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Establishing a Welfare State: Optimizing the Role of the State-Owned Enterprise

Mercy Monika R. Sitompul*, Runtung Sitepu, Faisal Akbar, Natasya Ningrum Sirait

Doctoral Study Program, Faculty of Law, University Sumatrea Utara, Medan, Indonesia

* Corresponding author: monikasitompul24@gmail.com

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Abstract: The Indonesian Constitution defines Indonesia as a welfare state. Consequently, the government uses state-owned enterprises as a tool to operate in the private sector to guarantee the government's presence in remote places or in areas with no personal interests. The primary focus of this study is on why the state's financial operations, rather than being the primary source of the nation's income are not performing as well as they should. The nation's financial issues are further complicated by separating state property from state finances and including it into council and committee roles as a sovereign state. However, state corporations are required to turn in profits. The research methodology involved data analysis of court orders of financial conflicts brought against managers of state-owned companies with sanctions for corruption offenses. This study aims to distinguish between government programs funded by the profits of businesses controlled by state corporations and those managed by the state apparatus in accordance with the budget.

Keywords: welfare state, state-owned enterprise, private sector.

建設福利國家：優化國營企業作用

摘要：印度尼西亚宪法将印度尼西亚定义为福利国家。因此，政府利用国有企业作为在私营部门运营的工具，以保证政府在偏远地区或没有个人利益的地区的存在。本研究的主要重点是为什么国家财政运作，而不是国家收入的主要来源，却没有发挥应有的作用。将国家财产与国家财政分开，并将其纳入主权国家的理事会和委员会角色，使国家的财政问题变得更加复杂。然而，国有企业必须盈利。研究方法涉及对因腐败罪行而受到制裁的国有公司管理人员提起的财务冲突法庭命令的数据分析。本研究旨在区分由国有企业控制的企业利润资助的政府项目和由国家机构根据预算管理的政府项目。

关键词：福利国家、国有企业、私营部门。

1. Introduction

The advancement of the general welfare is listed as one of the state's objectives in paragraph IV of the 1945 UUD. According to Encyclopedia Britannica, a welfare state is a form of government in which the state

is crucial to maintaining the social and economic equilibrium of its people. To maintain its presence and reach throughout the community, especially in isolated locations that are unappealing to investors, the government must choose to become involved in areas

where it might genuinely operate privately to maintain a welfare state. The government established some State Companies to do so. The State Company was initially funded by APBN and remained under government control [1]. The state corporation cannot grow quickly due to the strict APBN process restricted by the Budget Year, which represents a significant burden on the APBN. Given the evolution of social and economic activities since independence, which began as simple and is now quite complex [2], these assets should be given a specific form and governed by unique laws apart from the APBN. State-owned enterprises, defined as enterprises held entirely or primarily by the state through direct involvement derived from the riches of the separated state [3], originated from this perspective on development [4].

It is anticipated that national companies, in addition to private, small, and medium-sized enterprises (UMKM), and cooperatives, will become significant participants in national economic activities due to its flexibility and freedom from the APBN system. The government works to build a thriving society in many areas through the Property of The Nation. It is anticipated that the nation's property will provide for the requirements of its citizens in the areas of health, transportation, energy, mining and minerals, agriculture, fisheries, plantations, finance, and other areas. After such needs are met, they are professionally handled and made available to the public [5].

The notion that the government must arrange public service to further the national objectives, as stated in the 1945 UUD's introduction justifies the inclusion of the State's wealth, as distinguished from state corporations, in the state finances. State capital participation in national companies is one way in which the government participates in the economy as a player, whereas the government's role as a regulator and provider of public services through the Ministry/Agency is impossible because it is not possible to engage in profit-seeking business activities like those carried out by regular companies.

Long-term arguments and disputes over the Wealth of Separated Nations continue to diverge from the mainstream perspective [6]. The scope of the protracted debate is not limited by the article 2 letter g's reference to Separated State Property as part or scope of State Finance, which includes wealth managed by the state or by others in the form of money, securities, debts, goods, and other rights quantifiable in monetary terms, such as property that is separated from State or local companies. Since this page is available, anyone can use it as a reference for anything on the Separate State property. Nevertheless, Law No. 17 of 2003 on State Finances (State Finance Laws) lacks clarity regarding the definition of Separated State Property, its management, types of oversight, and reporting requirements. Act No. 19 of 2003, on the other hand, on State-owned corporations (National Corporate

Acts), offers an explanation of State wealth that is kept apart from State enterprises; nonetheless, it is not cited. The country's financial enterprise plays a less-than-ideal role in the national economy regarding achieving the well-being of its citizens, despite being one of the major participants in economic activity. The management and supervision of a business must be performed professionally to maximize its role [7], and the laws that regulate the business and economic sectors are no longer up to date with the rapid national and international development in these sectors.

