

# LEGAL POLICY OF INDONESIA'S AIR TRANSPORTATIONS HUMAN RESOURCES DEVELOPMENT IN FACING ASEAN ECONOMIC SOCIETY 2015

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## Abstract

*Legal policy of development and the provision of law flight human resources belong to national transportation policy sub-system. Legal policy contained in Act No. 7 of 2007 about RPJP puts the development of air transportation as one of the parts of the national facilities and infrastructure development. In the regime of flight law, human resources management is arranged in separated sections that belong to the national system development. The scope of human resources development and setting provision are as follow; human resources planning (manpower planning), education and training, expansion of employment opportunities, as well as surveillance, monitoring, and evaluation. The politic of legislated development setting and the provision of human resources that are made through delegated legislation above require further policy in form of three ministerial regulations as follow, ministerial regulation of the human resources provision and development in flight field, ministerial regulation of education and training in flight training, and ministerial regulation of competency certificate, licensee and training program. The writer advices the transportation ministry to realize in short time those three ministerial regulations which already have basic delegated delegation as the solution to face ASEAN open sky policy.*

**Keywords;** ASEAN, economic society, human resource.

## I. INTRODUCTION

A few more months, ASEAN Economic Society is going to be applied, but the national air transportation still faces problems that have not been broken down. The problem of reliability and availability of human resources especially in the mode of air transportation often becomes the public spotlight because of complicated human resource management systems, particularly when an accident happen caused by human error. Professionalism and pilot moral are the important things get public criticism while an accident aircraft happen.

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In addition, the problem of law responsibility for the pilot, up to this point is still a legal debate since it is not clear whether they are legally responsible or profession? Problems facing human resources of air transportation currently unraveling with a maximum and should there be problems in the governance of the national air transportation resources. But until now there has been no effort to resolve this problem properly. Therefore, it requires a deeper research to understand the basic problem of human resources management of transportation, particularly on the legal politic management such as whether the regulation already exist accommodative enough in creating professional and responsible human resources in facing ASEAN Economic Society 2015? Or should the aspect of curriculum development on high stage of educations for transportation human resources be repaired? Or, is the problem on the management of human resources transportation still on trouble? This writing wants to analyses the legal politic policy of national air transportation human resources<sup>2</sup>.

## **II. LEGAL POLICYOF AIR TRANSPORTATION HUMAN RESOURCES MANAGEMENT COACHING**

Talking about the human resources political coaching of national air transportation, it will not escape from political construction of national transportation. After the changes of UUD 1945, the national development planning system changed from the pattern of the development planning contained in GBHN published by MPR switched into development planning contained in legislation approved along by the President and the parliament. In 2007, the President and parliament published law number 17 in 2007 about the Long-term development plan (RPJP). That law set the direction of development of national transportation i.e. "... develop a national transportation system that is reliable and capable high resting on the aspect of safety, and alignment among regions, cultural and social aspects of the professional human resources of transportation as well as implementing and developing the right gun transportation technology which is good for environment. It is

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<sup>2</sup> H.K. Martono dan Ahmad Sudiro, *Hukum Udara Nasional dan Internasional Publik*, (Jakarta :Raja Grafindo, 2012) hlm. 9.

very clear that human resources development of transportation belongs to political national transportation development. By paying attention to the vision of national transportation above, it can be concluded that human resources development is the important factor in reaching national transportation vision. The vision supposed to be realized in the management of national transportation human resources.

The problem is that, whether the vision of national transportation development have realized or internalized on the next legislation setting? In 2009, legislation number 1 of 2009 about flight. The importance of transportation human resources is managed on particular section. On Section IX, it is particularly set of human resources. On Article 381 Act numb. 1 of 2009 puts responsibility development and human resources provision on government's flight section. Government's participation of provision and human resources development in flight is to realize professional human resources, competent, discipline, responsible and have integrity. On Article 381 verse 3, it manages the kind of human resources in flight field whose responsibility is on the government's hand such as a. air plane, b. air transportation, c. airport, d. flight navigation, e. flight safety, f. flight security<sup>3</sup>.

Law number 1 of 2009 which explains about flight, already explains in detail about government policy's intervention in development and flight provision consist of policy steps as follow, human resources planning, education and training, employment expansion, supervision, monitoring and evaluation<sup>4</sup>.

