

CORPORATE GOVERNANCE BASED ON ITS ETHICAL BUSINESS CONDUCT IN INDONESIA

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ABSTRACT

Indonesia is a country known for its abundant natural wealth with a population of 254.9 million, based on survey conducted by National Socioeconomic Survey (Susenas). Another survey completed by Indonesia's Central Statistics Agency (BPS) in 2014 and 2015 showed that the unemployment rate in August 2015 was 7.56 million people, an increase of 320 thousand persons compared to the same period in 2014. In the report "The Inequality That Width" released by World Bank, further affirms the chasm that exists between the 'haves' and the 'poor'. The record growth over the past decade has only benefited 20 percent of the richest people in Indonesia. Meanwhile, the remaining 80 percent of the nearly 205 million people are still in poverty, which is an ironic situation. The question arises on how to minimize the above problems? It is known that Indonesia adopts a national economy which embodies the philosophy of Pancasila and the 1945 Constitution. The country upholds cooperation and mutual support between the government, private sector, and the community in realizing the ideals of the country. The vision in forming a government of Indonesia is to protect the entire Indonesian nation, the entire homeland of Indonesia, and to promote the general welfare. This paper will examine how clean government and good governance can support good corporate governance to improve nation's welfare.

Keywords: Business Ethics, Stakeholders, Good Corporate Governance, Code of Conduct.

Introduction

The supply natural resources in Indonesia is quite remarkable, so it is not too much if this country is identified as "pieces of paradise that had fallen on earth." It is simply and solely because almost anything can be found in Indonesia. Indonesia's wealth in natural resources should be used as a tool to leverage the welfare of Indonesian society. And the source of natural resources Indonesia levers for national income are palm oil, rubber, cocoa, coffee, tea, pepper, nutmeg, tobacco, essential oils, wood, fish, shrimp, coal, iron, steel, tin and many other natural resources that contribute to the country's foreign currency, such as cloves, quinine, milk, tuna, skipjack, aluminum, copper, gold, and more. Indonesia mainly export raw materials, with little export of finished goods such as electronic products, the automotive, cements, textiles, and garment. Chronically, the golden era of Indonesia as the country of foods self-suppliers now slumped into an importer country, mostly to all products. Indonesia is filled with variety of cultures, languages and natural resources, the largest archipelago in the world comprising of 17,508 islands, as the fourth most populous country in the world, and has abundant of natural resources. However, the natural wealth of Indonesia is managed by the companies that do not operate in line with the interests of development as stated in the country's 1945 Constitution. These companies control the potential natural resources such as gold, nickel, gas, and petroleum. Of so many natural resources privately-owned in Indonesia, the local Indonesian resident could only be the spectators, Indonesian society could not reap the benefits from its own property. Poverty is still a clearly portrait in this beloved country. Indonesia is rich in various kinds of Natural Resources. However, the resources have not been managed and used effectively with optimal management. The constitution and principles of good governance have been ignored, hence the potential of natural resources is not able to create national independence and people's welfare. The government policy in managing natural resources growing leading to the absolute liberalization, are reflected in increasing the liberal regulations. The government's attitude in favor of foreigners in the various dispute case management of national assets and natural resources. There are foreign pressures (bargaining power) which exert a powerful influence on attitudes and policies produced by the government. It is a great loss that the executive, legislative and judicial of Indonesia are proud with the principle of liberalization, individualistic, and the capitalist, leaving behind the principle of family, togetherness and cooperation.

