

THE EASE OF DOING BUSINESS

P. Agung Pambudhi

This policy brief is the result of an activity entitled “Economic Policymaking in Indonesia’ which is jointly conducted by Centre for Strategic and International Studies (CSIS) and Economic Research Institute for ASEAN and East Asia (ERIA). This activity is a contribution from research community that is expected to assist the government in formulating more effective economic policies in the future. In this activity, CSIS and ERIA invited 16 economists with specific fields of expertise from some leading research institutions to conduct in-depth discussions on seven strategic issues facing Indonesian economy (infrastructure development, competitiveness, investment climate, food policy, services sector policy, fiscal policy, and social protection policy), which is then summarized into policy briefs covering each of the topics.

Dissemination of the findings and recommendations produced by this activity is conducted through several channels. First, this activity has made efforts to engage the relevant government officials through some Focus Group Discussions (FGD), the publication of High Level Policy Notes, and hearings with some strategic policymakers with regard to each of the strategic issues mentioned above. Secondly, this activity also conducts widespread public disseminations through Public Seminars on each of the strategic issues, along with publications of the Policy Briefs and supporting multimedia that can be accessed online through www.paradigmaekonomi.org.

SUMMARY

- 1. For an entrepreneur, the challenges in doing business are more than just administrative services and licensing businesses but the bigger problems lies on the quality of policies, design of institutional services, and the personal integrity of service personnel.*
- 2. The first step to secure the consistency of a policy is to put the spirit of open investment up front in Undang Undang Penanaman Modal as the spearhead for Undang Undang Sectoral with all the derivative regulations centrally or rurally.*
- 3. A number of quick wins and various packets of Economic policies are needed to develop optimism over government credibility, However they must not clash with the long term institutional and policies designs to ensure continuity of economic benefits.*
- 4. The consistency of reward and punishment for government officials that depends on their measurable performance will be the underlining prerequisite for the development and future of the service quality, without which all the policies and institutionalized reforms will all be for naught.*
- 5. Through various business associations and their synergy with actors of developments, the business world should be a pushing factor either as partner or if needed as force to pressurize government to ensure the continuity of business as we all face a very progressively dynamic world economics.*

FOREWORD

The main challenge face by Indonesia Economy under the leadership of Jokowi-Jusuf Kalla is job creation. With 7.5 million of open unemployment at the start of their government and an estimated 8 million addition to the labor force within 2014-2019, they need to create 15 million jobs in 5 years (Suahasil Nazara, 2014). Keeping in mind the limitation of investment from both government and the people in creating jobs, private investment is the base factor in creating jobs. Other than various structural economic factors like natural resources, energy, demography, and infrastructure, a good investing climate is an important deciding factor for investors where the invest.

To start a business activity, the investors generally complain about the difficulty and the large cost needed to establish a business entity legally in Indonesia. The obligation to deposit a sum in establishing a company is another hurdle other than the uncertain time when they will get the permit to establish a business. Another difficulty they going to face is realizing an investment. Sectoral business permits, land access, costs for regulations, and relations to central and regional in authority to publish permits to realize an investment are difficult for investors to fulfill. After an investment is ongoing, investors will face

another set of challenges like certainty of law, law enforcement, employments, and high economic cost due to the low quality of regulations and services.

This Paper concisely serve problems around running a business in Indonesia, a glimpse of conceptual studies and recommended policy to help mitigate various hurdles in running a business in Indonesia, especially in regards to the quality of policies and their implementation that have affected the ease of doing business in Indonesia.

OBSTACLES IN DOING BUSINESS & RECOMMENDATIONS TO RECTIFY THEM

Synergy between policies is a luxury in Indonesia. Everybody knows the importance but neglect realizing it. The Open investment that has become an underlining spirit of *UU Penanaman Modal* in reality does not accord to sectoral nor regional policies.

For example, in the case of trade, because the misunderstanding around the condition of the industry and the business process, a better coordination are needed to solve conflicts such as these:

1. Ministry of Trade Rules number 87/2015 on rules of import of certain products which is closely regarded to Ministry of Trade Rules 70/2015 on Importer Identifier Numbers shows the uncertainty of government in translating 'protecting domestic industries' in which the substance of the rule is restrictive that actually damages the industries it trying to protect.
2. Still in relation to trade, specifically retail business, business expansions cannot be done because less than 1- cities from 410 cities in Indonesia that have RDTR (Detailed cityscape planning) as the prerequisite to establish modern market
3. Another example, the labor field plays a part in the uncertainty through social health insurance, labor, and lay off. Which push businessmen to face heavy burdens, that should not happen based on calculations by APINDO (*Asosiasi Pengusaha Indonesia*) which takes into account existing regulations, up to 19.75% of wage for that particular social health insurance.
4. In the regional level, government of kabupaten Karawang, which is closed to the central government of Jakarta, create a regional regulation number 1 year 2011 which obligated 60% of labor in businesses in Karawang have to come from Karawang. This regulation is contradictory to the principle of National Economy. On top of that, it is possible that there is not enough labor in Karawang that fulfilled the required qualification needed by the businesses.

