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REFORMING CRIMINAL IMPACTS IN THE LAW OF STATE FINANCE: LEGAL CERTAINTY FOR STATE-OWNED ENTERPRISE

Tatu Aditya
Attorney General of Republic of Indonesia
Panglima Polim Rd No.1, Kebayoran Baru, Jakarta Selatan City, Jakarta 12160

ABSTRACT

Nowadays government is encourage SOEs to carry out restructuring with the aim of making companies agile. Regulatory adjustments are also needed, especially in the field of understanding of state finances where there are different definitions in both state finance laws and corruption laws. State financial losses in the Corruption Law have an impact on conditions that are inversely proportional to what the government expects. This study uses the normative juridical method is to formulate legal norms in order to create legal certainty trough the questions What is a state financial? What legal reforms need to be made refers to government program to restucture SOEs? The authors found SEMA No. 10 of 2020 and some other verdicts are the fact of a paradigm shift regarding state finances in SOEs. Three elements according to legal system theory, this paradigm shift indicates a change in legal structure needs to be followed by a legal culture and legal substance.

Keywords: criminal policy, non-penal, state finance, SOEs

A. Introduction

With regard to state finances according to Law no. 31 of 1999 Jo. UU no. 20 of 2001 (Corruption Eradication Law), is clearly stated in Articles 2 verse (1) and Article 3. Loss of state finances is one of the elements that must be factually proven. This was confirmed through a decision of the Indonesia constitutional court Number 25/PUU-XIV/2016 dated September 8th 2016. Even the settlement of state financial losses in the Anti-Corruption Law is considered to only recognize criminal instruments (penal) as the only countermeasure by law enforcement officers. Article 4 of the Anti-Corruption Law states "…refunding state financial losses, does not eliminate criminals." This article clearly shows that non-penal measures are impossible, unless the suspect/defendant dies as referred to in Article 32, then a civil lawsuit can be taken.

Regardless of the historical and sociological background, the closure of non-penal efforts in the Anti-Corruption Law, academically this is worthy of criticism. Even when compared between corruption and other serious crimes or extraordinary crimes such as narcotics and terrorism, these two laws concerning

crimes can be said to be comprehensive (they contain "countermeasures" consisting of prevention, prosecution/ punishment, and recovery). This is different from the Anti-Corruption Law, which has no regulation regarding its prevention.

Criminal policy is widely viewed as an arrangement to regulate a behavior that is expected in society. The formulation of a criminal policy needs to go through a careful planning that starts from the formulation stage. Barda Nawawi revealed the need for the integration of criminal policies that are planned in the formulation stage at least three, namely: (i) actions to be criminalized, (ii) sanctions that can be imposed, and (iii) procedures or mechanisms in their enforcement. The values that live in society become the basis for determining an act to qualify as a crime (criminalization) which is believed to have been contained in the values of Pancasila which have been stated in the 1945 Constitution as a guarantee of its implementation.

Criminal policy was first popularized by criminologist GP Hoefnagels[1] in the 1960s placing criminal law (penal) as only one instrument of several other efforts that do not need to be prioritized in realizing social welfare and security, or referred to as 'nonpenal'. In short, non-penal efforts are described as prevention without punishment, even though the preventive measures are carried out through civil or administrative justice processes. Hoefnagels argues that the use of criminal law will only increase the level of crime so that it is not a solution to eradicate crime itself.

Efforts to provide legal certainty have been made, the Indonesia Attorney General Circular Letter No. B-113/F/ Fd.1/05/2010 dated 18 May 2010 (AGCL) which is seen as a breakthrough in preventing corruption crimes, is still being opposed even by its colleagues (law enforcement officials and other government agencies[2]) by putting forward the reason that AGCL has contrary to Article 4 of the Anti-Corruption Law. This phenomenon shows that there is no uniformity of thought in the settlement of state financial losses using non-penal efforts, although on the other hand, the President as the highest leader in eradicating corruption has called for prioritizing aspects of prevention rather than enforcement of criminal law, however, institutions led by the President are still there are pros and cons. The fact that the differences in views that occur between law enforcers and fellow government officials and stakeholders of State-Owned Enterprises (SOEs/

1 G. Peter Hoefnagels, *The Other Side Of Criminology: An Interbention Of The Concept of Crime (Revised edition of Beginselen van criminology)*, (Kluwer BV Deventer, Holand, 1973), p. 138.

