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Understanding the Social Welfare System Vision in Act 11 of 2009**

Wawan Mas'udi & Hasrul Hanif

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Author's email address: masudi@ugm.ac.id; hasrulhanif@gmail.com

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Department of Politics and Government

Faculty of Social and Political Sciences Universitas Gadjah Mada.

Gedung PAU UGM Lt. 3 Sayap Timur, Jl. Teknika Utara Pogung, Yogyakarta, Indonesia 55281.

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SOCIAL WELFARE POLITICS IN CONTEMPORARY INDONESIA:

Understanding the Social Welfare System Vision in Act 11 of 2009*

Wawan Mas'udi, S.IP, MPA[®] & Hasrul Hanif, S.IP, MA[®]

Abstract

This study attempts to understand how the social welfare politics developed in the contemporary Indonesian politics work by focusing on the policy making process of Act 11 of 2009 on social welfare. The research focuses on trying to understand the vision, ideological thinking, and welfare scheme model envisioned by the formulators of the policy when designing social welfare system in Indonesia. By employing analyses on three important dimensions of policy which are context, substance, and process of policy this study finds that social welfare policy design in Indonesia is built in particular, not universal. Social welfare scheme is a response of the state to discipline social problems more than an expression of state responsibility towards the fulfillment of citizens' basic rights in the citizenship framework. Aside from that, tendencies of being output oriented and strong bureaucratization arise in its implementation design. There is no clarity of the ideological choice and distinction in the existing social welfare scheme. The matter is confirmed when the formulation process of Act 11 of 2009 shows that the different political parties with different ideological background, and different constituent basis did not have different perspectives and ideological contestations. Ideological debates were absent.

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[®] Head of Research Team, Politic and Government Department, Faculty of Social and Political Science, Gadjah Mada University.

[®] Members of Research Team, Politic and Government Department, Faculty of Social and Political Science, Gadjah Mada University.

Opening Remarks

In the recent decade, various initiative and programs to develop social welfare surfaced in Indonesia. The central government and regional governments have initiated a number of programs to provide accessibility of the basic public service needs especially in the health and education sectors to the all citizens without exceptions. Some of the programs were Citizens Health Assurance (JAMKESMAS), Poor's Health Insurance (ASKESKIN), and Education Funds (BOS). The government also develops various social safety net mainly to poor communities like the Poor's Rice (RASKIN) and Direct Financial Aid (BLT). However, these social welfare programs still shows incomprehensive policy design because they are managed partially instead of systematically. The programs tend to be charitable and reactive instead of having a welfare system foundation as an expression of citizens' basic rights fulfillment.

Ideally, the policy design to develop social welfare is based on the citizenship spirit. Social welfare system vision should be placed in a framework of state function and role in providing public goods. Social welfare system scheme should also consider state – citizen – market system relations. The choice of social welfare system model is determined by the regime basis. It can be based on the state, citizens, market system, and family/other social institution.

The basic vision of welfare system can be traced from the existing normative scheme. Therefore, this research tries to study the extent of social welfare scheme in Indonesia is equipped with systematic vision and design through understanding the policy making process in Act 11 of 2009 on Social Welfare. This action was taken because essentially we can understand the vision and ideological basis of a policy through the policy making process itself. The study of policy making process is also one of the main subject being studied and a very dominant research object in the recent years in political and governance science.

The specific objective of this research is to map and identify vision and ideological basis in the minds of the policy makers when they formulate the policy scheme and design of social welfare in Indonesia. This study is also expected to offer academic and practical contribution in social policy making to make it systematic and visionary.

Therefore, this article will be started with the explanation on the framework employed to understand a policy. This article will then discuss existing studies on social welfare in Indonesia and the social and political context of each study. Next, the article will present an in-depth discussion on the formulation process of Act 11 of 2009 on Social Welfare by discussing the relations between the policy makers, principally in the parliament, and the interest and basic preference of each policy makers. By understanding the context and process behind the formulation of Act 11 of 2009 on Social Welfare, this study attempts to explain the political aspects in the social welfare policy. At the same time, this article will also discuss the technocratic aspects of social welfare by deconstructing the content of the policy. The content of the policy shows the vision, ideological mind ad policy design of

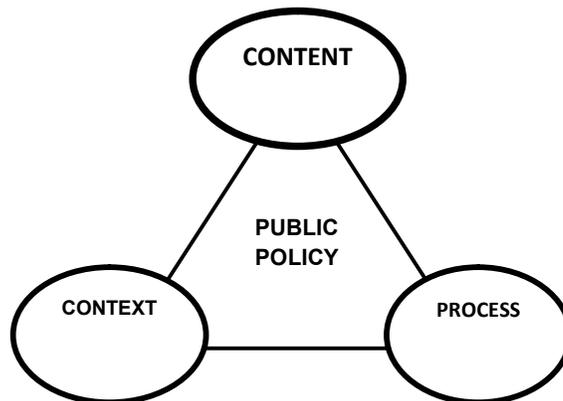
social welfare imagined by the policy makers. This article will be concluded with a closing note that tries to reflect the existing social welfare policy.

