In Seeking of Legal Protection: 
Local Workers in Wetland Area of Tanah Bumbu District

ABDUL HALIM BARKATULLAH¹, IFRANI¹,² AND LENA HANIFAH¹,³

Law Faculty, Lambung Mangkurat University, Indonesia¹
Padjajaran University, Indonesia²
University of New South Wales, Australia³

ABSTRACT

The local worker is a crucial issue that challenges the capability of local government in protecting the community, particularly in developing district which the skills and education are less distributed. Globalisation enforced penetration of non-local skilled workers (such as immigrants), and instead of having the technology transferred, it also threatened the unskilled local workers. Legal protection for local workers is highly needed to ensure the application of Pancasila’s social justice and to avoid massive unemployment in such area. The research situated in Tanah Bumbu District, South Kalimantan, Indonesia, which famed with its mining industry that attracted many workers, not only regionally, but also globally, to test their luck. However, not all locals taste the sweetness of the mining industry. Instead of providing new job vacancies for local workers, the company tends to hire non-local workers due to their competency and ability to meet the company’s requirement. This issue has to be a concern of the local government. Therefore, this paper aimed to find the best solution in the form of local regulation to protect and empower local workers in Tanah Bumbu District, South Kalimantan, Indonesia.

Keywords: Local Worker, Wetland, Mining Company, Tanah Bumbu, Legal Protection.

INTRODUCTION

The right to work and having a proper life are guaranteed in the 1945 Constitution of Republic Indonesia, as in Article 27 verse (2): “Every citizen shall have the right to work and to earn a humane livelihood”. This article holds the ground for worker policy in Indonesia. The investment atmosphere in Indonesia is relying on this policy, to create a conducive investment climate. Indonesia has enacted Law of The Republic Indonesia Number 25 of 2007 concerning Investment to regulate the investment, which the elucidation remarked that public welfare is one of the Indonesian goals that have been ordered by the constitutional mandate. The investment must become an essential part to develop country’s prosperity. Indeed, it will raise Indonesia’s economy progress.

However, as mentioned before, the investment will have to deal with the worker issues and furthermore with the local issues where the investment operated its company.

MATERIALS AND METHODS

The research design involves socio-legal research with an inter-discipline approach that combines normative and sociological approach, which will analyse deeply concerning one legal issue as referenced by Fetterman (1998). Empirical data are collected through a semi-structured interview that has been designed to overcome the obstacles due to the diversity of the correspondents, with purposive samples, key actors and focus group discussion. Tanah Bumbu District is chosen as a research area due to its industrial status in the wetland area and the gap between the availability of the job vacancy and existing unemployment of local workers.

Correspondence: Abdul Halim Barkatullah. Law Faculty, Lambung Mangkurat University
Email: dr.halim_barkatullah@yahoo.co.id

Journal of Wetlands Environmental Management
Vol 4, No 2 (2016) 27 – 31
http://dx.doi.org/10.20527/jwem.01.01.02

27
RESULTS AND DISCUSSION

Local Workers, Should The Government Intervene?

The multiplier effects of the investment, either it is positive or negative, must be discussed carefully to find the best solution to resolve the investment’s negative impact. One of the investment’s gifts is that it will provide the job vacancy for the job seekers, and at the same time, will lights the hope for the locals in an economical way. Once the company operated in an area, it is expected that it will increase the livelihood of the company’s surrounding community. Notwithstanding the company social responsibility to participate in elevating the livelihood of the locals, the company must have the main purpose to gain profits. This purpose, unavoidable, introduce the conflicts where the local community has to deal that its member is not eligible to apply in such of company’s vacancy due to their lack of education or skills. However, Dewar (2013) remarked that only a few research exists on whether residents of the local community employed in such companies, even in the areas of high poverty and unemployment, the local community still did not benefit from jobs.

Local workers also face the threat of exploitation of the company by working in such indigent condition if they were accepted as sweated labours. As noted by Paik (2014), local workers are also defenceless workers as they received little exposure from the media and overlooked by literature. Vogelaar (1980) took the similar stage as Pak, as he highlighted that there are conflicts between foreign firms and their local environment which is primarily political, social and cultural.

In overcoming the conflicts, the government ought to take the clear step to protect its people. Keynesian theory pressed that the hand of the government is needed to save the unemployment (Ferencak et al. 2014), although there are ongoing debates about whether the state has to put its hand in the economy (market) or just positioned, as Adam Smith cited, as the night watchman. However, the needs of government intervene in a developing country, in this situation Indonesia, is urgently needed being that the locals demanded the protection to save their rights from being the subject of exploitation.

Empirical Study of Tanah Bumbu District: Protecting the Local Workers

As acknowledged earlier, Indonesia investment policy is to empower the workers, regionally and locally, thus to promote social welfare. Article 10 addressed workers need by requiring the company to give precedence to the Indonesian-national worker, enhance their competency through job training and transferring the technology under provisions of law and regulations. However, the implication of this regulation is questionable as it missed the needs of local, indigenous community who lived around the company.

Tanah Bumbu is one of the largest investment districts in South Kalimantan, located on 2°52’ – 3°47’ South Latitude and 115°15’ – 116°04’ East Longitude with Batulicin as the capital city. As a district in a wetland area, its popularity increased by mining and palm oil industry, which attracted many investors; local, regional and global. Thus in a like manner, open the opportunity for job seekers. An investment-appeal of one district, however, is determined by its comparative and competitive advantage. While Comparative advantage is a privilege due to the nature of one district, e.g., strategic position, flourishing soil of the land nature, or natural resources, competitive advantage is more likely the conducted policy by the government, such as permit convenience or low taxes. The latter one should accomplish the earlier advantage. Hence, the conducive investment atmosphere depends on the policies of the government. Tanah Bumbu has comparative advantages beforehand; natural resource is the main gift from mother earth, as well as the strategic position by the sea, which will enable the company to build ports and cut transportation expenses. This advantage will turn into a disadvantage when the government fails to conduct a good regulation which cooperates with the
company and at the same time protect the community.

