

## REFORMULATION OF BUMN REGULATIONS: REINVENTION STRATEGY FOR BUMN EMPOWERMENT FOR PEOPLE WELL-BEING

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### Abstract

State-Owned Enterprises (BUMN), which is one of the concrete manifestations of Article 33 of the 1945 Constitution, has a strategic position for improving the welfare of the people. However, the extent to which BUMN is able to become a state tool to improve the welfare of the people and the nation depends on the level of efficiency and performance of the BUMN itself. Efforts to reformulate BUMN arrangements are needed so that the objectives of BUMN reinventing in the form of restructuring, provocation and privatization can run well so that efficiency efforts of BUMN that are globally competitive can be carried out properly. Currently there are 107 SOEs, previously in 2010 there were 142 SOEs. The problem is, what is the reinvention strategy for empowering BUMN for the welfare of the people? Analysis and reformulation of Law Number 19 of 2003 concerning State-Owned Enterprises, especially the regulation regarding the efficiency and effectiveness of BUMN as a fundamental and sustainable public company. Efforts to streamline the number of BUMNs from 107 to 40 companies with 12 holding companies throughout Indonesia should be regulated in advance in law. Matters that need to be regulated include orientation, vision and mission, strategy, merger, consolidation, acquisition, dissolution, and matters relating to reinvention including making BUMN go public and world class.

**Keywords:** Reformulation of BUMN regulations, BUMN Reinvention, Reformulation

## INTRODUCTION

State-Owned Enterprises (BUMN), which is one of the concrete manifestations of Article 33 of the 1945 Constitution, has a strategic position for improving the welfare of the people. However, the extent to which BUMN is able to become a state tool to improve the welfare of the people and the nation depends on the level of efficiency and performance of the BUMN itself. If SOEs are not able to operate with a good level of efficiency, in the end it will cause a burden on state finances and the public will receive inadequate services and must bear higher costs. BUMN plays a role in producing goods and services needed in order to achieve the greatest possible prosperity for the community.<sup>1</sup>

BUMN was born as the mandate of Article 33 of the 1945 Constitution, its formation was aimed at realizing the welfare state (people's welfare). Thus, BUMN management must be able to compete and run fairly, not rigidly, effectively and efficiently, with a professional and competitive strategy. As far as possible, the direction of policy is not as bureaucratic and efficient as private companies in general. Article 33 of the 1945 Constitution affirms that there is state control over production branches which control the lives of many people. The presence of BUMN is the mandate and constitution of the state in the context of realizing the welfare of the Indonesian people as the functions and objectives that have been attached to these BUMNs. In the framework of legal regulations in Indonesia, the use of the term BUMN was first introduced in Government Regulation No. 3 of 1983 concerning Procedures for the Guidance and Supervision of BUMN, previously known as State Enterprises (PN).<sup>2</sup>

The existence of BUMN in the framework of economic development at the beginning of the New Order government also received a quite progressive touch.<sup>3</sup> The first step, the government issued a Government Regulation in Lieu of Law (Perpu) Number 1 of 1969, which was later changed to Law Number 9 of 1969. Through this Perpu, the number of BUMN was reduced from around 822 to 184 companies. The goal is clear, to make efficiency efforts. Based on Law Number 9 of 1969, BUMN is grouped into three forms, namely: (1) Service Company (Perjan), (2) Public Company (Perum) and (3) Limited Liability Company (Persero). Then in practice, the BUMN business sector is divided into three main areas, namely (1) BUMN which is in charge of public interests (public utilities). In this type there are telecommunications, electricity, gas, railways and aviation companies; (2) SOEs engaged in vital strategic industries, including oil, coal, steel, shipping and automotive companies; (3) BUMN in charge of business.<sup>4</sup>

BUMN has five roles, namely the first role, as a pillar of national economic growth. Second, it is profit-oriented, seeking profit for the country. Third, carry out the function of public services (public service obligation (PSO)). Fourth, starting a new business. Fifth, encouraging small and medium enterprises and cooperatives.<sup>5</sup>

