

Welfare Politics in Contemporary Indonesia:

Examining Welfare Vision of Law 11/2009¹

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Abstract

This article presents a picture of contemporary welfare politics in Indonesia. Adopted in the light of broken welfare-oriented programmes initiated by national and local administrations, it was hoped that Law 11/2009 would provide a clearer direction for the development of welfare systems in Indonesia. However, analysis of the formulation and content of the law, together with interviews and session notes indicate that such expectations are unlikely to be fulfilled. The legislation process in parliament (DPR) lacked any ideological or substantive debate, while the content fails to present a clear vision of welfare, except as a residual-like model and with characteristics of a benevolent state. This social welfare law has thoroughly failed to act as a blueprint for the Indonesian welfare ideal.

A. Background

Various initiatives and programmes aimed at developing social welfare have been delivered by a succession of Indonesian

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administrations, both at local and national level, in response to the impact of the 1998 economic crisis and also as a positive impact of decentralisation and democratisation. National and local authorities have initiated a number of programmes for enhancing universal access to basic public services in sectors such as health and education. Some of the programmes initiated by the national government include the Citizens Health Insurance (JAMKESMAS), Health Insurance for the Poor (ASKESKIN), School Operational Subsidy (BOS), and various social safety net programmes for mainly poor groups, such as Rice for the Poor (RASKIN) and Direct Financial Aid (BLT). At the local level, many district and municipal administrations have launched welfare-like policies, particularly in education, health and local economic development. The bulk of social welfare programmes suggest a new stream of state or government commitment to developing welfare. However, as the programmes are characterized as reactive rather than systematic with only the vaguest of vision, the legacies for the development of future welfare systems are dubious.

In a welfare-state model, policies designated for providing social welfare should be based on the spirit of citizenship (Marshall & Rees 1985 & Dwyer 2000). Welfare schemes should represent the expression of social contracts towards the fulfilment of the social and economical rights of citizens. It is the main role of the state to ensure that citizens have equal access to welfare rights. Within the welfare state scheme, all citizens should be included in the state's provision of public goods. There is a range of different welfare regimes aimed at guaranteeing the fulfilment of citizens' rights ranging from state centred, society centred, and market dominance, but the fundamental spirit of citizenship is commonly shared within these regimes (Andersen 2000).

The welfare-like schemes in contemporary Indonesia referred to above may express aspirations for the development of an Indonesian welfare model, though there is insufficient evidence to enable comparison with the trajectory of citizenship development as manifested in the Western/European model. The most recent development articulating the aspiration of a welfare state is the adoption of Law number 11/2009 on Social Welfare. Arguing the

strategic position of this Law, both the executive and the legislative bodies insisted that the Law should represent a genuine attempt to foster welfare-state development in Indonesia. In other words, Law 11/2009 is the new social contract, providing fundamental values or ideological tools for the development of a welfare regime.

Thus the scope of this article is to examine the vision and ideological basis of the law by understanding the political process of law formulation. Through examining the contested discourse of welfare ideas brought by actors during the legislation process, we could understand what sort of welfare system intended to develop in Indonesia. We aware that approaching the welfare regime development through visionary aspect has a limitation, since it will not be able to cover comprehensively power contestation involved various parties, including trade/labour union and also business association. However we believe that in Indonesian context where the welfare system is still something in making, understanding the welfare vision will be an appropriate launching for the comprehensive study in this subject.

The main question proposed is: what sort of welfare model is expressed in Law 11/2009? To answer this question, the article will discuss the background to the policy, as well as the legislative process. It is important to contextualise policy formulation, since the character of welfare regimes reflects social/political and economic challenges. Further, the formulation process is important in order to help us identify actors and interests that are influential in legislative politics. The data utilised in this article consists in the main of parliamentary records as well as a number of interviews with members of the legislature and expert groups involved in the making of Law 11/2009 carried out between September-October 2010.

In order to accomplish the specific objective of mapping out and identifying the vision of a welfare-state model contained in the law, this article will start with a framework for understanding the policy realm that consists of context, process and content. A review of existing studies on social welfare in Indonesia is then presented in the following section. Discussion on the formulation process of Law 11/2009 highlighting relations between actors in the

98 legislative and executive and their preferences is provided in order to understand ideological and political aspects of the policy. By way of conclusion, comparison of Law 11/2009 with existing welfare-state regime models will close the discussion. This article hopes to offer a beginning for deeper academic discussion on contemporary welfare politics of Indonesia that is as yet rarely explored.

B. State of welfare in Indonesia

National and local government initiatives aimed at developing social welfare policy in Indonesia are in the main concerned with addressing the limited capacity of the state to deliver basic public goods during periods of economic and political crisis. In general, many Indonesians were trapped in social and economical vulnerability that obstructed them from sufficient access to basic needs and basic public services. A climbing poverty rate, an increasing economic gap between societal group and the inability of the poor to meet basic daily necessities provided proof of the presence of a severe problem with the state of welfare in Indonesia. The crisis necessitated the various benevolence programs launched either by national government and/or local government. Rather than systematically developing policy responses based on a clearly envisioned welfare system, policies developed during the era of crisis-response were partial and little more than short term 'here and now policies' for helping the poor.