2. Materials and Methods

Act No. 28 of 1999 on Keeping the State Clean and Free from Corruption, Collusion, and Nepotism State Organizers includes other offices with strategic roles related to the maintenance of the State in accordance with relevant laws and regulations. The definition "Other officials with strategic functions" refers, in accordance with clause 2 of article 7, to officials whose task is to protect the State from corruption, conspiracy, and nepotistic practices. These officials include, among others, the Directorate, Commissioners, and other structural officials of the National Corporation. The study attempted to solve problems using secondary data, including laws and court rulings related to cases that have occurred in state companies. This research was carried out so that legal protection and certainty can be realized for the managers of state companies. Enforcement of the law against losses arising from state company management is not an absolute violation of corruption.

3. Results

This contrasting interpretation suggests that the National Company's role in accomplishing its goals is less than ideal: a) promoting the growth of the national economy in general and the acceptance of the State in particular; b) pursuing profits; c) organizing the provision of goods and/or services of high quality and adequate for the fulfillment of the wishes of the people [8]; d) inventing commercial ventures that the private sector and cooperatives are unable to carry out; e) actively offering advice and support to business owners of weaker economic groups, cooperatives, and society.

3.1. The Causes of the Function of UN-Owned Corporations as not the Best Option for Implementing Socialism

It is not difficult to identify the cause. It is well-known that state-owned corporations in Indonesia have complex and constant problems and are sometimes even drawn into the political sphere. By carrying on a major task on the one hand as a function for the pursuit of profit and on the other hand, for the service of the community (public service oriented). In most state-owned corporations, good corporate governance practices are still not implemented (Good Corporate

Governance). In addition to the overlap of the regulations governing State Capital Participation of State Assets Separated from Own National Company [9], a list of non-optimal reasons for the role of National Corporations in the realization of the welfare state is increasingly added [10]. To deepen the complexity of problems in national corporations [11], the background of the establishment of national corporations in Indonesia will be briefly described, and expert opinions will be expressed on the role that a national corporation plays in realizing the well-being of the state.

3.1.1. Indonesia's History of Establishing State-Owned Corporations

In the past, several Dutch colonial government and foreign private economic, [12] assets had to be nationalized when Indonesia gained independence. The method for transferring rights through institutional transformation and nationalization varies for each asset category because of differences in ownership status. Institutional transitions, such as the transition from the Dutch Indian Government to the Government of the Republic of Indonesia [13], typically occur in the vicinity of government institutions. Although non-governmental assets are the target of nationalization, international private and Dutch government-owned businesses. Shortly after Indonesia gained independence, the institutional transformation process began. It culminated in 1957 and was followed by the nationalization process [14]. There is a chance that a property owner's foreign country' may file lawsuits if the state seizes the assets but leaves private administration [15].

Act No. 86 of 1958 on the Nationalization of Dutch-owned Companies is the legal basis that the Indonesian government provided to authorize the implementation of nationalization within the context of the transfer of these assets. According to the regulations, Dutch-owned businesses located in the Republic of Indonesia [16] territory created by Government Regulations must be nationalized and acknowledged as fully owned by the State of the Republik of Indonesia. The Republic of Indonesia's' State Property Enterprise Agency was established, and this policy represents the next phase of its establishment. Three types were recognized at the time of its formation: the State Company (PN), the Committee Corporation (Perjan), and the General Company (Perum). However, at the time, the Department of Finance, which oversees government management of businesses, was in complete charge of these businesses' operations, beginning with their entrepreneurship, management, and accountability systems. The salaries of the directors and staff of state-owned firms, as well as any expenses incurred to exercise such rights and obligations, were entirely funded by APBN. Because there were unclear goals and restrictions, the state company could not support

the state's budget and even became a burden to APBN.

This produced granting state-owned businesses, whose operations are independent of APBN, a designated area. This is meant to provide the state corporation, which was founded with the State Capital Participation of Separated State Wealth as its original capital, with flexibility in how it conducts business. The National Own Company has been in the Department of Finance's Eselon II unit (director's level) since 1973 and the Eselon I unit (director-general level) since 1993.