Context, Process, and Content Dimensions of the Policy

This section will explain the framework employed in this research to understand the policy process of social welfare in the Act 11 of 2009 on Social Welfare. The existing studies on policy can be divided into two main school of thoughts in understanding the policy making process. First, which are held by technocrats or public administration scholars, is the understanding that policy process is not only a technocratic, incremental, and administratively formal process. Public policy as defined by Thomas Dye, is any decision of the government to act or not to act to achieve a certain public goal (Howlett & Ramesh 1995:4). In this school of taught, policy actors are only formal actors, mainly the government, which has the capacity as a comprehensive reasonable actor. Comprehensive capacity in this definition is specifically the comprehensive capacity to understand social problems holistically which enable the actor to make reasonable and correct decisions or actions to solve the problem. In this way of thinking, policy process tends to be a staged process or linear phases started from the formulation process, continued to decision making, implementation, monitoring, and ended with evaluation process.

Second, the policy process is understood as a political process which includes various actors, formal and informal, which try to negotiate, involve in conflicts, or build consensus to ensure that their interests are converted and considered as public interest. Actors in policy, according to this definition, uses bounded rationality in understanding social reality thus unable to see the reality and social problems holistically and comprehensively. The way each actors sees the reality or social problems are highly influenced by choice of ideology, social values being held, and the perspective upon the social problem. To conclude, in reality, policy making process is a dynamic process by involving various actors with their own interests (Santoso, Hanif, & Gustomy [eds.] 2004). Therefore, a policy process, including social welfare policy, must be seen through a number of dimensions to acquire a more holistic understanding.

This study tries to combine the two perspectives by observing the public policy process as a technocratic process and political process at the same time. Therefore, as argued by John W. Thomas & Merilee S. Grindle (1980), policy process must be understood through three important dimensions:



First is policy context. Context in policy process is the social, economical, and political environment setting. Setting may be connected with the change of political system that occurs in the policy process. The understanding of the current political system is very important to identify ideological mind and state and citizen relationship pattern in a certain political context.

Second is policy process. Policy process is the identification of actors involved in the policy process and relationship pattern between the actors. In understanding policy process, this study will identify the actors involved in the policy making process and the preferences, interests, or ideological basis that each has. Understanding the context and process dimension of a policy is an attempt to study deeper the political aspects of a policy.

Third is policy content. Observing the content or substance of policy process is an important activity that cannot be set aside. The urgency of studying the substantive dimension in policy process is to understand the relationship of public morality principles, public interests, scientific principles (technocratic aspect) with the policy process.

Social Welfare Context in Indonesia:

Theoretical and Empirical

Social welfare policy in Indonesian context is within the complex problem of states inability to fulfill the need of public goods. The result of this condition is the wide disparity between those who are able to fulfill their needs sufficiently or even abundantly, and those who do not have the ability to fulfill their basic needs. High poverty rate, inaccessibility of basic needs by a large group of the society, sad stories written in mass media due to extreme poverty, and other stories undoubtedly probes the presence of a severe problem in the Indonesian welfare profile.

The welfare problem is a long discussion mainly since the downfall of developmentalist economy system which was the main pillar of the President Suharto's New Order Regime. One study that explained the matter was entitled The Politics of Economic Development in

Indonesia written by Chalmers and Hadiz (1997). The study explained the strategy and economic vision of the New Order developments. Developmentalism of the New Order places welfare as a measure but its welfare system is very vulnerable which resulted in its downfall.

The situation caused the problem of the decline of welfare quality. Emmanuel Skoufis (2001) stated that the degree of welfare among people in the cities and rural areas sharply decline in 1996-1997. Skoufis research shows the vulnerability of welfare in Indonesia in the economic crisis period and has caused a deeper disparity between regions and individuals. This is also a problem which the New Order failed to solve. The problem of poverty as an indication of the low degree of social welfare was also explained broadly by Christian Grootaert (1999) in a report entitled "Social Capital, Household Welfare, and Poverty in Indonesia". Grootaert explained that the household is the worst affected by the crisis. A study of the effect of the economic crisis conducted by Lisa A. Cameron (2001) discusses the implication of the crisis on the decline of children's welfare.