Based on the type of state-owned company (BUMN), in 2019 there were 14 BUMNs in the form of Perum, 83 BUMN in the form of Persero, and 16 BUMN which were open Persero. In total, there were 113 SOEs in that period, one less company compared to the previous year.<sup>6</sup> Previously in 2010 there were 141 BUMN,<sup>7</sup> with business fields that they were engaged in and grouped into primary industry, strategic industry and manufacturing, infrastructure and logistics, as well as the service business sector. Of course, not all parties can be satisfied with the BUMN's performance. Some people think that the performance of this "red plate" company can still be improved with various programs such as efficiency, synergy between BUMNs, and encouraging the implementation of Good Corporate Governance.<sup>8</sup> State-Owned Enterprises (BUMN) Minister Erick Thohir plans to further streamline the number of BUMNs in Indonesia. This is a form of efficiency within the Ministry of

<sup>1</sup> Gunawan Nachrawi, *Reinventing BUMN Upaya Reinvensi Bagi Terciptanya Good Corporate Governance*, (Jakarta: Bidik Phronesis, 2020), hlm. 26.

<sup>2</sup> Prasetyo, *Dilema BUMN Benturan Penerapan Business Judgment Rule (BJR) dalam Keputusan Bisnis Direksi BUMN*, (Jakarta : PT. Rayyana Komunikasindo, 2014), hlm. 77.

<sup>3</sup> James A. Caporaso dan David P. Levine, *Teori-Teori Ekonomi Politik*, (Yogyakarta : Pustaka Pelajar dan Mata Pena Institut, 2008), hlm. 37.

<sup>4</sup> Bahrullah Akbar, *BUMN dan Kesejahteraan Rakyat*, (Jakarta : Prenanda Media, 2014), hlm. 11.

<sup>5</sup> Muchayat, *Badan Usaha Milik Negara : Retorika, Dinamika Dan Realita (Menuju BUMN yang Berdaya Saing)*, (Surabaya: Gagas Bisnis, 2010), hlm. xv.

<sup>6</sup> Cindy Mutia Annur, *Berapa Jumlah BUMN Selama Lima Tahun Terakhir?*, <https://databoks.katadata.co.id/datapublish/2020/12/08/> diakses pada pukul 15:30 WIB, tanggal 29 Maret 2021.

<sup>7</sup> *Ibid.*

<sup>8</sup> I Nyoman Tjager, *Corporate Governance*, (Jakarta : Prenhalindo, 2003), hlm. 17.

BUMN. From the total of 142 BUMN, it has become 107 BUMN. Now intend to shrink it again to only 40 companies.<sup>9</sup>

In the national economic system, BUMN plays a role in producing goods and / or services needed in order to realize the greatest prosperity of the community. The government policy is to form BUMN because it is hoped that BUMN can play an important role as a pioneer and / or pioneer in business sectors that are not yet attractive to private businesses. In addition, BUMNs also have a role as implementers of public services, balancing large private forces, and helping to develop small businesses / cooperatives. BUMN is also a significant source of state revenue in various types of dividend taxes and privatization results.<sup>10</sup>

The role of BUMN is manifested in business activities in almost all economic sectors, such as agriculture, fisheries, plantations, forestry, manufacturing, mining, finance, post and telecommunications, transportation, electricity, industry and trade, and construction.<sup>11</sup>

Entering the reform era, the BUMN ministry institution developed into a new "kind of" technical ministry in the BUMN sector because it did not carry out a mission to be ad hoc, but its unique character was forever strengthened by Law no. 19 of 2003 concerning BUMN. One of the "threats" is a trend similar to that under previous technical ministers — the sometimes excessive intervention of the bureaucracy above it. This issue is still lingering: if BUMN has become a super-holding company, will the Ministry of BUMN survive and become a "technical coach"?

At this time, what has emerged is how to make BUMNs become pillars to build national economic resilience. In this case, bringing BUMN back on track, making BUMN truly become a corporate entity and not a bureaucratic entity, which is the basic meaning of BUMN reinventing.