Since 2001, the National Company has been governed by a single ministry because of the dynamics and rapid development of the economy as well as the growing difficulties it faces in implementing the welfare state. One clause was required to "justly" give space to the nation's' wealth being split at the time the National Finance Act was being drafted because the Department of Finance was still in charge of the financial assets of the National Company. Furthermore, it is anticipated that the Separated State Property Act will be established following the National Finance Act so that its comprehensive coverage covers the richness of the separated state from A to Z. Because an eight-word description of the wealth of a divided country cannot possibly fit within the second letter of "g"? Even if state funds are involved, state corporations cannot be treated under state finance theory. The notion that the government must arrange public service in order[17] to further the national objectives as stated in the introduction of the 1945 UUD is the foundation [18] for the inclusion of the state's' wealth, independent from state corporations, as part of the state's' finances.' Put another way, the government's' role in the economy as an economic player, actor, or businessman is reflected in its capital involvement in state companies, whereas its role through ministries and agencies is regulatory in nature, as they are unable to conduct business like regular companies.

The only two types of state-owned corporations that exist are public corporations (Perum), limited companies (PT), and state-owned enterprises (NATO Owned Enterprises), which are still governed by the Department of Finance and have all or most of their capital derived from the wealth of the separated state and owned by the state through direct participation. Act No. 19 of 2003 on state-owned firms governs the requirements pertaining to State-owned enterprises. It superseded the earlier laws, which were the Indonesian *Berdrijvenwet* [19] (Stb. No. 149 of 1927) as amended multiple times and most recently added by Law No. 12 of 1955; The Law Number 9 of 1969 on the Establishment of Government Regulations, and *Perpu* Number 19 of 1960 on State Companies. The three laws were declared repealed and are no longer in effect following the passage of the State-owned Corporate Finance Act. On June 19, 2003, the State-owned Corporate Finance Act was passed and became

effective [20].

To use state capital in the state-owned business budget for future construction and management, State property has been separated from the State income and purchasing budget. This means that construction and administration are now based on sound corporate principles rather than state income and shopping budget systems. The State's resources, which are split into capital contributions to its own enterprises, are allocated with a certain aim in mind: (a) To support the growth of the national economy overall and the acceptance of the State specifically [21]; (b) To pursue profit; (c) To encourage the provision of high-quality goods and/or services sufficient to fulfill the needs of the populace [22]; (d) To be a trailblazer in the business world, initiating ventures that the private sector and cooperatives are unable to undertake [23]; (e) To mentor and support the business owners of the weaker economic groups, cooperatives, and society as a whole [24].

The establishment of the Property of the Nation is focused not only on profit but also on the financial activity of the nation's defense and its impact on the economy, as indicated by the five aims and objectives of the organization. The state's objective of promoting general well-being is also tied to the creation of a state-owned corporation [25], and even if it is certain that this aim is accomplished, the state uses the nation's own corporation as a vehicle to reach out to isolated civilizations in order to do so. This differs from the duties carried out by government agencies or institutions in their capacity as planners of non-profit public services. Within the framework of the national economy, government-owned enterprises contribute [26] to the production of commodities and/or services essential for achieving maximum community prosperity. The National Owning Company is perceived as playing a more significant role as a trailblazer in commercial sectors where private firms have not made demands [27]. Moreover, nationally owned companies play a critical role in providing public services, counterbalancing [28] the influence of powerful corporate interests, and promoting the growth of cooperatives and small businesses. The number of businesses in a nation is also one of the main ways in which the government makes money through various taxes, dividends, and profits from privatization.

3.1.2. Explanation of Act No. 17 of 2003 Covering State Finances

The path dependence theory can be used to explain this. The path dependence theory holds that policy choices made in the past influence current choices [29]. Politics, administration, conventions, and procedures govern the relationship between economic actors and the state and are heavily dependent on the dependency of the path. In other words, the decisions of the government today depend on the experience of the

past. Path dependency occurs when the characteristics of the Property of The Nation [30] in the past (both from the side of the reason of formation and the laws governing and beyond) are not based on current conditions but have been formed as a succession of past history. The same is true of the philosophy of why the country's owned corporations are subject to the State's financial laws because there has been something in the past related to the history of Indonesian independence from foreign states. There is a source of path dependency in the corporate ownership structure pattern (including National Company). Due to the existence of path dependence, the ownership pattern structure of a company in a country depends on at least previous patterns.