From the principle of the state economy in accordance with the 1945 Constitution stated that "Later than it was to form a Government of the State of Indonesia which protect the entire Indonesian nation and the entire homeland of Indonesia and to promote the general welfare, nationwide education system, and participation in implementing world order based on freedom, lasting peace, and social justice, then drafted Independence National Indonesia's in an Act of the State of Indonesia, which is formed in an arrangement of the Republic of Indonesia the sovereignty of the people by basing the Almighty God, Humanity fair and civilized, Indonesian Unity and Democracy, led by the inner wisdom of the Consultative / Representative, as well as with the realization of a social justice for all Indonesian people"

Article 33 Paragraph 2 explains that "branches of production that are important for the state and dominate the life of many, controlled by the state" Article 33 Paragraph 3: "Earth and water and natural resources contained therein controlled by the state and utilized for the benefit of the people." This formulation clearly restricts the practice of a market economy and rejects the

absolute liberalization in Indonesia as absolute liberalization has negative effects and does not fit with the character and soul of the nation. Along with the policy of foreign domination, resource management practices laden with Corruption Collusion and Nepotism by government officials, businessmen, and foreigners. The lack of commitment by government to achieve the independence and development potential of the national economy is really alarming.

Recently, In 1994, the Government issued Government Regulation No. 20/1994, containing a provision (Article 5, paragraph 1): "Established Company, as referred to in Article 2 paragraph, (1) (a) can conduct business activities that are classified as important for the state and lives of many people, such as ports, transmission and distribution of public electricity, telecommunications, shipping, aviation, water, common rail, power generation atomic and mass media "in Article 6 paragraph 1 states:" Shares ownership with an Indonesian partner. as referred in Article 2 paragraph (1) (a), with at least 5% of the paid up capital of the company upon its establishment." Under this provision, the investment policy allow foreigner companies to own up to 95% shareholding.

Infrastructure Summit and SOE Summit in 2005 through the Office of the Minister for Economic Affairs said that all infrastructure projects are open to foreign investors with a motive to earn maximum profit, without any exception. In fact, it is also reported that all economic activities are gradually handed over to the private sector, through the sale of state-owned enterprises to the private sector In November 2006 the Minister of Transportation Hatta Rajasa said it will open the door wide for foreign investors to build and operate the port in Indonesia.

Diversion of the constitution. The liberalization of economic sectors, including strategic sectors concerning the lives of many people, there has been absolutely shift in Indonesia. The evidences show powerlessness of the government facing foreign pressure. The government must recognize the fallacious attitude and policy direction to prevent further depletion of natural resources by foreign governments. This is also to realign the fundamentals of economic policy according to the constitutional mandate of Article 33 UUD 1945 Constitution, which requires the state to take a dominant role in natural resource management so that results can be utilized as much as possible for the well-being of its own people.

The Constitution affirms its rejection towards liberalization by prohibiting control of property assets within the country by foreign / private constitution and calls for the economy to be structured as a joint venture, based on family principles, to create healthy competition and not to kill each other's businesses, to protect against the economic life of the people, as well as ensuring the growth potential of the local economy.

Protection and utilization of natural resources and the economic future of Indonesia depends on the commitment of all parties, especially the state officials, to implement the constitution consistently and consequently. The constitutional mandate has to be run through improving the policies, regulations and programs that give priority to the country's sovereignty, independence, and interests of the people, as well as the development of State-Owned Enterprises. In economic view, environmental and natural resources are common property resources or public goods. Thus, it is also considered as goods that have no owner (everybody's property means nobody's property). Simply because it is a public good that no party has an interest to manage and administer. As a result, natural and environmental resources are exploited without limit and with disregard to the ability and the capacity of its usage. This statement is the root for the opportunities to build the corruption, collusion and nepotism.

Based on the corruption perception index in 2015. There are 167 countries that entered the list. Somalia and North Korea both got the first rating as most corrupt countries in the world. Where is Indonesia in the ranking? Indonesia ranked 88th, in the same grouping as Albania, Algeria, Egypt, Indonesia, Morocco, Peru, Suriname. The top five least corrupted countries are Denmark, Finland, Sweden, New Zealand, Netherlands, Norway, followed by Switzerland and Singapore.