The application of David Osborne's reinventing government theory in this study is in accordance with the facts in the field, where Tanri Abeng, when he was Minister of State for BUMN Utilization, made a restructuring effort by empowering BUMN to be profit-oriented. Currently, BUMN reinventing has been formulated by Erick Thohir by streamlining and utilizing BUMN as a manifestation of efficiency and effectiveness of BUMN performance, with only 40 BUMN companies remaining.

In reinventing government, the bureaucracy plays a major role in development and is increasingly showing unfavorable trends: Difficult to penetrate; Centralistic; top down; and the hierarchy is very long. Bureaucracy actually causes indolence, is too wordy and kills creativity. Bureaucracy is considered to interfere with market mechanisms, because it creates economic distortions and ultimately causes organizational inefficiency. The era of turbulence and uncertainty, sophisticated information technology, demanding community, and intense competition, made the bureaucracy unable to work properly. In the era of globalization and knowledge based economy, the bureaucracy needs to make changes towards bureaucratic professionalism and emphasizes efficiency.<sup>12</sup>

In line with the efficiency of BUMN, as stated by Erick Thohir, downsizing BUMN by making the bureaucracy as a business actor aims to increase the BUMN profit, which in turn increases APBN revenue. Thus, the economic approach in BUMN law is very influential, as stated by John Maynard Keynes.<sup>13</sup>

In 2021, an effort to reform the BUMN regulations is needed as an effort to Reinvent the Government in the BUMN sector, so that there will be no more mistakes in the management of state assets worth more than 2,000 trillion, as written by Ishak Rafick and Baso Amir in the BUMN Expose book in 2010. Erick Thohir's thoughts between other as follows, making BUMN public companies that have fundamentals and sustainability, as many as eight to 12 companies are prepared to take the floor in the range of 2021, 2022 and 2023, with the support of the Financial Services Authority, the Indonesia Stock Exchange, and all policy makers, making SOEs as world class corporation. Erick Thohir's thinking can be realized if the theory of Rethinking the government is falsified.

Rethinking the government is an effort to make the government more oriented towards strategic thinking, strategic vision, and strategic management. One form of New Public Management is the

<sup>9</sup> Fadel Prayoga, *Jumlah BUMN Dipangkas Jadi 40 Perusahaan, Jadi Pak Erik Thohir?*, <https://economy.okezone.com/read/2020/08/18/320/diakses.pada.pukul.15:35.WIB.tanggal.29.Maret.2021>.

<sup>10</sup> Prasetyo, *Op.Cit.*, hlm.89

<sup>11</sup> Bahrullah Akbar, *Op.Cit.*, hlm. 124.

<sup>12</sup> Riant Nugroho dan Randy R. Wrihatnolo, *Manajemen Privatisasi BUMN*, (Jakarta: PT. Gramedia, 2008), hlm. 29.

<sup>13</sup> Cento Veljanovski, *Economic Principles Of Law*, (New York: Cambridge University Press, 2007), page. 19.

Osborne and Gaebler model of government which is embodied in the concept of "Reinventing Government".<sup>14</sup> The aim of reformulating BUMN arrangements is to improve people's welfare.

### FORMULATION OF THE PROBLEM

The formulation of the problem is what is the reinvention strategy for empowering BUMN for the welfare of the people?

### RESEARCH METHOD

#### 1. Approach Method

This research is included in the form of juridical normative research, namely research that provides an understanding of the norm problems experienced by dogmatic jurisprudence in its activities of describing legal norms, formulating legal norms (forming laws and regulations), and enforcing legal norms (judicial practice).<sup>15</sup> Normative research emphasizes the use of written legal norms which are expected to be able to answer in detail and systematically and comprehensively regarding the reformulation of BUMN regulations: Reinvention Strategies for Empowerment of BUMN for People's Welfare.

#### 2. Type of Research

The type of research used in this research is descriptive analysis, to obtain clarity on problem solving and conclusions, namely from things that are general in nature to specific things to illustrate the reformulation of BUMN arrangements: Reinvention Strategies for Empowerment of BUMN for People's Welfare.