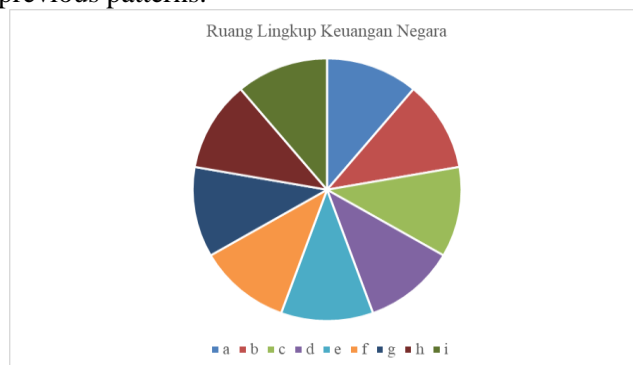


Fig. 1 Explanation of Act No. 17 of 2003, which covers state finances (Developed by the authors)

(a) The State's authority to levy taxes, print money, distribute it, and grant loans; (b) The State's duty to fulfill its government-mandated public service obligations and settle third-party bills; (c) State receipts; (d) State expenditures; (e) Territorial receivables; (f) Regional expenditure; (g) State property/regional wealth, whether managed by the state or by a third party, and including any rights denominated in money, including property held independently of the state firm or regional corporation; (h) property owned by third parties that the government controls to carry out its tasks and/or protect the public interest; (i) the property of a third party obtained by utilizing State-provided services.

3.1.3. Members' Viewpoints on the Contribution of the National Company to the Establishment of a Welfare State

Bernaulus Saragih claims that because the National Owning Company was founded with the intention of pursuing profits, its function in the operating company is evaluated without consideration for the welfare of the populace. The Law on the Finance of Owning Countries' Article 2 paragraph (1) (letters a and b) and Article 4 paragraph (4) state that the Countries' primary goal in doing business is to make money. When viewed from the perspective of environmental conservation, the National Company is a government apparatus that is turning into a tool for reducing poverty in communities that exist in the areas of

managing and producing natural resources like migas, barbara, forests, and others, according to forestry management experts from Samarinda University of Delawarean. Additionally, Bernaulus argued that state-owned business content frequently has exploitative quality.

In light of the Properational Company of Nations, which entered the subfield of the management of the wealth of the state separated with the aim of illuminating the nation and advancing public welfare, its role has not been optimized, according to a Master of the Faculty of Law at Catholic University Parahyangan Koerniatmanto Soetoprawiro. He stressed the meaning of the article and the purpose of the foundation of the National Own Company with the guidelines of Article 23C UUD 1945 and the Decision of MK 48/PUU-XI/2013.

3.1.4. Prevalent Issue in State-Owned Businesses That Minimizes the Function of the Nation's Own Business

1. The propensity of state-owned enterprises (SOEs) to grow into exploitative industries across all business sectors. Because it operates not only in areas related to its primary industry but also in other sectors that are distinct from it, the Property of The Nation is not concentrated and maximized as a result. 2. Commissioners, it is common for the Directorates of State-owned financial institutions to lack professionalism and even to tend to polarize viewpoints. To address the increasing challenge, the National Company's human resources department desperately needs to become more professional. For this reason, the National Company has been granted a great deal of autonomy and power, allowing it to do business with flexibility and a focus on results. 3. Due to the national company's organizational structure continued tendency toward 'greatness', a large portion of work is completed economically and inefficiently due to a lack of proper human resource planning coordination. Considering this, the nation's firm must adopt an appropriate strategy to endure the escalating competition. The National Company must implement several reform initiatives to achieve this, including changes to the Nace Company's internal management system, culture, and organizational structure. It is anticipated that the Nature Company will be able to respond quickly to changes with these enhancements, particularly external ones. 4. Financial challenges represent a significant issue for national companies. It is imperative that good corporate governance be implemented to fulfill the goals of public service and public orientation. The performance of a national company is thought to be improved by good corporate governance, or GCG. It has been demonstrated that the implementation of PTPN III (GCG) has significantly increased profitability. The administration of the nation's own corporation has become crucial to maximizing the role of the state in implementing the

welfare state since it is true that a state-owned corporation's failure will hinder the government's efforts to improve the well-being of the populace. 5. Another significant issue is the position of the national organizer, who is ingrained in the ranks of national owner financials' directors, commissioners, and managers. The variety of NBOs will be afraid to implement policies because of this status, and they will typically play it safe and conduct business as normal. However, to expand a business, bold and expanding action is required, bearing in mind the Business Judgment Rule (BJR) and precautionary principles.