At least there are four words that should be a concern if they reach the good and clean governance, namely: (1) good government, (2) clean government, (3) good governance, (4) clean governance. Of the four, the division is seen that the attention is good, clean, government, and governance (government organizers and government managements). That is the paradigm to be developed in good and clean governance which is also supported by the organizers of good and clean governance. Thus, the government should give more attention to the system, while governance is mainly concerned with the human resources working in the system. Good person leads to Good Institution; Good Institution leads to Good Governance; Good Governance leads to stronger governance. Good Governance is a virtuous circle (World Bank).

Without maintaining the balance, these two things will appear imbalance in governance practices that will ultimately lead to the destruction of the state system. To realize an accountable government, with reference to the United Nations Development Programme (UNDP), Institute of Public Administration (LAN-RI) formulates nine fundamental aspect (principles) that must be considered, namely: (1). Participation, the participation of citizens in decision-making, either directly or through legitimate representative institutions who represent their interests. (2). The rule of law, that governance must be supported by a professional law enforcement authority, because without support from the rule of law and enforcement, the public participation can be turned into an anarchic action; (3). Transparency. The principle of transparency is an important element that supports the realization of good and clean governance. Transparency is built on the basis of free flow of information. The whole process in the government, institutions, and the information needs to be accessible to the interested parties, and the information provided should be sufficient to be understood and monitored; (4). Responsive, which means being responsive to the problems of society. In this case the government should understand people's needs and be proactive and not wait for them to express their desire. Each element of the government should have two ethics, the ethics of individual and the social ethics; (5). Consensus (orientation agreements), namely that any decision must be made through a consultative agreement. Through this way will satisfy all parties so that everything feels bound to consistent implementation; (6). Equality, the similarity in treatment and public services. This requires

every government who implements the act to behave fairly in terms of public service without knowing the difference in religion, ethnicity, gender and social class; (7). Effectiveness and efficiency. Criteria effectively measured by the product parameters which can reach large-magnitude interests of people of all social layers group, while efficiently measuring by the rationality of the cost to meet the needs of all communities; (8). Accountability, the accountability of public officials to the people who gave him the authority to take care of their interests. In this case any public officer is required to account for all the policies, decisions, actions, moral neutrality and its attitude towards the community;(9). Strategic vision, namely strategic insights to face the optimistic future (forecasting). That is, for any policy or current decision making process to consider the future consequences (at least 10-20 years ahead).

In the practice of governance in Indonesia after the National Reform Movement, reflected in Act No. 28 of 1999 on the Implementation of the State were clean and free of corruption, and Law No. 32 of 2004 on Regional Government which contains the general principles of governance, including: (1). The principle of Rule of Law, which prioritizes the cornerstone legislation, decency, and fairness in the implementation of any policy of the State; (2). State Implementation Principles of Conduct, which prioritizes grounding order, harmony, and the balance in the control of the implementation of the State; (3). Principle of Public Interest, which puts the general welfare in aspirational, accommodating, and selective way; (4). The Principle of Openness, which is to open ourselves to the rights of the public to obtain correct information, be honest, and to not discriminate in the administration of the State with regard to rights on private, group, and state secrets;(5). The principle of proportionality, which prioritizes a balance between the rights and obligations of the organizers of the State;(6). The Principle of Professionalism, which prioritizes the expertise that is based on the applicable code of conduct and regulations; (7). The Principle of Accountability, where every activity and the results of the implementation by the State must be accountable to the community in accordance with the provisions of the legislation in force.

An economic crisis in Indonesia, among others, are due to the procedures governing practice bad governance. This results in problems such as corruption, collusion, and nepotism (KKN) that have been entrenched, the problem of legal certainty, the monopoly in economic activity, as well as deterioration of service quality to the community. This hampers Indonesia's economic recovery and leads to rising unemployment, increasing numbers of poor people, declining health, and has even led to the emergence of conflicts in various regions that could threaten the unity and integrity of the Republic of Indonesia.

