

REFLECTION, IMPLEMENTATION, AND CONSEQUENCES OF ARTICLE 33 OF THE 1945 CONSTITUTION (AFTER AMENDMENT) TOWARDS THE ECONOMY OF INDONESIA AND ISLAMIC ECONOMIC CONNECTION

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Abstract

Indonesia is one of the world's largest country is strategically located between two continents and two oceans. Strategic location endows Indonesia with abundant natural resources from the sea, air, and land area. Besides having abundant natural resources, Indonesia has rich in culture, language, and customs, as well as demographic conditions. With the potential and assets owned by Indonesia, this country has the opportunity to be a progressive and growing rapidly country. The committee was formed by the unification of perception through legislation by the central government to support economic prosperity for the sake of welfare for all Indonesian people. So with this commitment is raised regulation of 33 UUD 1945, as one form between government and society to advance Indonesia's economy, so that will be expected to improve the sustainable development, utilization of natural resources to support the benefit of many people's lives, and that isn't equally important is the creation of social welfare for Indonesian society. But these lofty ambitions aren't going according to what was expected earlier, the attitude of individualism that is more about profitability than the social welfare is more prominent in the implementation of Article 33 UUD 1945, especially after the point of the article was amended.

Keywords: *Article of 33 UUD 45 (after amendment), Individualism, Society Welfare, Economy*

1. Introduction

Indonesia is the fourth-largest populated country in the world, reaching 270 million people. In addition to its maritime population and country, Indonesia is known as one of the richest countries in potential natural resources. Getting benefits in terms of extraordinary geographical conditions, Indonesia deserves to be said as one of the most influential countries in the international world.

The Indonesian society, especially the government, work together to manage, allocate, and utilize existing natural resources to advance the life of the nation and the state, to create social welfare nationally. In the effort of the government and the community to be able to realize these noble ideals, they agreed to a jointly stipulated regulation that is clearly described in the national and state guidelines, namely the 1945 Constitution, precisely in article 33. The sound of article 33 of the Constitution This 1945 before being amended, was: (1) The economy was arranged as a joint effort based on the principle of kinship; (2) Production branches which are important for the State and which control the livelihoods of the public are controlled by the State; (3) The earth, water and natural resources contained therein shall be controlled by the State and used for the greatest prosperity of the people. This article reflects that the economy is a joint effort achieved for the welfare of the community (1945 Constitution 2002). Likewise paragraph (2) (3) the government intervenes in controlling natural resources, which incidentally is stated in the constitution, one hundred percent to support the needs, welfare, and prosperity of the people. Unfortunately, after the Pancasila economic ideology was amended, the lofty ideals of verse (1) (2) (3) are found aground.

Therefore, the author will try to analyze article 33 of the 1945 Constitution which has been amended in this paper and its suitability with the concept of economic goals in Islam. Chapra's four Islamic economic goals are to achieve economic prosperity within the framework of Islamic morals, uphold universal brotherhood and justice, achieve equitable income distribution, and individual freedom in the context of social welfare (Waluyo 2016). Hopefully, it can be an inspiration as well as open our eyes as wide as possible to the real problems that occur in Indonesia, especially in the economic conditions.

2. Literature Review

2.1. Article 33 of the 1945 Constitution after the Amendment

After the amendment was made in the 1945 Constitution, there were several points and verses that were replaced in each article and there were also verses that were omitted. One of the amended articles is article 33 of the 1945 Constitution, which reads:

- 1) The economy is structured as a joint effort based on kinship principles.

- 2) Production branches which are important for the state and which control the livelihoods of the people are controlled by the state.
- 3) The earth, water, and natural resources contained therein are controlled by the state and used for the greatest prosperity of the people.
- 4) The Indonesian economy is carried out based on economic democracy with the principles of togetherness, fairly efficient, sustainable, environmentally friendly, independent, and by maintaining a balance of progress and national economic unity.
- 5) Further provisions regarding the implementation of this article are regulated by the law.

The addition of paragraphs (4) and (5) is done by the government as a translation and interpretation of paragraphs (1) (2) and (3) (Witjaksono 2013). However, this translation is contradictory and counterproductive to paragraphs (1) (2), and (3). The article paragraphs (4) and (5) reflect the individualist attitude and cause the Indonesian economy out of the spirit of cooperation. It likely describes a capitalist economy's approach which prioritizes personality rather than the aspect of collective togetherness.

The implementation of article 33 has caused a lot of controversy in society. The editorial of the article which was initially pro to the interests of the people, became counter when this happened on the field. The addition of paragraph (4) is increasingly strengthened by the current condition of the Indonesian economy, where the exploitation of natural resources carried out by several industries that are foreign-owned occurs in various regions. This action may lead to the erosion of small and medium businesses, which no longer give priority to aspects of the benefit of many communities. The original article as a commitment to run the Pancasila economy is increasingly unclear where to go after it was added to paragraph (5) which states that "Further provisions regarding the implementation of this article are regulated in the law". This verse tends to refer to the investment (Penanaman Modal/PM) and foreign investment (Penanaman Modal Asing/PMA) Law, which is strong with liberal and individualistic nuances.

