



General Standard Changes of State-Owned Business Entities Based on General Benefits

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Abstract

BUMN or State-Owned Enterprises (BUMN), as one of the pillars of the country's economy, and one of the obligations of the state is to provide and provide services to the community, the assignment by the government itself is basically in line with Law Number 19 of 2003 concerning State-Owned Enterprises. Where based on the law, the Government can give special assignments to SOEs to carry out public benefit functions while still taking into account the aims and objectives of SOE activities. However, the public service obligations of the business entity sector, both Perum and Persero, are sometimes not in line with the objectives that have been secured by the constitution, namely the welfare of the people in providing the greatest benefit. The company entities (Persero) and Perum are basically intended for the purpose of seeking profit, while public services should be carried out by BUMN with a public company entity (Perum).

Keywords: *State-Owned Enterprises (BUMN); Persero; Perum; Public Benefits*

Introduction

The State of Indonesia is a state of law and the state is obliged to carry out the development of national law which is carried out in a planned, integrated and sustainable manner in the national legal system and guarantees the protection of the rights and obligations of citizens according to the 1945 Constitution of the Republic of Indonesia. (Laila, SW, & Daliwu, 2022)

In addition to protecting every interest that exists in humans from everything that can threaten, the law also regulates human relations. From the existence of rules in the relationship between humans, in addition to creating order or stability, it is also expected to prevent or overcome the occurrence of a conflict or disturbance of interest. (Mochtar Kusumaatmadja, 2012)

From this point of view, it can be seen the usefulness of law and the state, both of which connect and facilitate the collective desire of citizens within a country, namely to achieve the ideals of the state. According to Mahfud MD, the relationship between politics and law has three basic assumptions, namely: first, the determinant law (determining) on politics, in the sense that the law must be a pointer and controller of all political activities. Second, the political determinant of the law, in the sense that in reality, both the normative product and the implementation of the law enforcement, are highly influenced and *dependent . variables* over politics. Third, politics and law are related in an interdependent relationship, as the adage says, "politics without law creates arbitrariness (anarchism), law without politics will be paralyzed". (M. Rifqini zamy Karsayuda, 2015) It is on this basis that the general will is written in a grand text (constitution) which is the basis for state administrators.

As a modern country, the 1945 Constitution of the Republic of Indonesia has also declared itself as a democratic state and a state of law that aims to build prosperity for its people. (Setiadi, 2018) , and then At the present time, globalization greatly affects the existence of the nation as an economic controller. Especially regarding economic, social, and political issues which are mostly related to the nation's failure to carry out its role properly. As a legal institution, the state must not ignore the community in a position unable to meet their basic needs in providing these basic social services. (Dimiyati, et al.)

Juridically, the implementation of the Indonesian economy is based on Article 33 of the 1945 Constitution of the Republic of Indonesia. This provision directs the achievement of harmony and balance in economic management. The provisions in the constitution become a fundamental source of law in the management of the national economy. As a source of law, it is basically an embodiment of the will of a country itself. (Suparji, 2015)

People's economic development is a form of citizen's constitutional right which has been regulated in Article 33 paragraph (4) of the 1945 Republic of Indonesia Law which states that, "the national economy is organized based on the principles of economic democracy with the principles of togetherness, efficiency, justice, sustainability, and insight. environment, independence, and by maintaining a balance of progress and national economic unity. The realization of the realization of the principles contained in Article 33 paragraph (4) of the 1945 Constitution is in the form of realizing the welfare of the Indonesian people.

Normatively, the provisions of Article 33 of the 1945 Constitution are often understood as an economic system that is suitable for use by the Indonesian people. Article 33 paragraph (1), for example, states that the national economy is structured as a joint effort based on the principle of kinship. This principle can be seen as a collective (collective) principle which is meaningful in the present context , namely brotherhood, humanism, and humanity. This means that the economy is not seen as a form of western-style liberal competition system, but there are moral nuances and togetherness, as a reflection of social responsibility. This article is considered to be the basis of the people's economy · (Didik J. Rachbini, 2004)as mandated in Article 33 paragraph (1) of the 1945 Constitution.

The Indonesian national economy as one of the ways to achieve the goals of the state is regulated in the Indonesian constitution, a State-Owned Enterprise (BUMN) is formed which is part of the actors in the national economic system which is structured as a joint effort based on the principle of kinship, as mandated in Article 33 paragraph (1) of the 1945 Constitution. So, constitutionally, the essence of the existence of BUMN in Indonesia is to strengthen the country's economy by managing Indonesian resources that are used for the greatest prosperity of the people by adhering to economic democracy with the principle of togetherness. (Novendra, B., & Syifa, 2020).