The government that has previously held the reigns of government stronger, sooner or later have to undergo a shift in its role completely to regulate as a facilitator. Businesses and the owners of capital, who previously think that country's authority are only likely to inhibit business growth, should begin to realize the importance of regulations that protect the public interest. Also, people who have been acting as a beneficiary (beneficiaries), must begin to take pro-active role as stakeholders.

Consistent with the principles of democracy and participation in various activities is one implementation of good and clean governance. Control the education for the society will have an impact on good governance and effective good governance and clean governance, free from corruption. To realize a good and clean government based on the main principles of good and clean governance, at least it can be done through the implementation of priority programs that:

1. Strengthen the function and role of representative institutions;
2. Promote independent judiciary;
3. Strengthen the participation of civil society;
4. Upgrade the welfare of the community;
5. Support governance of Clean and Movement of the Anti-corruption.

The abundance of goods and services produced by the global economic system, the great advancement in science and technology should have been able to create prosperity, health, and peace to the human race in the world. But as it is said by Capra, this time, mankind is confronted with a global crisis that is very complex and multi-dimensional, which in terms of his touch all aspects of life, including touching dimensions of intellectual, moral, spiritual, and even faced the threat of extinction, especially in Indonesia.

Human tend to never feel satisfied with his own achievements and always want more. So many work hard to pursue his perceived desirable decent living, including forgetting the norms in force.

The 1945 Constitution of Article 33 paragraph (1) states that "the economy is structured as a joint venture based on the principle of the family."; Limited Liability Company Act No.40 / 2007 Article 1 (3) states that "Social and Environmental Responsibility is the commitment of the Company in achieving the sustainable economic development to improve the quality of life and environment benefits the Company itself, the local community, and society in general. "; Law Firm State-Owned Public No.19 / 2003 Article 2 (1) letter (e). Stating that "participate actively provide guidance and assistance to employers of economically weak groups, cooperatives, and community."; and the Investment Law No.25 / 2007 Article (3) of paragraph (2) (h) states "improve the welfare of the community." In a 1945 opening Fill the Republic of Indonesia stated:

"... Colonization over the world should be abolished"

".... Safely deliver prosperous people of Indonesia to the front gate of the independence of the Indonesian state, independent, united, sovereign, just and prosperous."

"Then instead of it to form a government of Indonesia that protects the entire Indonesian nation, its homeland, and to promote general welfare, educate the nation, formed in an arrangement of the Republic of Indonesia the sovereignty of the people based on Pancasila. Borrowing a phrase Ignas Kleden- "be a home for all those who helped build it, and want to live in peace and

realize common prosperity in it." Indonesia is a nation state, a country that was built based on and bound by the spirit and ideals of nationhood.

Adopting the way of mutual cooperation - togetherness - to the family of late among humans as a central principle, can be translated that passion is important, because then there is a sort of benchmark / noble spirit which must underlie the Indonesian way of life in the house. That means, each occupant, whoever he is, in all its actions as a large family home Indonesia, should start from the moral passion to do what is right, just, and good. It is important to emphasize on realization of the spirit as a social ethic is still very low among the citizens of the nation and the elite group in this country. As the state leader, the government should: Always Be Improving; Be Good communicators, Be Good Organizers (tasks and resources, alternatives, reach a decision, write down the plan, put the plan into action, Evaluate), Be Good Counsellors, Lead by Example. "The world is changed by examples not only by opinions".

Corporate Governane term was first introduced by the Cadbury Committee in 1992 in a report known as the Cadbury Report (Tjager et al., 2003). Definition of Good Corporate Governance of the Cadbury Committee based on the stakeholder theory is as follows: "A set of rules that define the relationship between shareholders, managers, creditors, government, employees, internal and external stakeholdersto review their rights and responsibilities". (A set of rules governing the relationship between shareholders, managers, creditors, government, employees, and other stakeholders, both internal and external, relating to the rights and obligations). Another understanding according to the Decree of the Minister of State / Head of Investment and Development of SOE No. 23 / M AM / state / 2000 on the Practice Development GCG in the Company (Persero), good corporate governance is the principle of healthy corporate that needs to be applied in the management of the company that carried out solely for the sake of safeguarding the interests of the company in order to achieve the aims and objectives of the company.