The declining welfare profile has made development of social welfare system an important agenda in the reformed era. The government, local level and national level have extensively design programs for such development. Radhi Darmansyah and T. Voenza Rhamdani explained the attempts conducted by the Aceh provincial government to build an integrated social welfare system. Danang Munajat (2000) discusses the policy to increase social welfare of poor families through group business in Yogyakarta Special Region. Beside local governments, the national government has also tried to develop social welfare system.

Most of the study focused on the evaluation of the national social security system (a program that massively conducted in the aftermath of the 1998 economic crisis) and its implication on the poverty eradication attempt. Report made by Smeru Research Institute on Social Safety Net which was written by Suryahadi, Suharso, and Sumarto (1999) explained the implication of the Social Safety net policy in its relation with the attempt to decrease the effect of poverty caused by the economic crisis. Another report related to Social Safety Net was written by Sumarto and Suharyadi (2001). The report discusses the principles and approach of the Social Safety Net. On the poverty eradication program, Anne Daly and George Fane (2002) trace the effectiveness of anti poverty programs. Lant Pritchett, Sudarno, Sumarto, and Asep Suryahadi (2002) evaluated special programs to develop welfare in crisis periods.

The development of the social welfare problem as described encourages the state to develop a welfare system. Welfare system is not only defined as efforts to solve social problems and poverty but also includes systematic design to develop welfare system. In Indonesia, from evaluations of various programs, welfare system is understood partially and tends to be simplified into reactive policies in the forms of crash programs. This context should be the basis to develop an integrated and comprehensive welfare provision scheme.

Development of welfare scheme should not be trapped in being reactive to welfare ideas which are mainly adapted from Europe. This reaction caused a fallacy. Which actor should provide the system? In this case, a mapping conducted by Gosta Esping Andersen (2000), who studied the welfare system in capitalistic countries, could be used as an inspiration. In Gosta's perspective there are three components that should be seen as related in providing the welfare principles. The three components are the state, household/society, and the market. The balance of roles amount the three will result in different welfare system models. In countries where the state is the dominant component in bounding solidarity and holds the responsibility of welfare matters, the welfare system is labeled as socialist-democrat. In countries where the household/society is the dominant component, the welfare system is characterized as conservative. Meanwhile, in countries where the role of the state and household is small and replaced with market mechanism, the system is labeled as liberal welfarism.

The context of the discussion of the Social Welfare Act can strictly be explained in two perspectives, empirical and theoretical. From the empirical perspective, there is a need to solve various social and welfare problems by developing a comprehensive welfare provision scheme. In the theoretical perspective, welfare scheme must refer to a comprehensive mapping to place the roles of actors with the resources to provide the welfare system and determine the place of solidarity as the most important value of the welfare system.

Social Welfare Policy Process in Indonesia

To comprehensively understand the meaning of a definition, analyses cannot be conducted merely on the context. The policy process dimension should also be considered. Policy process will guide us to understand the map of actors, ideas, and substantive debates. The framework of the formulation of the Social Welfare Act was formally regulated in the national legislation regulations. A bill can be constitutionally proposed by the government or the house of representative.

When a bill is proposed by the government, the bill is formulated by a department/ministry. After being coordinated through departments/ministries, the bill is proposed to the house of representative by the government. The house of representative will determine the mechanism to discuss the bill. The discussion in the house of representative is commonly done in commissions relevant to the bill or done in a special committee whenever necessary. A special committee is formed if a bill has a high political value. An example of a bill with high political value is the political party bill and general election bill which both have been approved to be acts. When a bill is not discussed through special committees, it is directed to its relevant commission within the house. The bill can also proposed by the house of representative. Such bills are called initiative bills. Initiative bills are proposed by house members to a house plenary meeting. If the meeting agrees, then the bill will be informed to the government and its discussion will be planned.

Both types of bills, government proposed and house proposed, are discussed between the government and the house of representative. The length of the discussion is determined by the content and the degree of political sensitivity of the bill. The more political a bill is, the longer the discussion will be and may go for years. Examples of highly political bills are the political party bill, general election bill, and Yogyakarta special region bill. The political party bill and the general election bill takes hard and long discussions because it is filled with interests of political parties and the Yogyakarta special region bill can change the relation between the central and provincial government and is related to a very special political entity. The Yogyakarta special region bill have taken years, crossed house of representative terms twice, and is still unfinished. Meanwhile, a bill with low political sensitivity will be finished quickly.

The debate in the discussion of a bill is related with the structure of the legislation text in the form of articles which contain matters that will be regulated. The formulation of articles in a bill refers to an academic text of the bill. An academic text is a substantial explanation of a bill. It contains reasons that become the basis of urgency for the bill. The academic text also explains the basic principles of the bill. For the content of the bill, the regulations and the goals, the academic text gives a reference and reasons in its main body. In this main body, all regulations that will be included in the articles of the bill are explained. Neither the academic text nor the drafts of the articles are written directly by the house of representative members on the ministers/president.