#### 3. Sources and Types of Data

The data source used in this research is secondary data. In secondary data, the author divides it into 3 (three), namely:

- a. Primary sources of law, namely sources of law that bind / their legal basis, such as the 1945 Constitution of the Republic of Indonesia and Law Number 19 of 2003 concerning State-Owned Enterprises.
- b. Secondary sources of law, namely materials that provide an explanation of primary sources of law, such as materials in the form of books, diaries / magazines and scientific papers.
- c. Tertiary Law Sources, namely materials that provide guidance on primary and secondary sources of law such as legal dictionaries, encyclopedias, and bibliographies.

#### 4. Data Analysis Techniques

The data obtained will be analyzed descriptively qualitatively. The data obtained will be processed, then described in the form of a logical and systematic description to describe the reformulation of BUMN arrangements: Reinvention Strategies for Empowerment of BUMN for People's Welfare.

### DISCUSSION

According to David Osborne and Peter Plastrik in their book "Cutting the Bureaucracy", Reinventing Government is "a fundamental transformation of government systems and organizations in order to create a dramatic increase in their effectiveness, efficiency and ability to innovate. This transformation is achieved by changing objectives, incentive systems, accountability, power structures and culture of government systems and organizations". Renewal is by replacing a bureaucratic system with an entrepreneurial system. Renewal in other words makes the government ready to face challenges in terms of service to society, creating organizations that are able to improve effectiveness and efficiency at present and in the future.<sup>16</sup>

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<sup>14</sup> David Osborne dan Ted Gaebler. *Reinventing Government: How the Entrepreneurial Spirit is Transforming The Public Sector*, diterjemahkan oleh Abdul Rasyid, *Mewirauahakan Birokrasi: Mentransformasi Semangat Wirausaha ke dalam Sektor Publik*, (Jakarta: Pustaka Binaman Pressindo, 1995), hlm. 52-53.

<sup>15</sup> I Made Pasek Diantha, *Metodologi Penelitian Hukum Normatif Dalam Justifikasi Teori Hukum*, (Jakarta: Prenada Media Group, 2016), hlm. 84.

<sup>16</sup> David Osborne, and Peter Plastrik, *Banishing Bureaucracy, The Five Strategies For Reinventing Government*, 1997, terjemahan Abdul Rosyid dan Ramelan, *Memangkas Birokrasi : Lima Strategi Menuju Pemerintahan Wirausaha*, (Jakarta : Penerbit PPM).

In order to realize the concept of reinventing government, there is nothing wrong with trying to find out how the process of change that occurs in developed countries such as: Australia, New Zealand, the United States, Canada, the UK and so on have succeeded in carrying out bureaucratic reform. In the UK, reforms began in the early 1980s when Margaret Thatcher served as British Prime Minister.

Thatcher also asked Derek Rayner, then chairman of the well-known retail company Marks & Spencer to lead the fight against waste and inefficiency. Thatcher also made changes to the public sector employee union, pushing for reforms by banning additional picket work. But Thatcher's big weapon is privatization, in which in his 11 years of leadership, the government sold more than 40 major state-owned companies and many small companies which by the end of 1987 these sales generated £ 5 billion annually.

The mindset of BUMN privatization through Reinventing Government in the UK can be applied in Indonesia by reinventing BUMN, which must be done through reformulation of Law Number 19 of 2003 concerning State-Owned Enterprises. Law Number 11 of 2020 concerning Job Creation has not yet regulated the efficiency and effectiveness of BUMN.