4. Discussion

The directors, commissioners, and structural officers of the Property of The Nace and the BUMD are the organizers of the state, according to the explanation of article 2, paragraph 7 of Act No. 28 of 1999 on the Organizer of the State Clean and Free from Corruption, Collusion, and Nepotism. This information is necessary to establish the rank of managers of the property of the Nation and maximize its role. How is it feasible for a business whose managers are categorized as state organizers to be subjected to an audit by the Public Audit Office, which is owned by a private industry? In contrast, article 23 paragraph (5) of the UUD 1945 stipulates that the Financial Supervisory Authority is responsible for examining the responsibility concerning State Finance, if reference is made to article 2 letter g of the State Finance Act, which states that the state assets separated from the State business are state finances. It should be confirmed that the Financial Supervisory Authority is the only entity authorized to conduct audits of national companies in accordance with the Constitution mandate. There is a discrepancy in this case because the Limited Partnership Act and the State-Owned Business Act both state that the State-Owned Business Act is audited by a private auditor's office. Later in 2013, the Financial Supervisory Authority was granted constitutional authorization to examine the financial accountability and management of National Own Company Financials, a.k.a. Parser, by Constitutional Court Decision No. 62/Law-XI/2013. However, this is not always the case; for example, government offices mandate that the Financial Supervisory Authority serve as the auditor or auditors.

National Owners' financial assets are not recognized by the government through the Ministry of Finance as state funds; instead, the State's capital is reported as the total number of shares in the state's finances. Not a nominal stock due to the stock's erratic pricing. This demonstrates that the government has also come to the realization that, as is typical in business, its ownership in a national company is subject to fluctuations in profits and losses.

When state finances are understood as the totality of a nation's corporate assets, this is a misinterpretation. If

this is the case, every business debt in the nation or state must also be government debt, as must all business debt of the state. Nevertheless, the part of the State's wealth that is incorporated into the business of the nation is governed by the rules of the corporate system.

Nine of the aforementioned items are included under the state's financial disclosure under the National Finance Act. However, this does not imply that any of the nine items is equivalent to "national money." For instance, the lines that follow discuss loans, third-party bills, and other people's wealth, all of which are included in state finance rather than state money. When a state extends a loan to X, Y, or Z, the debt is categorized as state finance; however, funds provided by X, Y, or Z are not considered 'state money' since they are subject to repayment to the creditor. Using basic logic, even if debts are related to state finances, the money that the state borrows—x, Y, or Z—is still referred to as 'x, y, or z money' rather than 'state money'. This also holds true for point g, which is the wealth of the divided nation.

5. Conclusion

That the National Company's content in Indonesia frequently veers toward exploitation by extending all fields in an extremely unfocused manner. The performance of National Business is negatively impacted by the fatness of the human resource structure as well as the influx of non-professionals into the ranks of commissioners and even directors, such as party officials and TNI executives. The role of National Financial Companies in achieving welfare state is influenced by a number of issues, including the dismantling of management and the incomplete implementation of Good Corporate Governance.

Beyond simply optimizing and improving management, a significant breakthrough is required to fully realize the welfare state through the function of the United Nations Financial Service. Furthermore, given the certainty of doing business, a National Owning Company shall guarantee the full execution of Good Co-Corporate Governance by taking into account factors other than just financial losses that are equal to those of the state. Since the mechanism was released from the APBN and is now managed according to sound business practices as a company rather than the State Purchasing Revenue Budget, even though the wealth of the state that is kept apart from national business is still covered by the State's finances. When dealing with the issue of the First Company's losses, the Law Enforcement Apparatus does not view the status of the State Organizer, which is linked to the manager position of the Financial Company Owned by the Nation, as the main source of information. A state-owned company's corporate loss should be considered a corporate loss rather than governmental loss. If fraud occurs, it is a type of general crime rather than one that

moves directly into the corruption domain.

This study differs significantly in that it focuses on strengthening the legal framework that provides managers of state-owned businesses with legal certainty, as well as management and law enforcement system improvements. The results of this research will strengthen SDM, which is capable of overseeing state-owned companies and consistently and transparently identifying cases of corruption, and provide counterarguments to the losses experienced in running businesses as a result of the failure of corporate sector management.

Given that the Directorate, Commissioners, and other structure officials of state-owned enterprise agencies and regional-owned businesses are State organizers, State-owned enterprise agencies should have specialized enterprise bodies instead of PT (Limited Groups). This clearly violates PT Law No. 40 of 2007 (Limited Groups).

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