The formulation of academic texts and the drafts of the articles are generally conducted by a team of experts. The team of experts can be within the two institutions, or formed in an ad hoc manner. The formulation done by this team of experts is very crucial because they will determine the initial content which will become the basis of the debate for the bill. Substantially, a bill is drafted by a team of experts and therefore the team will discuss the initial character of the content of the bill. In doing so the team must consider the basic ideas which are contained in the academic texts which is the basis for the formulation of the articles. In other words, to trace the basic ideas that formulate a bill, the academic text should be understood and information from the team of experts that formulates and provide the initial draft of the bill should be acquired.

Even though the team of experts has an important role in preparing the content of the bill, the final decision is determined by the political processes in the discussions for the bill. In the discussions, the control is in the hands of the House of Representatives and representative of the government. These two actors are the ones with formal authority in determining the contents in the bill. Due to the political processes, the final result in terms of the content of the bill is often very different from the initial text. It is also common that the political process of discussing a bill set aside the academic text and is determined by political transaction and interest transactions brought by actors with the authority. In the processes, it likely that the public is involved in giving inputs of ideas and opinion. There is a formal regulation of public consultation meeting and public test of bills. However, it is very often that a number of regulations in the bill are decided by the house of

representative which in the end results in public controversy. To trace the ideas that are adopted into a bill, understanding the content of the debates along the discussion process is an inevitable need.

The Social Welfare Act is one of the very few acts that are produced with the initiative of the House of Representatives, especially the Commission VIII. From the conducted tracing, this act is an agreement from all commission members to be formulated and discussed with the government. In preparing its content, Commission VIII forms the commission's expert team. The team is assigned to formulate an academic text and the initial draft of the articles. The formulation process aside by a number of discussions, is also done by conducting comparative studies to a number of countries that practice social welfare systems. From information acquired from a member of the expert team, the comparative study need to formulate the bill is conducted in Finland, China, and New Zealand. The results of the comparative study combined with ideas arisen are explained in the academic text and initial draft of the bill. They are then submitted to the government. The government body that represents the government for this bill is the People's Coordinating Welfare Ministry which includes the Social Minister. The text produced by Commission VIII is compared with a text produced by the government and a text produce by the civil society.

The discussion process of the Social Welfare Act, from explanations of the Commission VIII expert team member and a number of members of expert teams from a number of parties, is very quickly. The process only took two sessions. The rapid discussion of the bill may be due to the political situation at the time where the general election is approaching so political parties feel that they need to portray to the public that they are concerned with the problems faced by the public that are regulated in the Social Welfare Act. Another explanation is that the act did not have a political significance because it does not directly relate to the interest of political contestations of the parties. However, the rapid discussion can also be an indication about the minimum attention and the insufficient depth of discussions of the content of the Social Welfare Act.

As explained by one of the members of the expert team of a major party in the house of representative, there was no controversial content of the bill. No content was related to the interest of parties, government, or the house. This was agreed by a member of the house's Research and Data Processing Center which explained that in principle there no difference in ideas among the parties. All parties, with whatever character and ideology did not show any major differences that could have caused lengthy public debate.

The situation is not expected because ideologically providing social welfare depends on varied ideology and the ideology is affected by the ideology of the parties. Studies in a number of countries show that ideological characters of parties will affect the choice of policy that it takes. The Social Welfare Act is an anomaly because the ideological character of the parties cannot be traced in the content of the legislation which is substantively very important. This phenomenon is very interesting because it gives an

indication that the political parties in Indonesia's house of representative do not have clear ideologies and the political stance that they take is determined by economical and pragmatic traits. If this is the case, then the experiences of a researcher in the house's Research and Data Processing Center in consulting a number of legislation drafting have its ground. This researcher experiences show that the ideological characters of political parties and house members are not portrayed during the discussion of bills.

However, in the absence of debate regarding the ideological stances in the process of discussing the Social Welfare Bill, there were still differences that divide the positions and political parties in the house although the differences are minor. The visible difference is who will be given the biggest role in providing the social welfare system. Political powers labeled or identified with Islamic politics such as PKB, PKS, and PAN tend to promote the role of civil society organization as the main provider of the system. For this group the state does not need to directly use its hands to solve social problems. The state should only provide the resources and work with the organizations to implement the policy. For political parties labeled as nationalists, they tend to place the state as the entity responsible for the social welfare system and at the same time provides the resources necessary for the system.