If we place welfare as the goal of economic policies, then Suharto's New Order regime which governed the country from 1965 to 1998, established welfare as its main vision. Flagging itself as the regime of development, the New Order adopted policies that provided unprecedented welfare provision to the people in order to differentiate itself from the previous Sukarno era that lacked economic development. However, the welfare regime imposed by the New Order was not based on the spirit of citizenship, since the regime suppressed citizenship rights (as the expression of democracy) under tight military control and the enforcement of martial law. Welfare goals under the New Order were therefore little more than instruments of political control rather than intended to guarantee the values of citizenship. In other words, there was no welfare-regime,

just an authoritarian regime armed with partial welfare tools.

The fall of Suharto brought all the New Order welfare-like policies to an end, leaving severe economic crisis and political unrest in its wake. Huge degradation in the state of welfare confirmed the basic defect of the developmental regime sustained by its patronage political culture and economic corporatism (see for example; Robison 1986 and Chalmers and Hadiz, 1997), and the ersatz character of capitalism development (Kunio 1988). The economic crisis that hit in the last days of the regime buried swathes of welfare arrangements that were established at their height in the 1980s, leaving almost no legacy of welfare-state development in post-crisis Indonesia.

The economic and political crisis led to a decline in quality of life and other substantial welfare measures. Skoufis (2001) states that the degree of welfare among people in the cities and rural areas sharply declined in 1996-1997, as he demonstrates the high degree of welfare vulnerability and a deeper disparity between regions and individuals. Disparity between the regions is indeed one of the negative impacts of the developmental strategy imposed by the New Order (Hill 2000). Poverty as an indication of the low degree of social welfare is also explained broadly by Grootaert (1999), in a report entitled 'Social Capital, Household Welfare, and Poverty in Indonesia' which explains how households were the most heavily affected by the crisis. Cameron's (2001) discussion on the negative implication of the crisis on children's welfare provides further evidence of the dismal welfare conditions in the aftermath of the crisis.

The decline of the welfare policy profile has rendered improvements in the social welfare agenda—one of the most challenging of the early years of the post-New Order reform period. Administrations – both local and national– adopted extensive programmes for welfare development, though most of the programmes were imposed by international donors rather than genuinely initiated at local or national level.

At local level (district and municipal in the main, though also provincial), as facilitated by decentralisation policies, many new local administrations developed concrete programmes that endeavoured

to meet the basic welfare needs of local communities. The practice of welfare policies spread out across the country, encompassing a variety of welfare-like provision models. Jembrana Health Insurance in Bali, Purbalingga Social Security Programme, the universal health insurance of Aceh, free education and health programmes of Belitung Timur, Bantul Education Support, Yogyakarta health insurance; and Solo Health Care and Education Subsidy, are among the examples of various welfare schemes initiated by local administrations.

Welfare provision was also the concern of national government. As the economic crisis caused rocketing poverty figures, the national government launched various programmes for giving direct benefits to targeted poor groups, and even some are partially directed for the establishment of a systemic welfare system. The social safety network (JPS), sub-district development programmes (PPK), food endowment for the poor (Raskin), and National Programmes for Community Empowerment are among those that were aimed at preventing further vulnerability of the poor. An ambition to develop more institutionalised social protection for all citizens was even manifested when in 2004 the president and the national legislature (DPR) passed Law 40/2004 on the National Social Security System (SJSN).

Even though there have been abundant efforts aimed at developing welfare policies; implications for the development of a welfare system are still vague. The reason is that the system has for so long been far from coherence and its programmes have not been integrated, and in some cases they were little more than political instruments for electoral politics. In other words, there has been a lack of vision of welfare-model development. As argued by Bender et.al. (2008);

the endeavour for developing such welfare confronted two major problems: low coverage, as it has been applied on a very limited basis (not including all citizens, except the members of insurance scheme); fragmentation, due to the lack of coordination between the various programmes enacted by different government ministries.

The programmes were incremental rather than comprehensive and tended to be project-based. In other words, when the programmes came to an end, the welfare schemes also ended. There is no guarantee of continuation or that a certain characteristic of the welfare system could be expected. Within the national government policy framework, the adoption of Law 11/2009 is designed to provide a blueprint for the development of a welfare system.

Discussing the state of the welfare system in Indonesia is an attractive matter since the issue is given little attention, both politically and academically. There have been some studies trying to understand welfare-system development in Indonesia, however, most reports focus on evaluating the effectiveness of the implementation of the welfare-like programmes and their implication on reducing poverty profiles. A report by the Smeru Research Institute on the social safety net (Suryahadi, Suharso, and Sumarto 1999) for instance, explained the implication of the social safety net policy in relation to attempts to reducing the effects of poverty caused by the economic crisis. Another report concerned with the implementation of the social safety net, edited by Sumarto and Suharyadi (2001), discusses the principles and approaches of the programmes.