Then by definition State-Owned Enterprises (BUMN) are business entities that are partly or wholly owned by the Republic of Indonesia, (Sari, M., & Lubis, 2018)and the main basis for the

government to establish SOEs Philosophically why it was formed is Article 33 paragraph 2 The 1945 Constitution which stipulates that business branches which are important to the State and affect the livelihood of the people are controlled by the State and used for the greatest prosperity of the people. This article is justification for the government to establish BUMN. (Indrawati, 2020), The purpose and objectives of establishing BUMN are (a) to contribute to the development of the national economy in general and state revenues in particular; (b) the pursuit of profit; (c) provide public benefits in the form of providing goods and/or services of high quality and sufficient to fulfill the needs of many people; (d) pioneering business activities that have not been able to be carried out by the private sector and cooperatives; (e) actively provide guidance and assistance to entrepreneurs from economically weak groups, cooperatives, and the community (Article 2 paragraph (1) of Law Number 19 of 2003 concerning State-Owned Enterprises (BUMN) (Indrawati, 2020).

Therefore, in Law number 19 of 2003 article 2 explains the aims and objectives of BUMN, namely:

- 1) Contribute to the development of the national economy in general and state revenue in particular.
- 2) SOEs are expected to improve the quality of service to the community while at the same time contributing to increasing national economic growth and assisting state financial revenues.
- 3) Pursuit of profit.
- 4) In certain cases, to provide public services, Persero may be given special tasks by taking into account the principles of sound corporate management, while Perum, whose purpose is to provide goods and services for the public interest, in its implementation must pay attention to the principles of sound corporate management.
- 5) Organizing public benefits in the form of providing high-quality and adequate goods and/or services to fulfill the needs of many people.
- 6) Become a pioneer in business activities that cannot be implemented by the private sector and cooperatives.
- 7) This activity is a business activity to provide goods and / or services needed by the community, but these activities cannot be carried out by the private sector and cooperatives.
- 8) Actively participate in providing guidance and assistance to entrepreneurs from economically weak groups, cooperatives, and the community. Therefore, every BUMN activity must be in accordance with its aims and objectives and does not conflict with laws and regulations, public order, and/or decency.

So in summary, the functions and objectives of SOEs are established with the aim and purpose of contributing to the development of the national economy and revenue, pursuing profits, organizing public benefits in the form of providing high-quality and adequate goods and/or services for the fulfillment of the needs of many people, becoming pioneers of activities. -business activities that cannot be carried out by the private sector and cooperatives, and actively participate in providing guidance and assistance to entrepreneurs from economically weak groups, cooperatives, and the community (Bahasmiasi, 2019).

Observing than function _ as well as destination than BUMN and its development above, then in principle the presence of SOEs in Indonesia other than as asset the country 's economy , at the same time play a role as company ordinary looking for huge profit . _ Even SOEs have room more movement and range _ large from the company private . By substantive and based on authority in determine fields the dominant economy as well as concerning interest general / community a lot , then because of that , be question how every changes made _ from time to time to do in State-Owned Enterprises (BUMN) in related with certainty benefit good general that should be more put forward interest as well as benefit for society , to what extent should be government To do changes form of State-Owned Enterprises (BUMN)?

Research Methods

Method used _ in study this is method juridical normative, i.e study the law carried out with method researching ingredient References or secondary data. (Soerjono Soekanto, 2018) Study this character descriptive descriptive analysis _ ongoing events _ researched, then analyzed based on fact in the form of secondary data obtained from ingredient primary law, secondary nor tertiary . Type of data used is secondary data, or data obtained from research and processing of others, in form book or usual document _ provided in the library or owned by personal, like regulation legislation , books , articles journals , papers , and decisions related with changes to existing State-Owned Enterprises (BUMN) During this .

Results and Discussion

Entering the existence of SOEs after Law Number 19 of 2003 concerning State-Owned Enterprises, a necessity that has happened to SOEs in Indonesia so far seems to be born if the SOE Law is really implemented seriously and what are the hopes and aspirations. the ideals of the formation of this law are not "betrayed"

BUMN as one of the actors of economic activity in the national economy has an important role in realizing the welfare of the community, for this reason the BUMN Law wants to optimize the implementation of the role of BUMN in the national economy in order to realize the welfare of the community. And to optimize the role of the BUMN, it must be done professionally.