To make it clear, the government's policy have managed the education and training system in flight field. Based on the verse above, the realization of education and training in flight field belongs to national education system. So, education and training for human resources in flight field will not escape from national education policy which has been managed in the regulation of national education system. In other word, Lawsnumber 1 of 2009 about particular flight of flight is *lex specialis* from Laws number 3 of 2004 about National Education System.

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<sup>3</sup> Priyatna Abdurrasyid, *Kedaulatan Negara Atas Ruang Udara* ((Jakarta : Pusat Penelitian Hukum Angkasa, 1972) hlm. 101

<sup>4</sup> E. Saefullah Wiradipradja, *Hukum Transportasi Udara dari Warsawa 1929 ke Montreal 1999*, (Bandung : Kiblat Buku Utama, 2008 ) hlm. 27.

Based on that point of view, the regulation about flight puts coaching and training responsibility in flight field on transportation minister.

How is the form of minister's responsibility in coaching and training in flight field? Article 382 verse, 3, Laws number 1 of 2009 about flight answers it by arrange responsibility's scope of the transportation minister as follow,

1. Improved quality and quantity of educators in the field of aviation;
2. Curriculum, syllabus and methods of education and training in the field of aviation in accordance with standards established;
3. Set up, refinement, and certification of organization or management of vocational education and training in the field of aviation;
4. Modernizing and improving facility technology and learning facilities and infrastructure on vocational education and training in the field of aviation.

An important setting in the human resources development and provision policy of flight is the education and training providers. Article 383 verse (1) of the Laws sets about flight training and education providers in the field of flight carried out by the government, local government, or society through the formal and/or non formal education. Educational stage consists of secondary education and higher education that obey to the act of higher education. Laws No. 1 of 2009 about flights allows non formal educational path is held by non formal education section of flight which get agreement from transportation minister. Technically, educational raw model and human resources training of flight is considered by transportation minister<sup>5</sup>.

Laws No. 1 of 2009 about the government's role in regulating aviation and local governments in implementing the education and training in the field of aviation. Article 385 sets that the roles of the government in implementing the aviation education are directing, guiding, and supervising the organization of education and training in the field of aviation. The role of local governments in implementing the

<sup>5</sup> Article 384 verse (1) regulate about the material of education and training model: a. Type and level of education and training; b. The requirements of education and training participants; c. Curriculum, syllabus, and method of education and training; d. The requirement of educators and trainers; e. The standard of facilities and infrastructure of education and training; f. The requirements of the operational of education and training; and h. The control and supervision of education and training.

education and training of the flight is to help and provide convenience for this education and training in the field of aviation<sup>6</sup>.

Another part of the supply system and the human resources development of flight are a competent certification and licensing. Certificate of competence is intended to guarantee that flight's human resources have competencies and professionalism resulting from the process of education and training have been implemented. Article 389 of Laws No. 1 of 2009 about flight gives authority and requires education and training providers to give a certificate of competence to learners who have declared a graduate education and training.

A certificate of competency which has issued education providers then become the basis for the Minister of transportation to provide a license for human resources in the field of aviation that have met the requirements. Based on that point, then article 390 human resources in the field of flight is required to have a certificate of competency or license in accordance with the requirements set out for the fields of his work.

Refers to the provisions of Article 391 of the Act that regulates the aviation flight service provider and an organization that organizes activities in the field of flight are required to: a. employs flight personnel who possess a certificate of competency or license, and b. draw up training programs in the field of aviation to maintain and improve the competence of personnel flight of his work. The provisions of part above is a consequence of the process of education has been organized and planned by the government, then the provider is obliged to use the workforce competencies and has obtained a license from the Minister of transportation<sup>7</sup>.

The spirit of Laws No. 1 of 2009 about flight requires the involvement of the parties in organizing aviation services provider education.

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<sup>6</sup> E saefullah Wiradipardja, the Indonesian sovereignty over air space and its urgency for national economic development, hlm.4 (Makalah disampaikan dalam International Conference on Air and Space Law : The Commercialization of 50 years air and space law studies at the faculty of law university of padjajaran, hlm Luxton Hotel, Bandung, 5-6 November 2014).