Local workers, as the breadwinner for their family, bear the responsibility to provide food and needs. Otherwise, if they are unemployed, it will trigger a larger conflict for the area. According to Ben-David (1991), the main process of a developing district is the income multiplication stream. The multiplication income process will be occurring when the labour market is created.

Consequently, the economic will be raised because income will create the outcome, thus triggering the same cycle.

Demand for workers shows the relation between the sum of take-home pay and workforce. The higher the demand for workers, the higher the salary will be. Workers shall be classified into two groups, non-production workers and production workers. The first one has another name as white-collar workers, e.g. CEOs, manager or executives, and the latter named as blue-collar workers e.g., operator, driver, or security.

The diversity of Tanah Bumbu community creates a different situation that makes Tanah Bumbu distinguished from any other district in South Kalimantan. Its heterogeneity established since there are many tribes stay, live together and claimed Tanah Bumbu as their hometown. The first settler of Tanah Bumbu is Bugis, and then followed by Banjar, Java, Balinese, Batak, Lombok and afterwards Chinese people. Previously, Tanah Bumbu was part of Kotabaru district, and finally on January 23, 2003, Indonesian Parliament enacted Law No. 2 Year 2003 that born Tanah Bumbu officially.

Based on 2010 census, Tanah Bumbu has 267,913 locals. The labour market of Tanah Bumbu compared to other districts in South Kalimantan is shown in Table 1.

Table 1: Population by Productivity

<table>
<thead>
<tr>
<th>District</th>
<th>Productive Age</th>
<th>Non Productive Age</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Tanah Laut</td>
<td>160,807</td>
<td>56,314</td>
<td>217,121</td>
</tr>
<tr>
<td>Kota Baru</td>
<td>139,121</td>
<td>67,263</td>
<td>206,384</td>
</tr>
<tr>
<td>Banjar</td>
<td>287,572</td>
<td>88,640</td>
<td>376,212</td>
</tr>
<tr>
<td>Barito Kuala</td>
<td>164,631</td>
<td>39,468</td>
<td>204,099</td>
</tr>
<tr>
<td>Tapin</td>
<td>84,975</td>
<td>41,235</td>
<td>126,210</td>
</tr>
<tr>
<td>Hulu Sungai Selatan</td>
<td>108,312</td>
<td>50,201</td>
<td>158,513</td>
</tr>
<tr>
<td>Hulu Sungai Tengah</td>
<td>136,497</td>
<td>44,667</td>
<td>181,164</td>
</tr>
<tr>
<td>Hulu Sungai Utara</td>
<td>119,619</td>
<td>33,240</td>
<td>152,859</td>
</tr>
<tr>
<td>Tabalong</td>
<td>117,600</td>
<td>43,332</td>
<td>160,932</td>
</tr>
<tr>
<td><strong>Tanah Bumbu</strong></td>
<td><strong>132,697</strong></td>
<td><strong>59,870</strong></td>
<td><strong>192,567</strong></td>
</tr>
<tr>
<td>Balangan</td>
<td>68,355</td>
<td>13,193</td>
<td>81,548</td>
</tr>
<tr>
<td>Banjarmasin</td>
<td>311,031</td>
<td>155,958</td>
<td>466,989</td>
</tr>
<tr>
<td>Banjarbaru</td>
<td>90,934</td>
<td>56,763</td>
<td>147,697</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>1,922,151</strong></td>
<td><strong>750,144</strong></td>
<td><strong>2,672,295</strong></td>
</tr>
</tbody>
</table>

Source: South Kalimantan Development Profile 2013

Hence, the table displayed that Tanah Bumbu stood on the fifth level; it is interested to look into the following graphic that exposed the unemployment rate of districts of South Kalimantan:
The graphic shows that Tanah Bumbu was ranked, in 2012, as the district with the highest open unemployment in South Kalimantan. This graphic conversely supports the argument that the greater the investment is, the greater the impact for the local workers. After analysing such issue, the writers concluded that the local regulation to protect and to empower local workers is urgently needed.

The regulation could take form in Peraturan Daerah (Local Regulation) which will impact locally and has the power to force the protection for its local workers. In fact, Provincial Government of South Kalimantan has issued Provincial Regulation concerning on local workers empowerment (Provincial Regulation No. 7 Year 2014) that trying to resolve local workers issues by empowering them gradually through education, skill training and information. Companies are required and enforced to concern for the local situation and take social responsibility. Based on that obligation, Tanah Bumbu needs to establish its own regulation as a follow-up, moreover, local regulation more likely to be applied in the local area as it more convenient for the community.

District government has the authority to enact local workers regulation due to The Law No. 23 Year 2014 concerning Local Government Article 12 stated that workforce is included in mandatory government affairs not related to the basic services.

CONCLUSION

The main purpose of Tanah Bumbu local regulation about local workers is to protect and empowering local workers to enable them to compete in the global atmosphere. No one can avoid the upcoming globalisation; the best way to survive is by elevating the competency of the community and prepares them to overcome the obstacles. The protection from the local government should be conducted in skills training, education, provides job vacancy information, and cooperates with the company to allocate portions for the local workers moderately. This resolution may result in creating a conducive investment atmosphere which leads to community improvement.
REFERENCES


http://www.merriam-webster.com