Focusing on the implementation of the poverty eradication programme, Daly and Fane (2002) trace its effectiveness in overcoming poverty. Meanwhile, reports by Pritchett, Sudarno, Sumarto and Suryahadi (2002) provide their evaluation of special cash hand-outs programmes of welfare provision during times of crisis. The main thread of these reports is similar in that they highlight the evaluation aspects of policy; the implementation and output of projects, but do not give considerable attention to an analysis of their implication towards understanding the welfare regime in contemporary Indonesia.

Amid the waves of welfare programme development, understanding the character of welfare models in Indonesia is challenging. Summarising the existing programmes, it seems that the state was expected to be at the centre of welfare provision, but the beneficiaries were limited to targeted groups in society rather

than following the principle of universality and inclusiveness. The discussion of welfare schemes in the country is, up to now, also habitually linked to poverty eradication efforts. This may be acceptable since the most welfare neglected segments of society are the poor; however, welfare provision ideally places citizens as an inclusive entity. A welfare-like system, in other words, should not be only limited to efforts to overcome social problems and poverty, but needs also to include a comprehensive framework that looks after citizenship rights. This is the common value of any welfare model.

There is no singular model for a welfare state, but the system relies on the principle of the state's role in protecting and promoting principle of equity of the citizens in the areas of, mainly, social and economic well-being. The role of the state to foster equity, as Richard Titmus asserts, varies (Reisman 2001 and Abel-Smith 1987); acting as the direct provider of social and economic goods (maximum welfare state) or just playing a role as the regulator of social and economic life, but yet standing for assisting the deserving groups within society (minimal welfare state). The development of a welfare state is part of the history of capitalist development in European society, marked by industrialisation (Rimlinger 1971). The revolution was not only to modernise the economy, but also to enhance consciousness of citizenship rights and their implications to the nature of state-society relationships that result in a model of social state (Palier 2010). The development of welfare in Europe accordingly closely associated to principles of democratic society (Iversen 2005 and Haggard & Kaufman 2008).

The expression of welfare regimes is, however, also affected by the social and political structure of the individual state. The profile of a welfare regime is structured by the dynamics of the role and relationship between the state, family/society, and the market (Andersen 2000). The degree of strength of each actor will determine the model of a welfare regime in a capitalist system, i.e. European and North America.

In countries where the state plays a dominant role in fostering social solidarity for the sake of welfare value achievement, the welfare

regime is labelled a socialist-democratic one. This type of regime represents the classic model of the welfare state that in contemporary times is also popular with the Scandinavian models comprising Norway, Sweden, Denmark and Finland (Cox 2004, Nordlund 1997, Andersen 2004).

The second model is the conservative welfare regime, marked by the dominant role of family or community groups in undertaking responsibility for welfare values of their fellow members. This is a regime that appears in countries with strong traditional or conservative value of communalism or family, such as Spain and Italy (Comelles & Martinez 1994, and Bimbi 1999).

The third model is characterised by the limited role of the state and family/community for enhancing solidarity, as the citizens in general are able to maintain their welfare needs through the mechanism of the market. The main role of the state is market regulation, coupled with the provision of a limited social subsidy to limited deserving groups. Family/community also plays an insignificant role in the light of the markets' dominant role. USA (at least before Obama Administration) and Canada is the most preferred example of this liberal model (Myles & Pierson 1997, and Myles 1998).

Since discussion of the welfare state should be correlated to the development of capitalism, it is therefore challenging to understand the profiles of welfare regimes associated with non-western capitalist countries. Thus the most important issue is not to fit and to assess the western model within different contexts, but to investigate how the principles of equity and solidarity as the core value of welfare state find their expressions.

On a different path and evolution, some Asian countries perform aspects of welfare state development. Japan, Korea and Taiwan are the most prominent of the welfare systems that are strongly affected by both strong-centralistic developmental states, while at the same time maintaining conservative values of society (Kwon 2009, Aspalter 2002, Wilding & Holliday 2003). Profiles of the welfare model are a combination of state-led industrialisation and the emergence of democratisation that to an important degree have resulted in the

achievement of citizenship rights. Other developments to consider are those welfare regimes that have been established through social movements. Though a more in-depth investigation is required, the struggle over the rights-based attempts in India and in some Latin America countries cultivated by (dominantly) leftist social and political groups (Törnquist 2001, and Gret & Yves 2005), may in the long run enrich alternative models of welfare systems.

Amid different analysis of welfare-associated models, both in the classic example of the western capitalist society and in the non-capitalist countries, discussion of the role of the state in providing welfare values (equality of citizenship and solidarity) is at the centre of debate. To understand the profile of the welfare state, in other words, we should give attention to what roles the state intends to play towards maintaining or protecting citizenship rights, expressed both in the normative policies of government and the practical implementation of state authority.

The role of the state is the framework that is addressed in this article in order to provide initial understanding of the welfare regime in Indonesia. As an initial analysis, rather than to draw the character of the welfare state from practices of various aspects of welfare policies, this article offers a normative understanding of welfare state blue-print as manifested in the first ever law to pave the way for the development of a welfare state in Indonesia.

C. Law 11/2009: a blueprint for the welfare regime?

In a country where the welfare state remains but a dream, constitutional initiatives that aim to provide the foundation for welfare development are worthy of celebration. A comprehensive welfare state such as Norway, for example, was founded by documents agreed across social and political groups, just as with Bismarck's Social Legislations (Health Insurance Bill 1883, Accident Insurance Bill 1884, and Old Age and Disability Insurance Bill 1889). Bismarck's legacies placed Germany as one of the first welfare states in Europe.