There are several differences from the BUMN Law compared to previous laws and regulations, so the presence of the BUMN Law is a step forward, even though it is only the first step for BUMN reform in Indonesia. This is of course if we understand the intent and purpose of establishing BUMN (Gunawan Nachrawi, 2021), namely:

- a)Contribute to the development of the national economy in general and state revenues in particular;
- b) The pursuit of profit;
- c)Organizing public benefits in the form of providing goods and/or services of high quality and sufficient to fulfill the needs of many people;
- d) Pioneering business activities that have not been able to be carried out by the private sector and cooperatives;
- e)Actively provide guidance and assistance to entrepreneurs from economically weak groups, cooperatives, and the community

If the BUMN Law is examined more deeply, then the aims and objectives of the establishment of BUMN, the emphasis is not the same between Persero and Perum. In this context, the purpose and objective of establishing a Persero is to provide goods and/or services of high quality and strong competitiveness and; seek profit in order to increase the value of the company. Meanwhile, the purpose and objective of the establishment of Perum is to carry out a business aimed at public benefit in the form of providing quality goods and/or services at affordable prices by the public based on the principles of sound corporate management. Thus, the main objective of Persero and Perum in principle is the pursuit of profit, even though the business carried out is for the public benefit. (Gunawan Nachrawi, 2021)

Therefore, the birth of SOEs laid the foundation for a fundamental change to the existence of SOEs in Indonesia , which has always been conceptualized as implementation Indonesia as a welfare state . With the abolition of the Perjan by the BUMN Law, the substance of the Indonesian state as a welfare state is undergoing renewal. At the same time, it could be degraded if it turns out that later in practice, Persero and Perum are reluctant to accept special assignments from the government to carry out public

benefit functions for various reasons. It is in this connection that the existence of Perjan must be seen in the perspective of *Public Service tasks* which are the responsibility of the government. In carrying out this public task, a Perjan is needed to ensure the implementation of justice and the welfare of the people, where the aspect of pursuing profit is not so important, because it is the responsibility of the government.

So the abolition of Perjan should not be seen "just because Perjan is difficult to become a competitive business unit". This is because service companies are subsidized by the government and their employees are civil servants. This is one of the important aspects that escapes the consideration of the establishment of the BUMN Law. That's why on the removal of Perjan the government finds a solution and takes the right policy for the impact of the abolition of the Perjan.

As for State-Owned Enterprises (BUMN) at this time only is divided into two, namely Persero and Perum (Suseno, 2019), Furthermore, and the two business entities have significant differences ranging from share ownership structure to the respective objectives of the establishment of Persero and Perum are not the same. The ownership of Perum is entirely owned by the State, unlike Persero, which still allows the public or parties other than the State to own shares in the company (Erick Makmur, n.d.). Both have a philosophical basis for the formation and different goals, if the form of a state-owned enterprise is in the form of a Public Company (PERUM) in the meaning according to article 1 point 4 of the BUMN Law The aims and objectives of the Persero and Perum are as follows:

Perum

Is a BUMN whose capital is entirely from the state and is not divided into shares whose purpose is for public benefit (article 1 point 4) in the form of:

- a) Organizing a business aimed at public benefit in the form of providing quality goods and/or services at affordable prices by the public based on the principles of sound corporate management;
- b) To support activities in order to achieve the aims and objectives as referred to in the first point above, with the approval of the minister, Perum may make capital participation in other business entities.

As for some examples from PERUM, among them are Perum printing money of the Republic of Indonesia (Peruri), Perum Bulog, Perum Damri, and so on.

Persero

Is a BUMN in the form of a Limited Liability Company (PT) whose capital is divided into shares which are wholly or at least 51% (fifty one percent) of its shares are owned by the Republic of Indonesia whose main purpose is to pursue profit.

- a) Provide goods and/or services of high quality and strong competitiveness;
- b) Pursuit of profit in order to increase the value of the company. Persero as one of the national economic actors is required to be able to meet market demand through the provision of high quality and highly competitive goods and/or services in both domestic and international markets. Thus, it can increase the profit and value of the Persero concerned so that it will provide optimal benefits for the parties concerned.