Reinventing Government Principles:<sup>17</sup>

1. Steering Rather Than Rowing. Focuses on direction, not on the production of public services.
  - a. Separating the "directing" function (policy and regulation) and the "pedaling" function (service delivery and compliance).
  - b. The government's role is more as a facilitator than directly carrying out all operational activities.
  - c. The methods used include privatization, licensing, concessions, operational cooperation, contracts, vouchers, tax incentives, and others. The government must provide a variety of public services, but does not have to be directly involved in the production process (producing). The government focuses on providing direction, while the production of public services is left to the private sector or third parties. The production of public services by the Government must be made an exception, not a necessity. The government only produces public services that non-public parties cannot yet provide.
2. Government is Community Owned Empowering Rather than Serving.
  - a. Encourage control mechanisms for services that are independent of the bureaucracy and left to the community.
  - b. Society can generate their stronger commitment, better attention and more creative in solving problems.
  - c. Reducing community dependence on the government. With this principle, the Government should give authority to the community, so that it becomes a society that is able to help itself.
3. Competitive government: Injecting competition in service delivery.
  - a. Service providers must compete in business on the basis of performance and price.
  - b. Competition is a fundamental force that does not provide any other choice that must be made by public organizations.
  - c. Public services carried out by the Government are not monopolistic in nature but must compete.
  - d. People can choose the service they like. Therefore, the service should have alternatives. Competition is the only way to save costs while improving service quality. With competition, many public services can be upgraded without having to increase costs.
4. Mission-Driven Government: Change organizations that are driven by regulations (Transforming Rule-Driven Organizations) to become mission-driven.
  - a. Internally, it can start with eliminating internal regulations and radically simplifying the administrative system.
  - b. It is necessary to revisit the vision of what the government should do.
  - c. The government's mission must be clear and laws and regulations must not conflict with that mission. What the Government can and cannot do is set out in its mandate. The aim of the Government is not its mandate, but its mission.
5. Results-oriented government: Funding results not input.
  - a. Seek to change the form of rewards and incentives: finance results and not inputs.
  - b. Develop work standards, which measure how well you are able to solve problems.
  - c. The better the performance, the more funds are allocated to replace the funds spent by the work unit.

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<sup>17</sup>*Ibid*

6. Customer-oriented government: Meeting the needs of customers, not the bureaucracy.
  - a. Identify real customers.
  - b. Community services must be based on real needs, in the sense of what the community demands.
  - c. Government agencies must be responsive to changing consumer needs and tastes.
  - d. Research needs to be done to listen to their customers.
  - e. It is necessary to establish service standards to customers.
  - f. Governments need to redesign their organizations to provide maximum value to their customers.
  - g. Creating dual accountability (community and business, as well as DPR RI and officials).
7. Entrepreneurial government: Earning rather than spending.
  - a. The entrepreneurial government focuses its energies on not only spending money (spending money) but earning it.
  - b. Obtainable and user-paid fees and impact fees; income on investment and can use incentives such as business funds (swadana).
  - c. The participation of the private sector needs to be increased so that it can ease the burden on the government. Examples of implementation:
    - 1) Can develop several revenue centers, for example: BPS and Bappenas can sell information about their area to research centers;
    - 2) BUMN sells goods and services; and
    - 3) Give the right to cultivate, include capital and others.
8. Anticipatory government: Prevent rather than cure.
  - a. Be proactive.
  - b. Use strategic planning to create a regional vision.
  - c. Vision helps seize unexpected opportunities, face unexpected crises, without waiting for orders.
9. Decentralized government: And a hierarchy towards participation and teamwork By looking at some of the challenges from society, including:
  - a. The development of technology is very advanced.
  - b. The needs of society and business are increasingly complex.
  - c. Many of the staff are highly educated. So the government needs to:
    - 1) Decrease authority through the organization, by encouraging those who deal directly with customers to make more decisions (Decision-making shifts to communities, associations, customers, NGOs).
    - 2) Purpose: To facilitate community participation and to create an atmosphere for team work.
    - 3) Officials who are directly in contact with the community (from-line workers) should be given appropriate powers. Because the given authority will enable cross functional coordination among all related agencies.
10. The government is market oriented (market oriented government), promoting change through the market (Leveraging change through the Market), making changes with market mechanisms (incentive systems) and not by administrative mechanisms (system of procedures and coercion). There are two ways of allocating resources, namely market mechanisms and administrative mechanisms. Market mechanisms are proven to be the best in allocating resources.
  - a. Entrepreneurial government uses market mechanisms, does not govern supervision, but develops and uses an incentive system so as not to harm the community.
  - b. It is better to restructure the market to solve problems than to use administrative mechanisms such as service delivery or regulation, command and control.
  - c. Not all public services must be carried out by the government itself.
  - d. Public policy must be able to take advantage of market mechanisms to meet the needs of society.
  - e. The participation of the private sector needs to be increased.