Despite being criticized as partial in nature and rambling, various initiatives of welfare-like policies adapted by both national

and local governments indicate a willingness to develop a type of welfare regime. Taking such developments into consideration, the formulation of Law 11/2009 on Social Welfare brought genuine hope that it could provide a blueprint for the Indonesian welfare state. In the Indonesian legislative system, a law is positioned as the second most important source of law, just below the constitution. Discussion in this section will first cover the legislative process together with key points highlighted in the debate, and second, provide analysis of the substance of the welfare framework as defined by this law.

C.1. The legislative process and key debates

In the Indonesian presidential system, national legislation is the arena of power sharing between the executive/government (president and the ministers) and the legislative (DPR), as the executive has an integral part in the formulation process hosted by the legislative. There can be no legislation without the joint agreement of the two bodies. The procedure for the production of legislation is initiated with the proposal of a draft law (RUU) that may be originated by either body. However, it is usual that the RUUs are initiated by the executive. Only a few pieces of legislation have been formulated on the initiative of the legislative. The initiative for proposing a law is made by the president, but prepared by either a single ministry or joint ministries. When the president proposes the draft, the legislative will soon set out the procedure for holding hearings and joint session with the executive to discuss the drafts. A slightly different procedure is enacted when a draft law is initiated by the legislative. No single legislative member may propose a draft. Instead, there should be a minimal caucus of members that are allowed to initiate a draft. The draft is then submitted to the plenary session of the DPR, and only if the majority of members give their support, will the joint session between the legislative and executive be initiated in order to discuss the drafts.

Even though the joint session is a requisite procedure for legislation, the DPR nevertheless has the right to determine which commission of the legislative that will be delegated to discuss the drafts. The commissions of the DPR are structured into 11 areas;

each with defined policy areas and partners in the ministries or other executive institutions. Depending on the substance of policy, the draft of the law is usually delivered to the respective commission which is then responsible for moving the process forwards. However, when the issues of the draft are conceived as politically strategic and thus need to involve various ministries and require high-level political negotiations between the parties, the DPR may form a Special Committee consisting of a representative from each of the political parties with the seat in DPR. This was the case of, for example, with the Law on Political Parties and the Law on General Elections.

Depending on the process required for reaching consensus – which in some cases includes political transactions– the time needed for agreeing a draft into law cannot be precisely estimated. Those drafts that are politically sensitive and/or involve the explicit interests of political parties consume a lot of time and can even lead to public apathy. The Law on Political Parties and the Law on General Elections enacted prior to the 2009 elections are two cases where the political parties had direct interests and the processes were therefore marked by political transactions between the parties. The law on Special Autonomy for Yogyakarta Province which was first proposed in early 2000, remained in discussion until 2010. This is because the law is politically sensitive in terms of national-local political relations. Meanwhile, some draft legislation that is not politically sensitive in which party political interests are not directly affected, the process for adoption into law may be swift.

The proposal of laws discussed in the joint sessions consists of two parts, the academic manuscript and the articles of law. The academic manuscript contains substantive explanations on the background and rationale for enacting a law and in what way it should be regulated in order to attain the ideal goal of the constitution. Those aspects that require regulation are also normally explained in more detail, since these will provide the sources for the articles of the law. Articles of the law structure the direction of the legislation and the number of articles is dependent on the degree of complexity of the law. Though the drafts are formally proposed by either government or the DPR, the actors involved in the preparation of the text are rarely members

of the DPR or government ministers.

The limited involvement of members and/or top ministerial executives in writing the draft is common, as these rely on expert groups to formulate the initial draft. The Indonesian DPR challenges the members' lack of capacity to systemise aspirations to provide valuable input to the legislative draft, and some members have limited knowledge in areas of public policy. This situation is part of the fundamental problem in Indonesian democracy, where most politicians are commonly associated by their popularity only or elected due to primordial attachment or money-politics, rather than because they have a good track-record as a public figure. Under such conditions, many politicians thus rely on the assistance of expert staff to formulate policy drafts. A better situation would be with an executive that consists of a professional bureaucracy. However, it remains the case that they depend on expert teams to draft laws, whilst expecting assistance from international donors. This situation reveals the shortage of technocratic capacity of policy makers. The case of Law 11/2009 is no exception.

Even Though expertise plays an important role in preparing the content of legislation, the political process controlled by the DPR and representatives of the government is the ultimate power in legislation. As the process is mainly political, in many cases the substance of a law is driven by interest negotiation and consensus, rather than by a rational deliberative debate. During the sessions, the commission may invite the general public and other interest or professional groups to submit their views through public hearings or consultations; however, many laws have been passed that discarded public interest and which have subsequently caused a public outcry when formally enacted. In such cases, the public may make a submission to the Constitutional Court calling for a review of the disputed aspects of the law in question.