In the last two examples a good intention in the policy to protect labors and give opportunity to local labors are executed through an amiss policy that caused an uncompetitive climate for investment in Indonesia.

The spearhead of policy implementation, in the field of labor as exemplified above, tripartite institutional mechanism via a payment board that involve three tripartite elements: government, businessmen, and labors in most regions in Indonesia, is dull and dysfunctional as the recommendations made through a long string of institutional mechanism are easily dismissed by reginal heads as the final decision maker after various political considerations. In terms of land the problems are quaint as lands does not only have economical values but also socio-cultural values as well. In order to settle land cases a regulatory approach is not enough as a political and cultural approach is better because without

governmental support as the public authority will cause uncertainty in the long run and also incur higher cost.

The matters of regulations and their implementations above are more complicated as they are related to central and regional government. In the case of business permit as an example, principle investment permit which is acquired from central government in many cases are not enough to be realized as the regional government (cities) does not publish basic permits¹ such as SIUP (trade permit letter), TDP (prove of company registration), HO (Hinder Ordonantie), IMB (building permit), etc, which are their authority.

POLICY RECOMMENDATIONS

Solutions for some problems in policymaking and its implementations, as explained above, could be developed by ensuring the well-functioning of Ministries/Agencies (K/L), and by increasing the involvement of private sector and other independent parties in determining policy directions and evaluating its implementation.

a. Consistency of Policy Direction

Consistency policy direction happens when the institution ministry is able to function as they should. At least this includes two things: policy making process, and enforcing implementation.

A number of prerequisite needs to be fulfilled accountable by governmental institutions in making certain policies. First, having the knowledge capacity over the policy substance. Second, a good managerial, planning, and policy making ability including establishing logical deadlines to avoid time pressure that often happens and caused botched up policies. Third, the seriousness and openness to involve stakeholders, especially businessmen who will be directly implicated through the policy to ensure input from the economist. Forth, good integrity of the personnel so the institution do not get dictated by any interest group.

b. Policy implantation quality and Institutional Design

Good policies tend to be dysfunctional when the implementation were not done right. Clarity regarding an accountable party to avoid passing around responsibility over a policy implementation that involve many parties. As an example, PP (government rules) over minimum wage – the one accountable for the making is the ministry of labor and supposedly the implementation is overviewed also by the ministry of labor. Even though the implementation and wage setting are controlled by the governor and the one with the authority to cancel it is the ministry of home affairs but ministry of labor have to ensure that ministry of home affairs overrule governor decisions if it conflict with the PP. If ministry of home affair does not function as they should righteously ministry of labor could ask the president to give the deciding call to the ministry of home affairs.

In running a policy, accurate institutional design is crucial to ensure service bureaucracy fulfills the hopes of clients of their services. Debureaucratization is the keyword where a good bureaucracy mechanism or business process can

¹ According to the latest study by KPPOD (Supervising Committee over regional autonomy implementation) in 2016, economic hurdles include collecting money towards business activity which is verified by the regional government as it still happens, overlapping and contradicting with national laws. Dispute that often happen usually ends with regional heads determining the investments in their region as their bigger political legitimation and administrative authorities they have. Similarly with other land access, authority own by agencies vertical BPN (National defense institution) in the matter of land, are able to clash with cityscape which is the authority of respective regional governments.

result in services that is fast and accurate with competitive prices. An example of Debureaucratization that is often discussed is the business permit services that is run by PTSP (one door integrated service). Through Debureaucratization, PTSP is limited to fixing the quality of services within the existing permit regulation structure, but they cannot eliminate various types of business permits that are unnecessary. Through Debureaucratization of business permits, various type of overlapping business permits can be merged (for example, merging SIUP and TDP) or can even be abolished (HO for example).

c. KPI, Reward and Punishment

To ensure the effectiveness of accountability there is a need for incentive and disincentive in the form of reward and punishment which is the most basic and effective managerial instrument to give proper appreciation for a good performance and punishment for a bad performance.