Some examples of these state-owned companies are PT Pertamina, PT Garuda Indonesia, PT Telekomunikasi Indonesia (TELKOM), and others. In short, Perum as a state company at the time now this is more priority for services for the benefit of the public interest based on the principles of corporate management and not solely for the pursuit of profit. However, for the survival of the company, Perum still

has to pursue profit even though it is not the main goal. Unlike a limited liability company (Persero), which is a state-owned company in the form of a limited liability company, a limited liability company (Persero) is established with the aim of providing high quality and highly competitive goods and/or services, as well as pursuing profits in order to increase the value of the company.

In the change, namely the State-Owned Enterprise (BUMN) Perum into a Company, it is regulated in a Government Regulation Number 43 of 2005 concerning mergers, consolidation, acquisitions and changes in the form of State-Owned Enterprises. before changing its legal entity status from Perum to Persero. All the processes taken refer to PP No. 43/2005 in chapter V in the chapter in the PP, the procedure for changing the form of a BUMN legal entity has been regulated, namely:

- 1) Changes in the Form of a BUMN Legal Entity are proposed by the Minister to the President accompanied by the basis for consideration after being reviewed together with the Minister of Finance.
- 2) The review of the plan to change the form of a BUMN Legal Entity as referred to in paragraph (1) may involve the Technical Minister and/or other ministers and/or the head of other agencies deemed necessary and/or use an independent consultant.
- 3) In the event that the initiative to change the form of a BUMN Legal Entity as referred to in paragraph (1) comes from the Technical Minister, the initiative is submitted by the Technical Minister to the Minister for further review under the coordination of the Minister.

The government regulation above only regulates in a limited manner and does not regulate the reasons that need to be included in the change process and does not contain rules on standard norms as the basis for changing the form of the BUMN legal entity. The Government Regulation is entirely dependent on the results of the review of the decisions of the GMS, the Minister of Finance, the Minister of SOEs and the directors who are specifically assigned to design changes to the legal entity form of this BUMN.

For example, the legal entity form Perum changed to a Persero company which was deemed unsuitable to become a Limited Liability Company, including Pegadaian, while the purpose and mission of the original Perum Pegadaian was in addition to fostering profits, participating in helping the government to develop the economy, in the form of providing small-scale credit on a legal basis. pawns for people with lower middle income. (Puspita, J., & Djaroen, 2004).

There is a restructuring policy from changing a state-owned enterprise which was previously in the form of a public company (Perum) to a Limited Liability Company (PT), it is feared that it will have an impact, namely a shift in the function and role of pawnshops which results in the mission and objectives of having to adjust to the change in the form of the legal entity in providing services. services to the lower middle class. This is because Perum is not the same as a limited liability company. Perum tends to focus on public service while Persero or Public Company are more concerned with seeking profit (*money .). oriented*).

The government has emphasized that for Limited Liability Companies, all provisions and principles that apply to Limited Liability Companies apply. With reference to these regulations, it can be assumed that there is almost no difference between BUMN in the form of a limited liability company and a privately owned PT, which essentially aims to pursue the maximum profit.

Meanwhile, the establishment of Perum is more focused on businesses that aim for the public benefit in the form of providing quality goods and/or services at affordable prices by the community based on the principles of sound corporate management. Therefore, the change in the status of Pegadaian from Perum to a Company Company seems to imply that Pegadaian will no longer be a company that carries out public services, but as a business actor who only pursues profit.

Good corporate governance is a system that regulates the direction in which business activities will be carried out, including setting goals to be achieved, for what goals need to be achieved, as well as measures of success (Pawana, 2014), which from the beginning was formed as a business entity Perum Pegadaian. for the benefit of public services to become a Persero which will be inconsistent with the objectives that have been carried out since the beginning of the establishment of the pawnshop. It is feared that what has become the focus or nature of profit seeking in the legal entity structure of PT (Persero) which is identical to private PT so that it is not unlikely that it will have an impact on public services that should be carried out not optimally.

There are still many obstacles and problems in the management of SOEs and efforts to improve their performance. These problems are partly due to the weak policy coordination between the company's internal improvement measures with industrial policies and the market in which the BUMN operates, the commercial functions and public services in most BUMNs have not been separated and the principles of *Good Corporate Governance have not been implemented. Corporate Governance* as a whole in all SOEs. In addition, the lack of optimal unity of view in the privatization policy among existing *stakeholders* has the potential to have a negative impact on the implementation and achievement of the objectives of this policy.