PM and PMA are closely related to long-term investment, which is the main gateway for money markets and capital markets. If this sector intervenes and internalized within the body of article 33 of the 1945 Constitution as one of Indonesia's economic models, then what will certainly happen is monopoly, liberalization, and the most frightening is modern neo-imperialism. Exploitation and personal appreciation with the profit orientation might be applied in the midst of society. It is absolutely abandoned under Islamic principle which lead to *toistiglal* (exploitation) and *ihitkar* (monopoly) to realize the wellbeing and distribution of wealth among society, like Prophet Muhammad SAW says:

From Ya'la' ibn Umayyah said, Rasulullah Saw. said, "Monopolizing a food around the Masjid al-Haram is a crime". (Hadith History of Abû Dâwud)

2.2. Individualism

Individualism is an understanding where personal interests and personal rights take precedence over common interests. The individualist attitude tends to encourage the person to be freer to express, act and behave for the achievement of personal goals, whatever the risks and consequences (Lukes 2006). Individualism is also a philosophy that has a moral, political, or social view that emphasizes human freedom and self-interest and responsibility (Avineri and De-Shalit 1992). An individualist will continue to achieve and personal will. They oppose the intervention of society, the state, and anybody or group of their personal choices. Therefore, individualism is against all opinions which place the goals of a group as something more important than the goals of an individual, which is the basis and foundation of collectivism.

Individualism is a very fundamental idea of neo-liberalism. The flow of neo-imperialism is one of the flow which is also known as the neo-liberal economy (Saad-Filho and Johnston 2005). The concept promoted by this flow is globalization and free trade through the WTO (World Trade Organization), which is often regarded as neoimperialism or "colonialism of new styles through the global economy". As for the agendas programmed by neoliberalism, which are contained in the Washington Consensus, among others (Williamson 1993):

- 1) Implementation of strict budget policies, including the elimination of state subsidies in various forms.
- 2) Implementation of financial sector liberalization.
- 3) Implementation of trade sector liberalization.
- 4) BUMN privatization.

2.3. The Relationship between Understanding Individualism (Neoliberalism) with Article 33 of the 1945 Constitution Now

Unconsciously, Indonesia has embraced this understanding for a long time. In fact, before Indonesia experienced a monetary crisis in mid-1997 neo-liberalist programs had begun in the 1980s, including through a deregulation and debureaucratization policy package.

Following the decline in the value of the Rupiah, as the Indonesian currency, the Government of Indonesia then formally accepted the IMF's offer to restore Indonesia's economy (Mubyarto 2001). As a condition for disbursing the bailout provided by the IMF, the Indonesian government is obliged to implement the Washington Consensus policy package through the signing of a Letter of Intent

(LOI), one of the points of the agreement being the elimination of subsidies for fuel oil, which at the same time provides opportunities for multinational companies such as The shell. Likewise with the privatization policies of several SOEs, including Indosat, Telkom, BNI, PT. Tin Mining and Various Mining.

Individualism is seen and manifested in the Indonesian government. Although the goal was good to save the economy, the Indonesian nation at that time through his government had contradicted the mandate of the constitution and the 1945 Constitution. Valuable assets belonging to the state namely BUMN one by one had been privatized through direct sales or IPOs on the capital market.

Here it is clear that the amendments made by the government only cover the Pancasila economic system which prioritizes the aspects of prosperity and social welfare as illustrated in paragraphs (1) (2), and (3), with a capitalist (individualist) economic system that is clearly described and significant in paragraphs (4) and (5). Prosperity and welfare of the people are no longer a priority, what remains is only orientation in competing nationally and globally. Besides, the ideology of the Indonesian economy in article 33 of the 1945 Constitution will never be realized based on the aspires of Indonesian society. Monopoly and privatization practices will occur in various primary sectors such as agriculture, fisheries, tourism, energy, natural gas, and so forth.

Amendment to article 33 paragraph (4) seems to subtly deny paragraph (1) (2) and (3) where the economy is structured in democratic principles. So, anyone can work the economy freely aka economic liberalization. This is stated in the next paragraph, namely, paragraph 5 where "further provisions are governed by the Law". Ambiguities is reflected in this verse making it a multi-interpretation editor.

2.4. The Consequences of Article 33 of the 1945 Constitution after the Amendment to Social Welfare

Based on the discussion above, the addition of paragraphs (4) and (5) harms the nation and state, especially for the Indonesian people as a whole. The indication of the individualist attitude in paragraph (4) reflects that the Indonesian people are very threatened by the existence of private companies which will later manage almost all primary sectors in Indonesia. What aims to establish a company besides providing convenience and needs to the people of Indonesia, will certainly exploit potential natural resources in various regions with very open investment through the capital market, maximizing profits and fostering shareholder wealth.

