GOOD GOVERNANCE AND LEGAL REFORM IN INDONESIA

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M.A. (HUMAN RIGHTS)

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ABSTRACT

This thesis focuses on assessing good governance and legal reform, especially under the World Bank projects which have been introduced to Indonesia after the financial crisis in 1997, and analyzes its impact on human rights.

This thesis attempts to deconstruct mainstream discourse and practice of good governance in Indonesia and criticize its connection with donor-driven legal reform issues which are importantly assessed by using a human rights perspective. By deconstructing the presence and absence of the World Bank's projects of good governance and legal reform in Indonesia, it will picture legisprudence and its legal dynamic between text and context, particularly in assessing legislation-based human rights violations. This study uses a critical legal studies method, and focuses on labor legal reform as a neo-liberal project. Interviews and several focus group discussions were used by involving about 40 people, and it was conducted in Jakarta, Surabaya and Sidoarjo.

The findings of this study indicate that the World Bank projects on good governance systematically hegemonized and softly hijacked state and non-state institutions in Indonesia, particularly through bridge institutions which mystified the power asymmetry. These institutions have reproduced 'truth' and 'imperatives projects' under loan conditionalities, especially under a legal framework for development and its doctrine of rule of law. By analyzing three waves of labor legal reform in Indonesia post crisis (1997-2006), the World Bank has dominated the discourse of good governance and its legal reform.

The absence of this discourse is the issue of state obligation under a human rights framework which is shifted to good governance. Good governance favors a market friendly strategy, or in the case of labor, so called 'labor market flexibility'. Labor market flexibility hugely impacts the deprivation of labor rights, especially on the issue of outsourcing, liberal minimum wage, long-term contract workers, and restraining the role of the state in labor dispute mechanism. In the legisprudence perspective, legal reforms are found as tools to legitimize systematic human rights violations through legislation projects. This thesis deconstructs a 'market friendly human rights paradigm' under the flag of good governance and legal reform.

KEY WORDS: INDONESIA / GOOD GOVERNANCE / LEGAL REFORM /
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