Law 11/2009 was adopted, following normal legislative procedure. However, there was no controversial debate during the sessions and post-session. Though substantively essential as it directs future of the welfare system in the country, political debates were

very calm. More surprisingly, public debate in the mass media was also limited. Additionally, the Social Welfare Law was one of very few drafts initiated by the DPR, particularly Commission VIII. The origin of the draft was an agreement between all commission members to formulate the first ever law for directing the social welfare system in Indonesia.

In preparing the draft, Commission VIII established an expert group, inviting scholars and expert staff. The team was instructed with formulating an academic manuscript and initial draft of the articles. Some comparative study visits claimed to be relevant to the formulation of the draft were conducted in Finland, China and New Zealand. There were no strong reasons given for the selection of these states, except in the case of some former members of the team of experts who explained that these countries had developed a reasonable social welfare system that might inspire the development of Indonesian model. The academic manuscript and body of articles were then submitted to the Government, i.e. the Coordinating Minister for Social Welfare that had also has prepared complementary draft.

The process for discussing the draft –as explained by members of Commission VIII’s team of experts–was very quick and only required two joint sessions. It is doubtful that such a swift process represented the comprehensiveness of the draft. The rapid discussion of the draft may have been due to the political situation at the time of the sessions, as the general election was approaching. Political parties, therefore, had an interest in demonstrating their commitment to the public in the form of the agreement to and adoption of regulation concerned with social welfare. Another explanation, however, is linked to the nature of the political process in the DPR; namely that politicians and/or political parties will pay less attention to any legislation that does not directly impact on their political interest. Apart from political reasons, rapid discussion also highlights limited public attention to and discussion of welfare vision, though many acknowledged its importance in driving the future development of the Indonesian welfare system.

The swiftness with which the law was agreed also points to the limited debate involving political parties and government. One of the expert members of a major party asserted that there was basically no controversial content that affected the political concerns of political parties. This was confirmed by a member of the legislature's Research and Data Processing Centre who informed us that there were no sharp differences of opinion between the parties. All parties, regardless of their character and ideological identify, failed to indicate any clear points of difference. As a result, the process failed to prompt valuable public debate and raise the interest of broader societal groups. The trade union that in comparative perspective plays active role in influencing formation of welfare state was also missing during the debate.

The absence of sharp ideological debate between the parties is an anomaly in comparison with the development of the welfare system in many other countries, since the model of social welfare provision is usually driven by ideological discourse and often represents one of the most fundamental areas of political debate. In many political systems, the ideologies of parties have typically affected the choice of welfare systems, ranging from strengthening to weakening the direct role of the state in the provision of welfare goods. Taking this into consideration, the Social Welfare Law was exceptional since the ideological character of the parties could barely be discerned, both during the sessions and as reflected in its content. This confirms the suspicion that political parties in the DPR do not have clear ideologies and political positions. In other words, state policies are not determined by clear ideological or political vision and the ensuing debates over them, but rather by pragmatic economic and political interests. Policies without vision represent a major deficit in contemporary Indonesian democracy.

Notwithstanding the harmonious picture painted by some parties, there were still some contested positions between the major political groups in the DPR. Debates that can be tracked from sessions note and which were subsequently confirmed tend to reflect basic differences between political parties with an Islamic-based ideology and those with a nationalist one. Some key debates between such

parties may be summarised in the question: should the state play an active role in welfare provision, or should civil society organisations/ social organisations take a more active role?

On this issue, political parties identified as Islamic based parties as the *Partai Kebangkitan Bangsa* (PKB), *Partai Keadilan Sejahtera* (PKS), and *Partai Amanat Nasional* (PAN), were in favour of promoting greater civil society or social organisation involvement in the provision of welfare values. It was their main political position that the state should not act directly to solve social problems. Instead, the main role of the state should be to provide all necessary resources and to develop cooperation with civil society organisations/ social organisations to deliver welfare provision. Such a political standpoint was challenged by the 'nationalist' parties, mainly the *Partai Demokrasi Indonesia Perjuangan* (PDIP), *Golkar*, and *Partai Demokrat* that define the state as the main authority responsible for developing and maintaining the social welfare system, while at the same time, providing necessary resources for making it work.

Such differences in defining the state and society's role in welfare provision, however, do not indicate an ideological view on how to place the state in welfare schemes as shown in, for example, the Esping-Anderson models of welfare regimes - but rather reflect the social basis and the connection of political parties with main social organisations in Indonesia. In general, parties with an Islamic political basis traditionally have strong connections with social organisations that fulfil social welfare-provider functions. *Muhammadiyah* and *Nahdatul Ulama* are among the biggest Islamic social organisations, while some newly established social organisations such as *Dompot Dhuafa* and the *PKPU* (Indonesian Humanitarian and Zakat Foundation) are also Islamic based. The Islamic-based parties are closely associated with these social organizations, and even have their roots in them. Thus, strengthening the role of these social organisations in social welfare provision means maintaining and even enhancing their social basis, which is in turn useful in electoral politics.

In contrast, the nationalist parties saw that they had no direct interest in strengthening the role of social organisations,

since there would be no clear political benefit in terms of electoral politics. Nationalist parties have no solid networks of mass-based social organisations as do the Islamic parties. For the nationalist, it is politically much more advantageous for the state to provide social welfare directly. Management by the state will at least avoid domination by social organisations that are traditionally connected with Islamic political power. In addition, as the nationalist parties are more dominant in running state institutions, particularly the bureaucracy, strengthening the role of the state means preserving control over welfare distribution.

