

AN EVALUATION OF THE CONCEPTUAL FOUNDATION OF INDONESIAN DEVELOPMENT TRUST FUNDS

Hendra Wahanu Prabandani¹

1 Staf Perencana di Biro Hukum, Bappenas, Jalan Taman Suropati 2, Jakarta, 10310. Tel. (021) 3926252, Email: hendra.pabandani@bappenas.go.id

Abstrak

Indonesia telah memiliki peraturan tentang pengelolaan dana perwalian (*trust fund*) dengan diundangkannya Peraturan Presiden No. 80/2011 tentang Dana Perwalian. Dana perwalian tersebut dimaksudkan untuk menampung dana hibah yang berasal dari dalam maupun luar negeri untuk kepentingan pembiayaan pembangunan. Tulisan ini bermaksud untuk menguraikan beberapa permasalahan mendasar dari aspek hukum dan organisasi dana perwalian di Indonesia. Analisa yang digunakan untuk menjawab permasalahan tersebut adalah menggunakan perbandingan hukum, analisis peraturan perundang-undangan serta diperkuat dengan studi pustaka dari berbagai sumber. Berdasarkan analisa yang telah dilaksanakan, penulis menemukan bahwa peraturan tentang dana perwalian yang ada saat ini masih belum menjelaskan kedudukan hukum dana perwalian dalam konteks subyek Hukum Internasional. Sedangkan dari aspek organisasi, perwalian yang saat ini ada masih belum memenuhi standar minimal organisasi yang baik dan akuntabel.

Introduction

Even though it has the largest economy in Southeast Asia and is a member of the G-20 major economies with the Gross Domestic Product (GDP) over US\$ 888 billion,² Indonesia still faces a lot of challenges with its financial capacity to sustain development funding.³ Ideally, there are four major sources that can be used for the purpose of development funding: private savings, public savings, foreign trade or investment and foreign assistance. Public and private savings and foreign investment were all, however, insufficient to

meet country capital needs.⁴ The next appropriate alternative is to intensify the foreign trade or to boost exports. However, this will take longer than just one, two or three years.⁵

In this regard, external financing such as loans and grants could serve a strategic role to fill the gaps and to provide vital inputs, which often are not readily forthcoming from the domestic resources. One of the alternatives in which the government can effectively make best use of prevailing resources is through development

2 World Bank, *GDP based on Official Exchange Rate 2014* (Aug 12, 2015, 10:15 AM), available at http://data.worldbank.org/indicator/NY.GDP.MKTP.CD?order=wbapi_data_value_2014+wbapi_data_value+wbapi_data_value-last&sort=desc

3 The Aid of Development Effectiveness Secretariat, *National Trust Fund Aid for Development Effectiveness Arrangement in Indonesia*, 1-2 (Dec. 31, 2011) (unpublished working paper) (on file with author).

4 Radius Prawiro, *Indonesia's Struggle for Economic Development: Pragmatism in Action* 72 (Oxford University Press, 1998).

5 Emil Salim, *Pengalaman Pembangunan Indonesia: Kumpulan Tulisan Dan Uraian Widjojo Nitisastro [Indonesian Development's Experience: the Writings and Explanation of Widjojo Nitisastro]* 245 (Institute of Southeast Asian Studies, 2011).