<sup>7</sup> Agus Pramono, *Dasar-Dasar Hukum Udara dan Ruang Angkasa*, (Jakarta: Ghaia Indonesia, 2011) hlm. 13

Therefore Article 393 requires flight service providers and organizations that have activities in the field of mandatory flight contribute to support the provision and development of personnel in the field of aviation.<sup>8</sup> These contributions include:

- a. Giving education scholarship and training;
- b. Building organization and/or providing educational and training facility;
- c. Cooperate with the existing educational and training organization; and/or;
- d. Giving opportunity to educational and training participants for on the job training.

The obligation to contribute in supporting the provision and development of personnel in the field of flight reinforced with provisions of administrative sanctions, such as: a. a warning; b. administrative fines; c. freezing of the permit; or d. the revocation.

### **III. IMPLEMENTATION OF DELEGATED LEGISLATION SETTING THE DEVELOPMENT OF HUMAN RESOURCES.**

Setting of the provision and development of human resources in the field of flight has been arranged specifically in Laws No. 1 of 2009 about the flight. Provision and development of human resources for the flight is a part of the development of the national aviation system. Therefore, the development of human resources is a way to realize air transportation as contained in RPJP.

The politics of provision legislation and development of human resources in the Aviation Laws No. 1 of 2009 about flight requires that the setting of technical matters in the field of aviation is regulated further in the regulation of the Minister of transportation. A major policy on human resources development and the provision of the design of the flight can be realized properly if the legislation becomes law mandate flights can be enacted quickly to answer the needs of regulation in the field of human resource' development and provision of the aviation.

The author identifies some delegated legislations mandated the avi-

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<sup>8</sup> Toto T Suriaatmadja, *Pengangkutan Kargo Udara : Tanggung Jawab Pengangkut Dalam Dimensi Hukum Udara Nasional* (Bandung : Pustaka Bany Quraysi, 2005), hlm. 17.

ation legislation related to the provision and development of human resources. Some of the ministerial regulations mandated

1. The provision of aviation and human resources development in the field of aviation;
2. The realization of education and training in aviation field;
3. Competency certificates and licenses of flight as well as the preparation of a training program.

According to the author, one of the important policy decisions in facing of open sky policy in ASEAN is legal policy in the development of human resources. Government intervention through the enactment of the three regulations the Minister of transportation in the field of human resources development and the provision of flight above is one of the answers to prepare an open sky policy in ASEAN<sup>9</sup>.

In addition, according to the author, there are three things still be political homework legislation in the field of flight that are not clearly regulated and unregulated about delegated legislation within aviation legislation, namely the issue of the expansion of employment opportunities, supervision, monitoring, and evaluation. According to the author, these three things are different from the setting of human resources planning (manpower planning), which has been set explicitly in the provision of human resources flight. In delegated legislation, there is not also there that three subjects above belong to regulation of the Minister of transportation so that this becomes a question that must be resolved if we want to build the system of human resources development and the provision of quality and professional flight in the face of the ASEAN open sky policy<sup>10</sup>.

#### **IV. CONCLUSION**

Legal Policy of the development and provision of the human resources is the sub-system of the national transportation policy. Legal policy contained in Laws No. 7 of 2007 about RPJP place the development of air transport as one of the parts of the national facilities and

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<sup>9</sup> Oentoeng Wahjoe, *Perdagangan Bebas dalam Jasa Angkutan Udara Menurut Hukum Udara Internasional dan Nasional*, (Bandung :Unpad Press, 2011) hlm. 17-18.

<sup>10</sup> E Saefullah Wiradipradja, *TanggungJawab Pengangkut dalam Hukum Pengangkutan Udara Internasional dan nasional* (Yogyakarta, Liberty : 1989) hlm. 1.



infrastructure development. In the regime of flight laws setting human resources issues arranged in separate sections that are part of the national aviation system development. The scope of human resources development and the provision of setting the flight include human resources planning (manpower planning), education and training, expansion of employment opportunities, as well as surveillance, monitoring, and evaluation.

The politics of legislation and the provision of human resources development settings made through delegated legislation above require further policy be promulgation of three ministerial regulations, namely regulation of the Minister of transportation regarding the provision and development of human resources in the field of aviation, the regulation of the Minister of transportation regarding the organization of education and training in the field of aviation, and the regulation of the Minister of transportation regarding the certificate of competency and licenses as well as the preparation of a training program.

The author suggest to the Ministry of transportation of Indonesia to immediately institute the three Minister of transportation regulations that already have the basis of delegated legislation as an answer to face the ASEAN open sky policy.

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