The conclusion of the session was a triumph for the nationalist position; though in a way it also contained a compromise, since the Law obligates the state to retain control over welfare provision, with additional roles for guaranteeing the autonomy of social organisations as active partners in providing social welfare services. Islamic parties also supported the state having a more active role in welfare provision, especially for vulnerable groups.

Though parties soon arrived at an agreement, the ultimate winner was the government, especially the bureaucracy of the social ministries, with regard to the success in proposing number of clauses that give extensive authority to the ministries in social and welfare affairs area for controlling the implementation of the social welfare system. This may prompt the bureaucratisation of the welfare regime, which could *potentially trap the social welfare system into a project-oriented framework as was the norm in previous practices. A more in-depth discussion of the substance of the definition of the welfare regime in the Law 11/2009 is undertaken in following section.*

C.2. Towards an Indonesian welfare regime: residual rather than universal and the bureaucratisation of welfare

Broad literature comparing welfare regime in many countries confirms that the state of welfare reflects the character of the social contract between the state and society for guaranteeing citizenship rights (see Eriksen & Loftager, 1996). The normative ground of such foundations of the welfare regime is commonly defined in the

constitution. In Indonesia, the vision of the welfare state is explicitly stated in the preamble of the constitution which states that the state has an obligation to protect citizens and the entire nation by providing public welfare and prompting social justice. The orientation of the welfare system is even detailed in some articles of the constitution, such as the state being required to allocate public budget in order to develop specific basic welfare needs, i.e. for education and health, and in general should bring benefit to the prosperity of all citizens.

As mentioned earlier, there will be no welfare system without citizenship rights covering individual, political, social-economic and even cultural heritage. The Indonesian constitution is more than capable of assuring citizenship entitlement as each citizen should have access to fulfilling those needs required for a good standard of living (the right to have a job, the right to an education and the right to benefit from science and technology, arts, and culture), to develop properly their humanity, and to enjoy equality and justice (see Articles 27 (2), 28C (1), and 28H (1, 2, 3)). Particularly in the case of vulnerable citizens, the constitution defines greater responsibility of the state to provide universal social insurance and take action to maintain access to public services (Article 34). In order to secure resources for welfare provision, the state is obligated to control and manage its abundant natural resources for the sake of the people's prosperity (article 33).

In sum, norms of the welfare state are constitutionally mandatory, and the state of Indonesia was established in order to play an active role in welfare provision, and even to guarantee a broader range of citizenship entitlement. If the constitution is taken as evidence, then the idea of the welfare system in Indonesia must be characterised as universal, rather than residual, as it is intended to cover the entire citizenship. However, in reality, the welfare system is far from developed, as citizenship is as yet rhetoric and the political system directing the state is dominated by patronage interests, selfish politicians and practices of political corruption.

In this context, Law 11/2009 aimed to provide a more operational legal framework for the development of the welfare

regime. This vision notwithstanding, the content of the law nevertheless expresses contradictory principles in comparison with the norms of the constitution. The official title of the law is Social Welfare Law which thus appears to refer to a particular sector of welfare provision, rather than aiming to provide a framework for the development of a comprehensive welfare system. As the constitution more or less defines Indonesia as welfare state, the country needs to adopt a comprehensive legal framework for integrating the different sectors of welfare-oriented services under a single welfare scheme. Law 11/2009 thus fails to meet expectations, since it mainly only regulates those welfare aspects managed by the Ministry of Social Affairs, rather than to guide the development of a welfare system.

As this law provides a framework for regulating partial social services, it will have limited capacity for ensuring the integration of the diverse efforts to provide welfare services implemented by national government, regional government and society. Moreover, the scope of social services (article 1) defines social welfare services in a narrow sense, that includes: 1) *social rehabilitation*—a process of the rehabilitation and development of an individual to enable them to conduct their social functions normally; 2) *social assurance*—a scheme to ensure that every citizen is able to fulfil their basic livelihood needs; 3) *social empowerment*—efforts to ensure that all citizens experiencing social problems have the capacity to fulfil their basic needs; 4) *social protection*—efforts to protect and mitigate the risk of social shock and vulnerability. Social services, in other words, are provided by the state for targeted groups only, rather than ascribing equal entitlement to citizens more generally. This points to the residual character of welfare scheme that contradicts the universal principle as defined in the constitution.

There are a number of indications of the residual welfare characteristics conveyed in this law. *First*, the logic of non-inclusivity and benevolence of the state are dominant. As previously explained, the state will only intervene and assist groups of citizens with social problems and potentially vulnerable groups. It does not however provide a framework for addressing the root causes of social problems, which in the Indonesian context is the inability of a group of citizens

to fulfil basic needs, mainly due to poverty. People are poor because they have no access to the abundant resources due to lack of capability and unequal opportunities. This means that poverty in Indonesia is a structural problem, rather than because of a lack of public resources. As long as the law concerned with welfare development fails to provide a framework that guarantees equal access and opportunities, the welfare system will be little more than a social benevolence fund and charity-like scheme. In other words, the benevolence logic of the law is rooted in the very basic requirement of any welfare models, which is the existence of citizenship values. Since the law doesn't regulate how to enforce the spirit of citizenship, it will only maintain the characteristics of patronage relationships between the state and society in Indonesia. In this respect, Law 11/2009 merely deals with the symptoms of the problem, while roots of the disease remain untouched.

