nation and state. The presence of the state to create equitable prosperity for all people within the framework of the unitary state of the Republic of Indonesia has not yet been realized. Improving public welfare by the state in general can be done by implementing economic policies that are in accordance with the values adopted by the Indonesian people, and since the beginning of Indonesia's independence, this has been emphasized by putting Pancasila as the state basis which is constitutionally outlined in 1945 Constitution. However, as an international community, Indonesia cannot turn a blind eye to the existence of a global economy. This condition requires the wisdom of Indonesian leaders to take policies that can improve the country's economy [20].

The current world economic phenomenon makes many countries, including Indonesia, are required to follow the trend of globalization that leads to globalization in the sense of "compression" of the world (compression of the world) in the economic field. Along with that, economic globalization which has recently been increasingly developed by the principle of trade liberalization or other free trade has affected the laws of each country, especially in countries involved in free trade.

Globalization, in an empirical sense, can contain symptoms as a new form of imperialism from developed industrial countries (NIM) vis-a-vis developing countries (NSB). But in an era where the role of information technology is increasingly massive and the hegemony of developed industrial countries is inevitable, the practice of globalization is experiencing objectification (becoming an objective factor). All countries inevitably accept the World Trade Organization (WTO) as a national supra body capable of forcing any country to lift all tariff and non-tariff barriers [21]. Including revoking subsidies for the poor and sensitive sectors of the economy such as agriculture. In this context, governance in developing countries - with democratic and political euphoria - is increasingly weakened. Business elites, NGOs, politics, and government in developing countries increasingly represent the interests of the metropolis in developed industrial countries rather than fighting for their people who are increasingly weak both economically and politically.

V. CONCLUSION

Responding to the global economy and its impact on the Indonesian economy, it is also affected by the principle of global economy and the principle of trade liberalization, because the Indonesian economy will deal with the economies of other countries or the economies of Indonesia's trading partners such as exports and imports, investment, both direct and indirect investment, and borrowing and borrowing. This economic influence is a challenge for the formulation of national policies, the world economy, and economic actors. This should be able to be an important note for state administrators to be able to enact policies that can bring the Indonesian economy towards a better direction. The linkage between the concept of the welfare state in the sense of the Pancasila legal state and the state's goal to be achieved through the state function which is the basis of the state's participation in the community's life, especially in the economic field, becomes clear. The realization of state objectives in accordance with the concept of a welfare state based on Pancasila can only be achieved if it is supported by elements of state power in it. The purpose of the state which was revealed so clearly in the Preamble to the 1945 Constitution certainly required a state function that not only functions as a mere regulator or controller, but also needed the function of the state as a provider of public welfare, entrepreneurs and as a fair and fair referee in the country's economic activities.

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