Concept of Good Corporate Governance in Indonesia were introduced in 1997, when the economic crisis hit Indonesia. There are many adverse consequences of the crisis, one of which is the number of companies failing because it is not able to survive, poor corporate governance is pointed out as one of the causes of the economic crisis Indonesian politics started in 1997 whose effects are still felt to this day. Be aware of the situation and circumstances, the government through the Ministry of State Enterprises begin to introduce the concept of Good Corporate Governance of SOEs in the neighbourhood, through the Decree of the Minister of State Kep-117 / M-MBU / 2002 dated August 1, 2002 on the Implementation of Good Corporate Governance of State-Owned Enterprises, stressed the obligation for state enterprises to apply good corporate governance consistently and or make the principles of good corporate governance as the cornerstone of its operations, which basically aims to increase the success of business and corporate accountability in order to create shareholder value in the long term by taking into account the interests of other stakeholders, and based on the laws and ethical values.

Government gives a very strong encouragement to the implementation of GCG in Indonesia. Evidence of the government's concern can be seen from the introduction of regulations governing corporate governance. Starting from the Establishment of the National Committee on Corporate Governance (KNKCG) through the minister Decree No. KEP / 31 / M.EKUI / 08/1999 on the establishment of KNKCG. Published a revised Code Indonesia. Then continued with the establishment of the National Committee on Governance (NCG) in lieu of KNKCG by the Decree of the Coordinating Minister for Economic Affairs No. KEP / 49 / M.EKON / 11/2004. Consisting of Sub-Committees and Sub-Committees of Public Corporations.

Poverty itself has meaning circumstances where there is an inability to meet basic needs such as food, clothing, shelter, education, and health. Poverty can be caused by the scarcity of means of fulfilling basic needs, or the difficulty of access to education and employment. Poverty is a global problem. Most people understand that this term is subjective and comparative, while others see it in terms of moral and evaluative, and still others understand from a scientific angle that has been established. The rate of population growth in Indonesia also fluctuates. Poverty in a population can be analyzed through the levels of the labor force, the level of the working population and rate of population who are unemployed.

The economic system of democracy can be defined as a system of national economy which embodies the philosophy of Pancasila and the 1945 Constitution, which is based on mutual cooperation by and for its people under the leadership and supervision of the government. In a system of economic democracy, good government, economically weak groups, and entrepreneurs work actively in the pursuit of prosperity. In addition, the State has a role in planning, guiding and directing economic activity. Thus there is cooperation and mutual assistance between the government, private, and community. While the capitalist system has brought a handful of very powerful multinational corporation operations and has penetrated the boundaries of a country. With financial strength, multinational corporations are able to influence the democratic system of politics and government of any country in the world, including Indonesia, to strengthen and profitable corporation itself and very detrimental to society at large. The existence of this corporation has deviated too far from a pure market economy system in the early days as coined by Adam Smith stating that pure market economic system is a system where there are many sellers and many buyers to none both sellers and buyers are individuals able to dictate the market. Who poured in two books, namely: (1) Wealth of Nations (to review the principles of individual liberty, exchanges, and shared prosperity through market economic system), and (2) The Theory of Moral Sentiments (review the principle of Moral restraint / self restraint to build a social virtue). Thus, Smith's economic theory is based on the proposition that the nature of restraint / self-restraint (the moral aspect) can thrive in a society that gives as much opportunities as possible for everyone to pursue self-interest (pure self-interest). Actually, Adam Smith tries to combine economic aspects (material wealth) with the moral aspect, but the next generation of economists is only interested in economic theory and ignore his moral theory.