Second, Law 11/2009 has limited potential capacity for integrating welfare sectors and securing the cost of welfare in the long term. A part of this law, some sectors traditionally associated with welfare provision, for example health, education, and social services, have been regulated within a different legal framework. In each sector, the principles of the welfare regime have in some aspects been defined, such as equality and state responsibility. But if this law is expected to provide a general framework for welfare development, then it is unfortunate that it has no potential for either synchronising with other regulations, especially those related to the regulation of basic services (for example local autonomy laws, education laws, and health laws), or with aspects of inputs for making the welfare system work (for example labour laws and laws related to state budget).

The effective functioning of the welfare system, as shown in many countries, is determined by the input dimension which supports the financial capacity of the regime. In many welfare countries, capacity of inputs relies on a full-employment policy, which is evidenced by a low proportion of the population that is not absorbed into the labour market (Gosta-Esping, 2000). In this context, the main task of the government is to facilitate citizens to be active in the workforce. In Scandinavia and western Europe, for example, one of the most important welfare offices set up by governments is

the labour service office. This office functions not only to compile available employment and job vacancies, but also to design schemes that connect the labour force with the labour market. Labour offices generally maintain a database of employment seekers, including their skills and competences. But the full employment policy can only be effective if there is integration between employment opportunities and the capacity of citizens to access them, with the state playing a bridging role. Failure to fulfil one of the aspects will result in the failure of the full-employment policy, and thus the subsequent decline of the welfare system. In this regard, Law 11/2009 makes no impact. The implementation of this law, therefore, will be of limited significance to the development of universal welfare system.

Third, the ideological stance of the law is unclear, though there seems to be a tendency towards liberalism. Models of welfare regimes can be differentiated between the role of the state, market, and community/family welfare provision (see Gosta-Esping 2000 & Taylor 2007). The degree of the role of each element demonstrates the ideological character of the welfare regime. If the state plays a dominant and active part in welfare provision, the regime is represented social democrat one; while the market dominant will form a liberal welfare regime and finally, if the community/family takes an active role in securing welfare needs, the regime is categorised as conservative.

Social welfare schemes highlighted in the law are addressed mainly to vulnerable groups, or the deserving ones. This is obviously a characteristic of a liberal regime, as there is no universal principle. However, some important conditions of such models working effectively to guarantee citizenship rights are not to the concern of the law. The liberal welfare model may only prevail in a society if equal capability for accessing the labour market is enjoyed by all citizens (Andersen 2000). This is not limited to the equal right to get a job, but also the standard of the ability to access jobs that are concomitant with their skills and opportunities in the job market. Only if people engage actively in the job market, can they earn the capacity to access welfare goods provided by market mechanisms. This aspect is not unfortunately an aspect of welfare design that the Law aims at, and thus reflects the absence of concern and a lack of

116 comprehensive ideological debate between the policy makers during the legislative process.

Despite the liberal characteristics indicated by the degree of welfare coverage, Law 11/2009 however grants a stronger role to the state, as administrations at central and local levels are positioned as the main actors fully responsible for providing social services. The large role of government is explained thoroughly in Article 25, namely, that the importance of the state is not limited to policy formulation related to the welfare scheme, but also as main provider. Non-state actors, such as social organisations, community organisations, and private interests are secondary and must work under the supervision of government.

The bigger role of the state seems to reflect its commitment to the citizens. However, if we examine it comprehensively, it is actually more concerned with the expression of the bureaucratisation of social welfare schemes, rather than with efforts to protect citizenship rights. The bureaucratisation of the welfare system is evidenced by the call for the standardisation of the administrative process of the now existing social services. Article 46 (1) of the law emphasises that all institutions providing social welfare must be officially registered by the ministry or department of social affairs in their respective areas of activity. The national and regional governments are even granted the authority to register organisations providing social services. This bureaucratic role played by the state is central to the legislation, and it's hard to find a logical connection with the state's obligation to establish universal welfare provision as mandated by the constitution.

The bureaucratisation of welfare provision is also manifested through the professionalisation of social welfare workers. As regulated in chapter IX, social service officers and social workers are obliged to have a certain competence in order that they may be considered as a professional. The professionalisation of social workers is important for accrediting social workers; however, as it measured by solely administrative and bureaucratic standards, there is the possibility of deviation and even corrupt procedures, given the fact that it will be the privileged authority of the social department. Accreditation

of social workers might easily turn into a more project-like process, rather than an endeavour to implement the vision to develop capacity of the welfare system. Furthermore, the standardisation process will be misleading if it only measures the capacity of social workers, because the most important thing is the commitment of the state to providing facilities and programmes for handling social welfare goods. In this regard, law 11/2009 does not define the responsibility of the government to provide facilities for the continuous professional development of social workers. This accreditation system will therefore be counter-productive with the existing system run by society, and the enhancement of bureaucratisation in social welfare provision will not contribute to transforming state and citizen relationship in welfare affairs. Such professionalisation in this context might reduce social capacity for delivering welfare needs, rather than strengthening it.