The problems faced in implementing BUMN reinventing are how to implement this concept without causing friction which would hamper the efficiency and effectiveness of the bureaucracy. This is because the principle of reinventing government has only only reached the normative dimension, but has not been tested empirically.

How to find practical strategies to adopt the principles of reinventing government into government systems and mechanisms, both central and local. Answering these problems, the steps that must be taken are reformulating the regulation of BUMN, Reorientation in the form of the first step in reorientation is redefinition, meaning that in a Public Organization, especially what is discussed

here is that BUMN must experience redefinition of vision, mission, role, strategy, implementation, and evaluation and the final step needs to be restructured by BUMN.

Reinventing state-owned enterprises, rethinking the strategic aspects of state-owned enterprises as a driving force for the state economy which, according to Erick Thohir, requires efficiency of BUMN first and then empowered by making BUMN as a fundamental and sustainable public company.

According to the author, the current effort to empower BUMN is to develop sectors that state-owned enterprises need to enter, namely mining processing industries such as steel, aluminum, nickel and so on. These industries are very capital intensive - requiring enormous capital - but their profitability is very limited to external factors.

The positive value of state-owned enterprises is that their capital comes from the government, which in fact has to spend quite a lot of budget for development. Another positive value is the proximity of state-owned enterprises to the government so that the government can find out in more detail the obstacles faced by state-owned enterprises and can provide state-owned solutions such as tax incentives, land acquisition, and environmental security if needed.

Classical barriers to state-owned enterprises such as bureaucracy, inefficiency and others should not be an obstacle for the government not to enter into these strategic industries. However, the government also needs to think about an exit strategy since its inception, namely how state-owned enterprises will be encouraged to become companies that are also owned by the public, such as Krakatau Steel and Garuda Indonesia Airlines. With this in mind, a bureaucratic culture, inefficient structures, and bad corporate governance can be avoided in the first place.

The objectives of BUMN Reinventing include: To make BUMN as a company that has high competitiveness and creativity so that it is expected to be able to excel globally; Improve the regional economy by improving the structure of regional revenues; Catch up with company competitiveness; and Improve community welfare.

Benefits of Reinventing BUMN include: Encouraging the process of value creation, market value creation, and value enhancement; Substituting deficiency management in subsidiaries; Coordinating measures for access to international markets; Looking for cheaper sources of funding; Allocating capital and making strategic investments; Develop top management capabilities.

The policy directions for BUMN Reinventing include: Restructuring; Profitization; Privatization, and most importantly reformulation of Law Number 19 Year 2003 concerning State-Owned Enterprises, especially regulating the efficiency and effectiveness of BUMN as a fundamental and sustainable public company. Efforts to streamline the number of BUMNs from 107 to 40 companies with 12 holding companies throughout Indonesia should be regulated in advance in law. Matters that need to be regulated include orientation, vision and mission, strategy, merger, consolidation, acquisition, dissolution, and matters relating to reinvention including making BUMN go public and world class.

## CONCLUSIONS AND SUGGESTIONS

Based on the above analysis, the conclusions are:

1. Reformulation of BUMN regulations in an effort to reinvent BUMN for the welfare of the people is carried out through amendments to laws and regulations in the field of BUMN.
2. Reinventing BUMN including restructuring; Profitization; Privatization.
3. Matters that need to be regulated in BUMN empowerment include orientation, vision and mission, strategy, merger, consolidation, acquisition, dissolution, and matters relating to reinvention including making BUMN go public and world class.

Based on the results of the discussion and conclusions above, the suggestion is for the government to immediately reformulate BUMN arrangements as an effort to set a reinvention strategy with the aim of empowering BUMN for the people's welfare.

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