Top-down improvements would be impossible in the corrupted authority with collusion and nepotism system, while improving bottom-up is also more difficult because it has been lulled in lazy culture due to the promising natural wealth. One of our

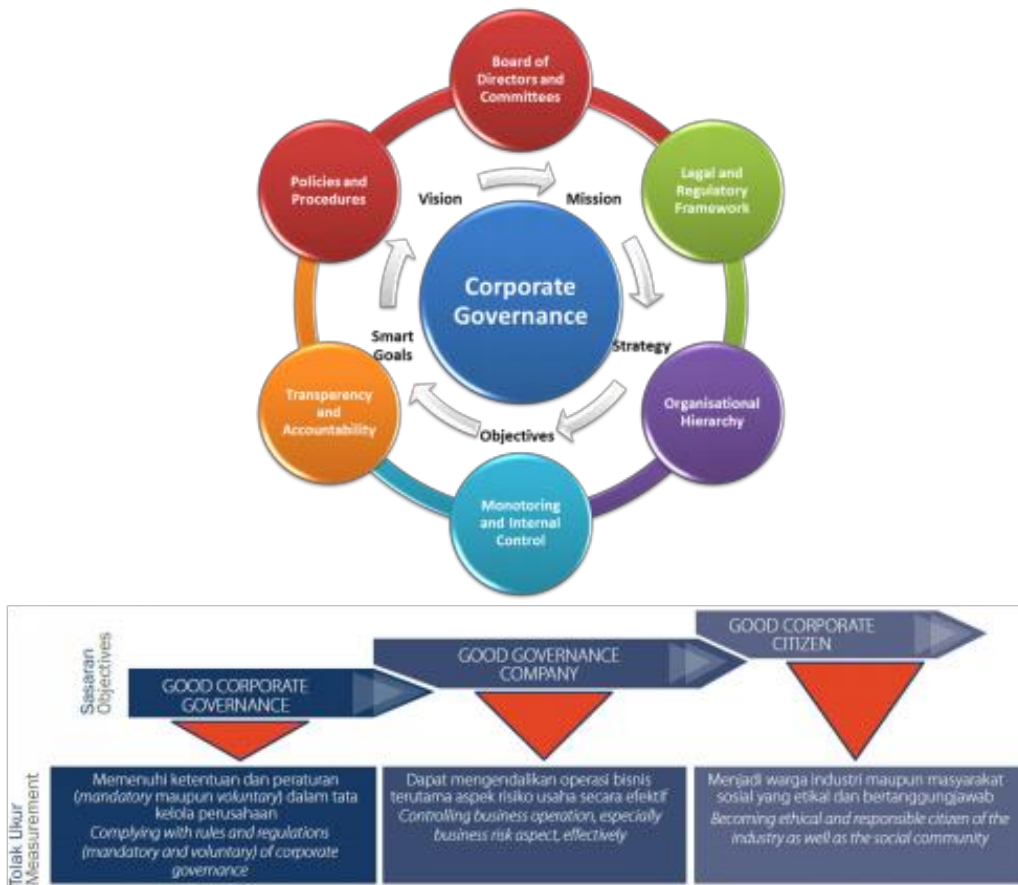
weaknesses is too long to fall asleep with the wealth and abundant natural resources. Deterioration and poverty were actually caused by our characters who tend to take things for granted because we live in a country with abundant natural resources. We have become spoiled and lose our work ethic because nature has provided everything in huge supply. Is there still a chance for change? This, firstly, requires cooperation among stakeholders, back to the time of independence and began by remembering the four pillars of development in Indonesia. The spirit of unity in diversity is the most important, because without unity no matter how well concepts are made, they are mere talk. Secondly, the state ideology Pancasila as our second to none guidance in this world; Thirdly, the need to sit 1945 Constitution certainty of the law enforcement legal, and the Fourth, the need to recognize the welfare of Indonesian people living in the Republic of Indonesia and provide a comfortable, safe and happy life together.