The differences of mechanism portray the interest and the social basis of the political powers. In general parties with Islamic political basis have power in the grassroots level and some has operated social welfare providing functions. By strengthening that system in the hands of the society, they will certainly gain the most political benefit because they can utilize their network of social organizations that they have established and share a long history. On the other hand, political parties that declared themselves as nationalists do not have social organizations that are as solid as those in the network of the Islamic political powers. For them, it is politically much more beneficial if the state directly provide the social welfare system. Management by the state will avoid domination by social organizations that are traditionally connected with Islamic political powers.

The end result of the debate is a compromise where the state still holds control and gives a large space for the society to be a part in providing the social welfare system. For the position of the state, all parties agreed to place the state in a central position in providing social welfare services. This agreement is used by the government to propose a number of clauses for the bill that gives an extensive authority for related departments/ministries to control the social welfare system. Unfortunately, the control system in the legislation is interpreted as for bureaucratization of the social welfare system. This interpretation can trap the social welfare system into a project framework as practiced all this time in Indonesia.

The Basics of Social Welfare in Indonesia

Social, Residual and Bureaucratization Problems

The most important matter to be determined in the beginning is the orientation of the state in developing a social welfare model which is determined on the ideal of the social

contract between the state and the society which is commonly well recorded in the constitution and other basic regulation. The orientation determined in the constitution will guide all the policy process in the public sector which is intended to design a development scheme and strategy for social welfare (compare with Eriksen & Loftager, 1996).

The Preamble of the 1945 Constitution, which is the constitutional basis for all legislation in Indonesia states that the goal of the establishment of the state of Indonesia is to protect all the Indonesian citizens and land, improve the public welfare, improve national education, and participate in the world order that are based on independence, eternal peace, and social justice.

Moreover, a number of articles in the amended 1945 Constitution state the orientation of the state in realizing social welfare, such as all processes of public budgeting is meant to be an important tool in establishing welfare as stated in article 23 verse 1. The verse states that the state budget as an implementation of the state's financial management is determined each year with an act and implemented transparently and responsibly for the prosperity of the people.

The existing constitution also stated that the fulfillment of social welfare is a part of the human rights with no exceptions. Article 27 verse 2 states that each citizen has the right to have a job and livelihood according to humanity. Article 28C verse 1 states explicitly that each person has the right to develop themselves through the fulfillment of their basic needs, has the right to acquire education, and acquire benefit from science and technology, arts, and culture to increase their quality of life and for the prosperity of humans. Article 28H verse 1, 2, and 3 states that (1) each person has the right to live well materially and spiritually, shelter, and acquire (2) good and healthy living environment and the right to receive health services, (3) each person has the right to assistance and special treatment to acquire the same chance and benefit to achieve equality and justice, (4) each person has the right to social assurance that enables holistic self development as a dignified human being.

The constitution again states that all vital resources will be used to establish social welfare. Article 33 states that the earth, water, and natural resources contained in it is possessed by the stated and is used for the prosperity of the people.

Article 34 states that the presence of the state is very important to provide social assurance for its citizens and provide basic public services in good quality. The first verse of the article states that the unfortunate, poor, extremely poor, and abandoned children are supported by the state. The second verse of the article states that the state is mandated to develop a social assurance system to all citizens and empower the weak society according to human dignity. Finally, in the third verse, the state is mandated to be responsible for providing good health service facility and other public service facilities

If we dig deeper into the statements in the constitution, we can see clearly that the state is considered as a very important and main actor in providing all the infrastructure and facilities and develop a social welfare system. In other words, the constitution gives a

heavy mandate for the state, not market mechanism, to involve actively in establishing social welfare.

The existing social welfare scheme is also considered universal. This means that the object of the social welfare scheme is all citizens without any exceptions. The Indonesian citizens with various social class, religion, ethnicity, and area of origin backgrounds all have the same right in acquiring assurance for self actualization in order to achieve social welfare and achieve social assurance and protection from the state.

However, the integration that the Social Welfare Act of 2009 incorporate is far fetch in reality because a number of contradictions.¹ The first contradiction is that Act 11 of 2009 on Social Welfare is more of a partial legislation instead of a legislation that blankets other related legislations. When it was signed into law, this legislation was called the Social Welfare Act and not Social Welfare System Act. The naming of this legislation reflects the tendency that the welfare matter is more a sector matter which is not related with the executions of other legislations. Even when the 1945 Constitution idealize the fulfillment of all basic rights like education and health as a part of the attempt to establish social welfare, but Act 11 of 2009 in its consideration do not include the relatedness of the act with other legislations that regulate national education system, health system, labor and other welfare related matters.