The privatization actions undertaken by the government to the private sector also further aggravate the situation, where the SOE which truly has the highest priority to create the best government services to its people to support

welfare and justice, is converted by the private sector as a venue for competition for individual economic power aimed at seeking as much profit as possible. the amount. Finally, the Indonesian people themselves are the impact, especially for people who have a lower-middle economic level, they will automatically be difficult to survive because they are unable to compete. Thus, Social welfare is no longer a top priority in running Article 33 and now what is seen is only social inequality, deep-rooted poverty, the potential for corruption, uncertain economic direction and goals, and other structural problems. The basic element of social welfare is mention in the Qur'an, *Quraisy* letter verse number 3-4 which says:

In addition, If neo-liberalization leads to the role of the private sector or conglomerates holding the monopoly of resources, then this will also hinder justice and economic prosperity within the framework of Islamic morals. There is no doubt that the values given by Islam are positive in relation to economic development, economic development including the positive side of liberalization, but promoting justice, which according to Ibn Khaldun, is indispensable for development (Chapra 2001). The neo-liberalization system that gives the role of the private sector and individual conglomerates will affect objectives in the Islamic economy, such as values upholding universal brotherhood and justice, achieving equitable income distribution, and individual freedom in the context of social welfare. The basic element of social welfare is mention in the Qur'an, *Quraisy* letter verse number 3-4 which says:

Let them adore the Lord of this House. Who provides them with food against hunger, and with security against fear (of danger). (Quraisy 106: 3-4)

The first element of social welfare is the worship to Almighty God. It becomes a representation of character building of creations to their creatures. The second of all is fullfilment of needs that refer to loss of hunger. In the economic context, it will be achieved by a fair competition and distribution of wealth among the people. Lastly, security againts fear reflects the creating a sesense of peace, secure, and justice. Otherwise, monoploy and privatization action will promote injustice, fearness, and unhealthy competition in the midst of society.

3. Conclusion and Recommendations

3.1. Conclusion

Based on the analysis of article 33 of the amended 1945 Constitution, it can be concluded that the amendment to Article 33 of the 1945 Constitution invites controversy and tends to be counter-productive in its implementation in the field. There are indications and individual interests that bring the Indonesian economy further from the noble ideals of article 33 of the 1945 Constitution

before being amended. The rules (4) and (5) reflect individualistic attitudes meaning that the economy that is run and implemented by Indonesia is a capitalist economy that prioritizes personality over aspects of collective togetherness. In addition, social welfare will be increasingly degraded by the existence of a liberal attitude whose orientation is profit maximization and tends towards the exploitation of natural resources for personal gain only.

5.1. Recommendations

So that the Indonesian economy is following what was planned and scheduled beforehand, as stipulated in article 33 of the 1945 Constitution, the authors suggest to the Indonesian government that:

1. Law enforcement in implementing articles must be improved. This needs to be considered so that the functions and objectives can be carried out and achieved under what was previously planned, especially in article 33 of the 1945 Constitution.
2. Protection of the sectors which are important to the country and concerning the needs of the lives of many people must be tightened, so that privatization is no longer carried out by other parties which will also result in structural losses to the Indonesian people themselves.
3. Clarify and strengthen the system, rules, and clear regulations on the process of economic development in Indonesia. This aims to be important so that our economic direction and objectives are under what is desired and mandated by the nation in Article 33 of the 1945 Constitution, paragraphs 1, 2, and 3. The Islamic economics values and objectives must be included into the amendment point in order to encourage economic welfare, justice, and a fair distribution of income among Indonesian society.

REFERENCES

- [1]1945 Constitution. 2002. *1945 Constitution of the Republic of Indonesia Article 33 After the Amendment*.
- [2]Abû Dâwûd, Sunan Abî Dâwud Juz II,(Bayrût: Dâr al-Kitâb al-'arabî, tt), h. 161.
- [3]Avineri, Shlomo, and Avner De-Shalit. 1992. "Communitarianism and Individualism."
- [4]Chapra, M Umer. 2001. "Islamic Economic Thought and the New Global Economy." *Islamic Economic Studies* 8 (331): 1–16.
- [5]Lukes, Steven. 2006. *Individualism*. Ecpr Press.
- [6]Mubyarto, Mubyarto. 2001. "Natonal Economic Recovery Towards Economic Democracy (Pemulihan Ekonomi Nasional Menuju Demokrasi Ekonomi)."

Journal of Indonesian Economy and Business 16 (1).

- [7]Saad-Filho, Alfredo, and Deborah Johnston. 2005. *Neoliberalism: A Critical Reader*. University of Chicago Press.
- [8]Waluyo, Bambang. 2016. "Implementasi Pembiayaan Mudharabah Pada Bank Syariah Untuk Merealisasikan Tujuan Ekonomi Islam." *Jurnal Ekonomi Dan Bisnis Islam* 2 (2): 188–206.
- [9]Williamson, John. 1993. "Democracy and the 'Washington Consensus.'" *World Development* 21 (8): 1329–36.
- [10]Witjaksono, Mit. 2013. "Redefinition, Reorientation, and Redesign of Economic Learning Referring to Article 33 of the 1945 Constitution (Redefinisi, Reorientasi, Dan Redesain Pembelajaran Ekonomi Mengacu Pada Amandemen Pasal 33 UUD 1945)." *Jurnal Pendidikan Ekonomi* 6 (1): 1–12.