In certain governments there are already a rating instrument based on their primary tasks and their respective functions. Sadly, the key performance indicator is no specific enough and is not based on the satisfaction rate of the clients, instead it is stuck in a rating that is normative, bureaucratize, and administrative. Performance ratings should be followed with rewarded for a positive performance² and punishment for a negative performance³. In an institution level, the incentive can be in the form of trust to manage a bigger budget that still parallel to the bigger development strategy.

Policies regarding incentive and disincentive can also be implemented in relation to central-regional relationship. In the construction of a decentralized politics where regional government can have a differing vision from the political power within the central government, this can be critical in ensuring a synergized central-regional development. Fiscal incentive and disincentive in various governmental literature generally said that it is effective to stimulate the regions. There are various instruments that can be the sourced of KPI for performances of regional government which includes but not limited to budgeting deadline (APBD), absorption quality of APBD, implementation of cityscape plans, business permits, etc. Other than fiscal instruments, non-fiscal instruments can also be given in various forms like regional promotion, and other rewards that can be given as a political incentive for the regional heads.

d. Quick-wins to build optimism

Massive efforts from the government like revitalization of the agriculture sector, sea toll, massive infrastructure developments for land and electricity, government institutional reconstructions, ASEAN infrastructure within AEC structure, Trans Pacific Partnership, etc needs the signal of government capability to be carried out. For a year, the government under a new national leadership, the signals were conveyed through different quick-wins structural changes in the form of reduction of fuel subsidy by diverting the budget from the subsidy for a productive economic activities like infrastructure developments, acceleration of the realization of infrastructure budget plan, repairing business permits through PTSP, the swapping of ministries with disappointing performance, the publishing of 12 economic policies packets, etc.

Quick-wins are needed to show the responsiveness of the government over the demands of the business world and also to show that the government does not only work like business as usual. Quick-wins can also built trust with

² In the form of promotion, opportunity to improve knowledge and skills through exercises, financial incentives, etc

³ In the form of demotion that also have financial implication

businessmen that the government have the ability to realized the big long term economic plans.

However limited, in the middle of the weak facilities for economic activities for businesses, quick-wins are needed to build optimism of all parties. Further quick-wins that businessmen want to see is the ability of the government to attract blue-chip investment in a major scale which can bring about the world trust over the investment climate in Indonesia. In intermediate term, improving the quality of central-regional relationship in terms of business permits and land access are awaited by businessmen as business activity cannot work as they should if something as basic are those are not controlled well in decentralized government system in Indonesia.

e. Policy Advocacy by Businessmen

In an analysis done by a team under Bappenas, for a synergized policy it is recommended to form a policy reformation committee that is formed by various governmental elements, business world, and academics and including prominent people from each elements. The committee can be effective if it fulfill a few condition which are responsible directly to the president, have a representative from the business sector, academics, and communities, and a CEO with substantive power, extra-ordinary managerial skills, and competitive numeration on par with CEOs of large companies.

However maybe it will be more effective if the business world have their hopes on an internal power that empower business associations across sectors. Strengthening the capacity of associations have the potential to voice out the interest of businesses without putting aside the interest of the public. Mastery over public policy, the ability to create strategic alliance with other development stakeholders such as academics (think tanks), labor unions, and mass media, and lobbying skills are crucial for its success. Cooperation with decision makers whether it is executive or legislative is important but the strength of the business world can also be a pressure to the government in order to improve the role of businesses in the economy. A few example of success can be seen in these following cases:

1. The reduction plan over increasing cigarettes duty at the end of 2015. The alliance of small to medium cigarettes businesses, associations of tobacco farmers, APINDO, and a few other stakeholders together with the help of mass media succeeded in pressuring government plan to increase cigarettes duty upto 23% and finally into 15%.
2. The published PP 78/2015 on minimum wage that establish a set formula in calculating the raise in minimum wage to avoid politicization of wages which have been going for years and disserve all parties including businessmen, labors, and governments.
3. A few other examples both successes and failures efforts by the business world in pension tariff, health security implementation, electricity bill credits, up to the cancelation of distortive regional laws and more can be all listed but a limited discussion room will not allow it.

CLOSING NOTES

Discussion of problems and solutions above basically serve things that have been discussed in various fora. The challenge is in executing a synergy

between political will, government authority, human resources, financial resources, stakeholders power potential, and process all of them with a strong managerial capability. Productive policy dialogue, inclusivity of stakeholders, leadership capability and capacity, also execution of policies in the right time are a few keywords in order to achieve success in executing all the recommendations above.