In conclusion, the fundamental spirit of the act can be considered to only justify the regulations on programs and activities managed by the Social Department and not to give a profound orientation and system for the establishment of social welfare. The reason is that this option avoids complications that might arise when synchronizing this act with other legislations that regulates other sectors related to social welfare.

Therefore, Act 11 of 2009 on Social Welfare tends to be considered as an act that regulates the programs to provide social service rather than Social Welfare system. What is meant with providing social welfare is the integrated and sustainable effort with clear goals conducted by the national government, regional government, and the society in the form of social services to fulfill the basic needs of every citizen. Article 1 of this act explains the scope of social services. It includes (1) **Social Rehabilitation** which is a process of rehabilitating and development of individual to enable them to conduct their social functions normally in the society, (2) **Social Assurance** which is a scheme to ensure that every citizen are able to fulfill their basic livelihood needs, (3) **Social Empowerment** which are all effort to make all citizen going through social problems have the power to

¹ This legislation was originally produced as an amendement towards Act 6 of 1974 on the Principles of Social Welfare. The amendement was conducted due to a number of reasons. First, Act 6 of 1974 tends to place the state as the only actor responsible in providing all basic needs and social assurance for its citizens. To a number of policy makers this condition is cannot be sustained. Second, Act 6 of 1974 tends to position itself as the umbrella act because the welfare scheme formulated tends to be a universal model which in reality were never refered by policy makers outside of the social sector, like the health sector, education sector, labor sector, etc. Because of these consideration, Act 11 of 2009 on Social Welfare were made although the new act still cannot operate without the role of the state.

fulfill their basic needs, and (4) **Social Protection** which are all efforts made to protect and mitigate the risk of social shock and vulnerability.

The constitution envisioned a social welfare scheme that is universal but Act 11 of 2009 tends to be in the opposite direction by focusing on the social services to those who are socially vulnerable or is having social problems both individually and collectively as stated in Article 5 verse (1).² Article 5 verse (2) states the criteria of citizen that are considered as the main target of the social services which are the poor, abandoned, disabled, dwellers of remote areas socially disabled, disaster victims, violence victims, exploitation victims, and discrimination victims.

What interesting is that article 4 of the Social Welfare act states that the state, central government and regional government is positioned as the main actors who are fully responsible for providing social services. The large role of the government is explained thoroughly in article 25 of Act 11 of 2009. It stated that the state is not only the most important authority holder in public policy making related to the welfare scheme but also as the main provider if not the only responsibility holder of the social services.

In other words, article 25 places other important actors, society and market, only as secondary actors in providing social services. The involvement of the society and businesses is no more than fulfilling their social responsibility in public affairs.

The process to nationalize this matter is has also decrease the meaning of the regulation because what actually occurred is bureaucratization in the social welfare scheme which was formulated in Act 11 of 2009. The bureaucratization is deeply felt when this act emphasizes on the importance of standardizing the administration process of the preexisting social services. Article 46 verse (1) emphasizes that all institutions that provides social welfare must register to the ministry or institution in the social area according to their area of authority. Article 47 then states that the national and regional governments are obliged to register institutions that provide social services.

The process of the preexisting social service is shifted to simply a managerial process and neglects the fact that social services processes are actually a reflection of the relationship between the state and the society. Chapter IX of Act 11 of 2009 regulates in detail how social services and social workers are obliged to have a certain competence standard so it can be considered as a professional activity. For the formulator of Act 11 of

² The matters being in opposite directions (is social welfare universal or particular) is also seen in the Accademic Text of Act 11 of 2009 (July 5,2009 version). The analisis part of the legislation was written with incoherent arguments. Pay attention to this paragraph:

“Social welfare development services is a component where the human rights are implemented universally to all citizens and directoed to give social protection towards the effort to fulfill the rights for basic needs. This principle emphasizes that the social welfare service contain a normative value that regulates the rights of all citizens to have social welfare in the human standard. Therefore, social services can be formulated contextually in the development of social welfareas a reflection of the implementation of the obligation of the state towards its citizens who are facing social hazards”.

2009, professionalizing social workers is considered important especially for social activities managed by the society or businesses as their social responsibility.

Professionalization of social workers is indeed important. However, if the matter is measured by certifications, then the probability of deviations and corruptions are large. Let alone will increase the capacity in providing and conducting social welfare, this system is no more than a kind of project for the related department. Moreover, the standardization process will be misleading if it only measure the capacity of social workers because the most important matter is the ability of the state to provide facilities to handle social welfare issues. Act 11 of 2009 in this case is insufficient in explaining the responsibility to provide facilities and therefore adopt a certification system which will not have significant effect towards the social welfare system that will be developed.