As explained above, although Law 11/2009 is intended to provide a substantial framework for welfare state development in Indonesia, its impact on such development seems unclear. This situation is due to the fact that the idea of welfare as formulated in this legislation comes as a result of a lack of commitment as reflected in the description of the process, as well as the implications of the shortage of ideological debate between political parties in the DPR. As welfare development is now widely aspired to by many groups, the failure of this legislation to define a blueprint for the Indonesian welfare system will keep the state of welfare system development in Indonesia in inertia—trapped by the disintegration of sectors and the lack of a comprehensive policy. Considering the content, the political claim of legislators and representatives of government that Law 11/2009 will provide a framework for foundation of social welfare system has therefore no substantive ground.

D. Concluding remarks: Residual and benevolence, not a universal welfare ideal

Welfare system development, as explained in this article, is one of the most important issues in Indonesian political change. Efforts to develop welfare-oriented policy have been made by the government, both at national and local level, but are not integrated

and are rather project-based. In the short term such policies might tackle the immediate needs of public services required by vulnerable groups in society, but they don't address the roots of social problems which require the mainstreaming of citizenship values. In this sense, Law 11/2009 on Social Welfare grasps strategic momentum to provide a general framework and guidance for further consolidation of welfare regime.

By analysing of the legislation process and the content of the law, this article shows that this regulation is not able to provide a framework for welfare development. With regard to its strategic meaning, the formulation process of Law 11/2009 didn't represent wide public debate with which to identify foundational issues on welfare development in Indonesia. If the welfare regime is a reflection of ideological policy, it didn't find vibrant political debate between political parties in the DPR, and moreover there was an urgency merely to finalise the law. This process may well be a combination of the lack of attentiveness of legislators and government to develop a solid legal-framework for welfare system, the shortage of knowledge or ideological tools amongst policy makers on welfare models alternative, and also limited attention of the public.

As Law 11/2009 is the result of such a poor legislative process, its contents failed to be treated as a blue-print for social welfare system in Indonesia. The national constitution states that the welfare system should be built on the principle of universal citizenship, pointing to the dominant role of the state in ensuring that the Indonesian people have equal access to remedies for their welfare needs. This law however contradicts these principles, as the social welfare designed in the law is intended to respond to social problems, rather than draw on the spirit of fulfilling citizenship entitlement. Social problems identified in this legislation are perceived as sources of social instability and, therefore, should be adjusted to normal standards through various welfare programmes provided by the government. According to such logic, welfare programmes are part of the treatment for social problems in order to ensure that socially vulnerable people may return to a 'normal' condition as a way to maintain political stability. Though this goal is morally adjusted, it can't be automatically

connected with values of citizenship that represent a fundamental challenge to the development of a welfare system in Indonesia. The social welfare scheme is principally addressed to particular groups of citizens, and the welfare character developed through this law is certainly of a residual model. However, since such a residual model, in the Indonesian context, is not yet accompanied by citizenship values, the residual principle could easily give rise to benevolence policies that strengthen patron-client political tradition.

In other words, the existing model of welfare scheme initiated by Law 11/2009 does not originate from the spirit of social citizenship, but remains dominated by the benevolence logic of the state that places the relationship between society and the state (elites) in the relationship expressing political and economic trade in order to maintain patronage political tradition. As shown in the table, such a benevolent state model is in contradiction with principles of the welfare state.

Table
Welfare state and benevolent state compared

| | WELFARE STATE | BENEVOLENT STATE |
|--|--|-------------------------------------|
| Basic idea | Social citizenship | Clientelistic political trade |
| Social and political basis | Social solidarity and political equality | Loyalty and asymmetric relationship |
| State-citizen Relationship pattern | Social contract for the fulfilment of basic rights | Benevolence and loyalty transaction |
| Welfare policy orientation (understanding the meaning of 'social') | Social rights and social needs | Social problems and stability |

Note: developed from Eriksen and Loftager (1996: 1-27), and Eisenstadt and Roniger (1980)

While Law 11/2009 seems to have a limited legacy for orientating welfare state development, it also lacks the ability to deal with the roots of social vulnerability. Social problems in Indonesia are part of the structural problem. Poverty and shortage of public services are the result of unfair social-economic structures due to policy discrimination and the abandonment of public matters by the government. Instead, social problems are considered individual problems due to cultural factors and a perceived shortage of creative and competitive spirit, and the failure of individuals to access market system. It is therefore consistent when welfare is offered as therapy to help individuals become 'good' citizens, develop mindsets on entrepreneurship, and provide the vulnerable groups with additional skills capital. As is manifested in the contents of Law 11/2009, the welfare system, aligned with Jayasurya (2005) and Taylor (2007), consciously aims at minimising the destructive effect of the liberal market economy, rather than to implement universalistic principle of welfare envisioned in the constitution.

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