The target to be achieved in the management of SOEs is to increase the performance and competitiveness of SOEs in order to improve their services to the community and contribute to state finances in a balanced and sustainable manner (Dwijowijoto, RN, & Wrihatnolo, 2008) . Therefore, the SOE management policy is directed at:

- 1) Coordinate with relevant departments/agencies for the structuring of Industrial policies and the related SOE market. This is necessary within the framework of a comprehensive SOE reform. The steps for internal improvement of SOEs are not enough, the successful management of SOEs must be accompanied by sectoral policies which generally concern issues of protection, monopoly or market structure, subsidies and the role of the government.
- 2) Mapping existing SOEs into *public SOE groups service obligation* (PSO) and a group of commercial SOEs (*business oriented*), so that the performance of these SOEs can increase and the allocation of government budgets will be more efficient and effective, and the contribution of SOEs can increase.
- 3) Continuing restructuring steps that are increasingly directed and effective towards the orientation and function of the BUMN. This restructuring step may include restructuring of management, organization, operations and system procedures and so on.
- 4) Continuing selective privatization steps and in accordance with the direction of the development of related SOEs so that the competitiveness, quality and quantity of services , as well as contributions to state finances from these SOEs can increase,
- 5) Strengthen the application of the principles of *Good Corporate Governance* (GCG), namely transparency, accountability, fairness and *responsibility* in the management of PSO SOEs and commercial SOEs. (Wardhana, nd)

The main activities carried out in this program are:

- 1) Completion of efforts to map the functions of each BUMN, so that the functions of BUMN are clearly divided into PSO BUMN and commercial BUMN;
- 2) Strengthening efforts to revitalize SOEs, among others through the implementation of GCG and *Statements of Corporate Intents* (SCI); as well as
- 3) Strengthening the implementation of SOE restructuring, including continuing privatization and divestment (Gunawan Nachrawi, 2021) .

There is no benchmark regarding the *Good formula Corporate Effective governance* that can be applied throughout the corporation provides freedom for all corporations to formulate *Good standards Corporate proper governance* for themselves. *Good Standard Corporate The governance* of each corporation must refer to the *Good Corporate Governance* that applies in Indonesia and international standards.

In addition, this policy is accompanied by strengthening the application of the principles of good corporate governance (*Good Corporate Governance*). *Corporate Governance /GCG*) in the management of each BUMN. As a follow-up to this effort, an evaluation step was carried out on the application of these principles to all SOEs.

On the other hand , Persero and Perum as a form of BUMN recommended by the BUMN Law are no longer fully conceptualized as a (temporary) institutional means , the use of BUMN, especially Persero and Perum is placed as a means of bringing in state revenue. Ideological considerations are thinning out in the establishment of SOEs related to the aims and objectives of establishing Persero and Perum based on the SOE Law. The tendency of the establishment of SOEs in Under the BUMN Law, it appears that it refers to or leads to the existence of BUMN in developed countries which are now in the form of multinational companies. This is in line with what Robert Fabrika said, that in developed countries most state-owned enterprises (BUMN-Pen) (Gunawan Nachrawi, 2021) are the result of general agreement and more importantly the understanding that these economic sectors have strategic meaning. which requires direct government participation . It's just that the strategic aspect of BUMN in the BUMN Law is not a measure. The point is that SOEs (especially Persero) will operate in all economic sectors, whether strategic or not depends on the economic field of their business.

The conception of the establishment of SOEs cannot be other than that, the government must let go of the tendency to intervene in the management of SOEs. SOE management must be placed on the joints of *Good Corporate Governance* , so that it grows our confidence in achieving the optimization of the role of BUMN to realize people's welfare as desired by the BUMN Law (Gunawan Nachrawi, 2021) .

Conclusion

The urgency of changing the form of State-Owned Enterprises (BUMN), if there is still a desire to implement the current management model. BUMN management within the *welfare state* based on the Company's mechanism has given birth to a model of BUMN business activities that are not well targeted as a whole in every sector of existing business entities. So that the ideals of the state to be able to achieve a country whose people are prosperous, are still very far from reality. Especially in providing the maximum public benefit for the community.

BUMN was born as a mandate of the Constitution Article 33 of the 1945 Constitution, its formation was aimed at realizing *welfare state* (people's welfare). Thus, the management of SOEs must be able to provide a balance between the interests of the people in providing benefits and managing business for state income in a good and sustainable manner, effectively and efficiently, and on target with professional and competitive strategies in accordance with the principles of *Good Corporate Governance*. *Corporate Governance (GCG)* , both before and after the change in the status of the business entity in accordance with the standard of change based on the public benefit.

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