Thus, based on Act 11 of 2009, the social welfare system which is going to be developed in Indonesia tends to be closer to a residual model. This can be traced from the way the legislation define social welfare development which is a way to solve social problems. Social problems are groups considered to be potentially fail in fulfilling their basic welfare because of various factors. Act 11 of 2009 explicitly meant to solve the problems. However, the residual option that is taken in this act contains a number of weaknesses.

First, Act 11 of 2009 employs benevolence and residual logic.³ This means that the state will only help those who have social problems. The legislation does not define the methods to cut the root of the social problems. The disability of a group of people to fulfill their basic needs is caused by the poverty that they are in. They are in poverty because it structurally bound them. As long as the structural poverty is not minimized, the welfare system being developed will only be social benevolence and charity like. As stated in the beginning, whatever choice of welfare system, all are based on institutionalizing the citizenship idea. The idea puts each individual in egalitarian framework. Unfortunately, the act does not regulate how to develop egalitarianism. The act only deals with the end of the

³ The social welfare system built in each country has its own characteristics. The characters were not built instantly but are also determined by the development of social welfare system institutions. Other aspects that determine the characters are the relations built between the state, society, and market. The relations are determined by the roles that are generally held by each actor. Aside from those two matters, welfare system characteristics are significantly determined by the response capacity held by the state/public institutions towards the basic problems faced by the citizens. In the perspective of social contract, the state is present as an expression of common will in fulfilling public goods. The scheme to fulfill public goods has varieties. In the perspective of welfare in general, the degree of state intervention is located in two poles: institutional and residual. The institutional pattern shown in welfare scheme is still general which means that the state will treat its citizens equally in the determined public services without considering the variations in social economic ability of its citizen. Universalist system requires a state with strong economy and system capability. The source of economic ability is varied starting from full employment scheme which become the basis for the tax system to the optimization of natural resources. The system capacity is very dependent on the history of institution development. The residual pattern is different. The state only conducts intervention to groups that are in need. In general, the state only helps the deserving group. The measure that determines membership of the group varies; starting from inability to fulfill basic needs due to poverty, and physical disability to the person's service to the state.

problem. In short, this legislation only solves the symptom of the problem and leaves the disease untouched.

Second, Act 11 of 2009 does not deal with the input dimension of the welfare system. If the legislation places the state as a regulator, facilitator, and provider at once, it should also consider the input, mainly concerning the funding. Unfortunately, Act 11 of 2009 does not relate itself directly nor gives the chance synchronize with legislations that regulate the input matters of the social welfare such as the labor law, state funding law, and other laws concerning the input of social welfare system.⁴

As a legislation that will be the umbrella for welfare system, a clause concerning input capacity should be included as one of the main topics. It is impossible and hard to find a reference for a welfare system that can sustain itself when it relies on benevolent values. If this value is upheld, it is conclusive that the individuals and society will be dependent towards the state. The state as a facilitator for the society to become a part of the input of the welfare system should be defined. With the absence of regulation concerning the problem, the welfare system content stated in the legislation will be no more than social problem overcome and therefore this legislation is better suited with the name Social Problem Solver Act.

Third, ideologically, Act 11 of 2009 is not clear although there is a tendency that it leans towards liberalism.⁵ This can be seen in how the legislation determines the group that

⁴ Although welfare system is determined by the input dimension which supports the funding capacity of scheme it develops. The lesson that can be learned from countries is that the input capacity is based on the full employment policy which is shown by the low proportion of population who are not absorbed by the labor market. The state in this context facilitates its citizens to be absorbed by the labor field. In Scandinavia and Western Europe for example, the strongest institutions in the governments are the labor service offices. The presence of this office is not only to compile various employment vacancy available, but also actively involved in designing a labor field scheme and connect the labor force with labor field. The labor offices generally have a database on the skills of the job seekers. The full employment policy can only be present if there is a combination of employment opportunities and the capacity of the citizens to access them supported by the state in facilitating them. The failure to fulfill one of the aspects will result in the failure of the full employment policy.

⁵ Variations of social welfare system are the output from the dynamic institutions in the state level, the society, and the market. Welfare system variations are determined by the most dominant actor in providing the welfare values. When the state is the most dominant, the social democratic welfare system will be utilized. Social democracy refers to the dominant role of the state in providing and distributing welfare. Solidarity is placed on the state and therefore this system is reflected by the existence of a vast social assurance system provided by the state to its citizens without exceptions. The dominant role of the state requires two conditions: very solid funding capacity and comprehensive welfare administration. Not many countries fall in this category except for Scandinavian countries. Seen from its state follower, this system is often referred to as the Scandinavian model. The next pattern is where the market is dominant. Here, the central role of the state is taken over by the market. Locus of the solidarity is therefore located in the market and is very determined by the ability of each individual to freely compete in the system that requires the transactional ability. The liberal welfare system is adopted by nations with large capitalist market pattern. The state in this case only takes the role of helping directly the deserved group and facilitates the mechanism of the market. The last model is the one that places the society (household) as the important basis in welfare system. The family meant in this system is not merely the nuclear family but the community where individual bonds are strong. Locus of solidarity in this model is in the group or community and the state provides