The nation can start with the educating the children, so that, first, at home (family) parents who take an active role; Second, Religion. Do not be a tragedy of the developed world, where almost everything is achievable by science, so the belief in God is not honored anymore, and Third, schools, teachers are required responsible for building a moral and ethical crisis that is almost extinct. And the last; Fifth, society particularly the traditional leaders. Build Indonesia under, Pancasila - 1945 constitution - NKRI - Bhineka Tunggal Ika.

Employers can no longer avoid the issue of ethics in business. Four levels of ethics that should be of concern to the employers now: Level I, Communities / Social Sciences; Level II, Parties concerned; Level III, the Internal Policies, and Level IV, Individual. To encourage ethical behavior in the workplace, many companies establish a code of ethics (codes of conduct) and set a clear ethical position to run a business. The topics covered by the company's code of ethics and standards of conduct, as follow:

1. Fundamental Honesty and adherence to the Law;
2. Product safety in the workplace;
3. Conflict of interest;
4. Employment Practices;
5. Fairness in selling / marketing Practices;
6. Financial Reporting;
7. Supplier Relationships;
8. Pricing, Billing and Contracting;
9. Trading in Securities / Using Inside Information;
10. Payments to Obtain Business / Foreign Corrupt Practices Act;
11. Acquiring and Using Information about Others;
12. Security;
13. Political Activities.

Running The Effective and Efficient Good Governance Wheel



The Snow Ball Effect of Corporate Governance Based on its Ethical Business Conduct



Conclusion

1. Indonesia is a unitary state in pluralism, Pancasila-1945 Constitution-NKRI-Bhinneka Tunggal Ika is the basic, so that the principle of balance should be applied in minimizing the gap between rich and poor.
2. Leader of the democratic and lead by example are needed at this time.
3. Indonesia has now entered the level of corruption on the table / overt, which used to only be done under the table. This can be evidenced by the arrest of the executive, legislature and judiciary in a state handcuffed but showing a smiling face, because it was considered normal and already entrenched.
4. Power is indispensable in building Indonesia, but what is important is a clear division of powers in order to avoid abuse of power, resulting in development that is in groups and breaking up the nation.
5. Good governance in the context of sustainable development in Indonesia can be seen as a synergistic effort that combines environmental development, human (leading by example) and economic (with principle of togetherness - cooperative - kinship), and that should be done simultaneously. The three actors in implementing the principles for sustainable development are government, corporations, and educated civil society who are able to maintain and participate processes being performed. Good governance will then serve as an element that combines three of the actors in one container for the same purpose. Without good governance will be difficult for each side to be able to contribute to each other and watch each other. Further, in view of the sustainability of existing sustainable development, namely environmental sustainability, economic, and human development, good governance established itself as a slice to synergistically bring together three links for sustainability. With good governance, the consistent achievement of sustainability can be measured in accordance with the principles of good governance that has been said previously. Good governance provides a space for each stakeholder to complement each other and have a control function between one and the other.
6. The principle of building new ones easier and faster than changing the old, moreover Indonesia has a history of being colonised for 3.5 centuries. It is time for the younger generation of Indonesia to receive education fairly, and it can be done with the principle of cooperative - togetherness - kinship between the Government and the employers.
7. The government and Corporation must put special attention in managing human resources in working age and school age so that, if there are people in school age who are not in school and working age people who do not work, severe penalty should be imposed. Government has the responsibility as supervisors and employers are responsible in meeting the state's goals of achieving welfare of the people in accordance with provisions in the legislation.
8. Indonesia must turn to the cultural values of the nation Indonesia Good, namely: the robust, disciplined, friendly, courteous, and diligent nation.
9. Ethical issues for the people of Indonesia to grow each day gets worse, this should be addressed as special education or special attention.
10. Indonesian laws must be implemented properly for the benefit of its own people.

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