is categorized as the group directly protected by the state (compare to Taylor, 2007). The definition of social problems that has to be dealt directly by the state show that Act 11 of 2009 is a particularistic legislation. From the ideological choice side, the social system model employed by the legislation is not entirely coherent with what the 1945 Constitution demanded in Article 27 verse (2), Article 28H verse (3), Article 34 verse (1), and Article 34 verse (2).

This ideological choice theoretically can be the choice in this policy although it can constitutionally be debated. However, a prerequisite for liberal welfare system should be fulfilled. Liberal welfarism can only be implemented in a society with equal ability in accessing the labor market. Equality in accessing the labor market is not limited to the condition where everybody has the right to get a job, but also to have the capacity to access jobs that are coherent with their skills and the existence of mechanism to provide work field which involves the state and private sector. Act 11 of 2009 becomes an entry point in the context of equality. Otherwise, the social benevolence trap will always linger, and perhaps grow, the state and its apparatus. However, sadly, the manifestation of the ideas is not reflected in the articles of the act except for aspects related with the handling of social problems. The failure to manifest the ideas in the legislation is due to the absence of concern and lack of debate among the house members during the discussion process.

It is vivid that the idea of welfare contained in Act 11 of 2009 is not the result of debates or a combination of ideas produced by the house members. This is confirmed when in reality, there was no contestation of ideas during the discussions of the bill. Even if there were debates, they were not ideological and thus did not become a discussion in general public. The Social Welfare Act should have been the reflection of the welfare system that the state was going to develop. Sadly, poverty in terms of ideas shown by the legislatures has narrowed the content of the legislation to a mere social problem solver. Seen from its contents, the claims that this act is an umbrella act for the rejuvenation of the social welfare system do not have any substantive ground.

Benevolent State, Not Welfare State.: An Epilog

This part is the closing remark and an attempt to reflect the process of welfare policy in Indonesia in the formulation of Act 11 of 2009. The process also shows the political foundation that the social welfare scheme in Indonesia was developed on.

It is clear that the social welfare scheme design in Indonesia is meant to respond on the claimed social problems developing in the society and not meant to fulfill basic needs of the people. These social problems are considered as a deviation in the existing social relation that can threaten the social stability and therefore should be normalized through various welfare programs. The welfare programs are the therapy on social problems.

subsidies to the communal bonds. This conservative model tends to be found in societies with strong primordial bonds. (see Gosta-Esping Andersen, 2000).

The implication of the social welfare scheme in Indonesia is always particular. In other words, the welfare scheme is meant for bearers of social problems and not to all of citizens which has basic rights. The social welfare scheme is a strategy to ensure that the bearers of the social problems return to “normal” condition and to morally discipline them according to the norm of the majority which is controlled by the government. The implication is certainly a social welfare scheme developed to ensure political stability through political loyalty. Social welfare is allocated only to those who obey the reigning regime.

In other words, the existing welfare scheme was not established based on the spirit of respect, protection, and fulfillment of citizens’ basic social rights (Social Citizenship). This scheme reflects the clientelistic mindset of a benevolent state where the relationship pattern developed by the society expresses a political trade between the benevolence of the patron and the political loyalty bestowed by the client (see the table below) (compare with Eriksen & Lofttager, 1996:1-27; Eisenstadt & Roniger, 1980).

Different between Welfare State and Benevolent State

	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 fulfillment of basic rights.	Benevolence and loyalty transaction
Welfare Policy Orientation (understanding the meaning of “social”)	Social rights and social needs	Social problems and stability

What is even more ironic, what they mean as social problems are not considered a result of the structural injustice which is an effect of the various discriminating social policy and gapped social structure. The social problems are considered as individual morality problem, absence of creative and competitive culture, and the failure of individuals in accessing the market. It is not surprising when the welfare scheme being offered as a therapy is to repair the individual morality to become a good person, developing individual mindset on entrepreneurship and giving additional capital. There is no room to question the state and market as a source of problems.

This is of course different from the welfare state scheme developed on the basis of social citizenship and on the understanding that the market structure has the potential to create gaps and injustices. The welfare state consciously create universal welfare scheme for all its citizens to minimize the destructive effect of the market (compare to Jayasurya, 2005; Taylor 2007)

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