2 See https://ditjenpp.kemenkumham.go.id/index.php?option=com_content&view=article&id=2594:surat-edaran-kejaksaan-agung-celah-baru-bagi-koruptor&catid=111&Itemid=179, accessed on 14 July 2022, 22:34 WIB.

BUMN) certainly have an impact on the achievement of welfare which the SOEs sector continuously strives for. It has even become a long-term plan The government is continuously transforming SOEs to be agile, lean, and flexible.

Ontologically, the policy of overcoming crime is no longer intended only as a means to regulate order and security and legal certainty in society, but further how the legal effort functions as a means to achieve a maximum life. The view that the law can shape and change a situation in society has actually long been developed by Roscoe Pound with the famous theory "law as a tool of social engineering". On the basis of this approach and study of legal philosophy, the law or criminal policy that will be developed in order to overcome the financial losses of SOEs and its subsidiaries will still be based on ideological values, especially the state law of Pancasila. Criminal law policy is essentially an attempt to realize criminal laws and regulations to suit the circumstances of a certain time (*ius constitutum*) and the future (*ius constituendum*). Criminal law policy is identical with penal reform in a narrow sense, because as a criminal law system it consists of cultural, structure, and substantive law.

The concept of a legal state based on Pancasila has become the choice of the Indonesian state in running the government to achieve the national goals of welfare and security. This Pancasila based concept gives Indonesia special characteristics different from other Rule of Law or Rechstaat concepts. The concept of a rule of law according to Sri Soemantri contains four most important elements, namely: (i) that the government in carrying out its duties and obligations must be based on law or statutory regulations, (ii) there is a guarantee for the rights of the state's sovereign rights, (iv) there is supervision from judicial bodies. The four basic elements of the Rule of Law are maintained, however, the contents and implementation are manifestations of Pancasila values to realize social welfare and social defense which are concretized through legislation and also every decision/beschiking in all fields including the field of criminal law or also known as criminal policy.

Referring to the purpose of establishing a Indonesia SOEs is for the welfare of the people, therefore of course we need to analyze what is a loss to state finances? and how future arrangements will be linked to the SOEs restructuring plan. In Practice, after the strengthening of the decision to release PT Timah, Tbk (SOEs subsidiaries) based on the Supreme Court's decision dated Oct 14th 2022, in fact there has been a paradigm shift in law enforcement for criminal acts of corruption. This shift will be described in the chapter below. The judiciary's efforts to make clear the meaning of state finances through circulars have not provided strong legal certainty,

especially in the midst of the incessant implementation of the transformation of SOEs which has become a necessity. For this reason, a comprehensive integral law is needed whose contents clarify what state wealth is, especially wealth in SOEs and its subsidiaries. In this transition period, SOEs are expected to be able to respond proactively to this condition by formulating the settlement of the company's financial losses in accordance with their competence and professionalism.

B. Research method

This research uses the normative juridical method[3], which is a legal research to find legal rules, legal principles, or legal doctrines to answer legal issues to be studied[4]. In legal research, which is normative, it includes types of research on legal principles, legal systematics, vertical and horizontal synchronization of law, legal comparisons, and legal history[5]. Legal research that is juridical normative is supported by using a statue approach and a case approach. The statue approach is used because the focus of the research is on the regulation of the settlement of financial losses of SOEs and their subsidiaries, so that positive legal materials will be investigated regarding the regulation of state losses in SOEs and their subsidiaries.

C. Discussion

1. Current State Finance Arrangements

There are 3 laws and regulations in the field of state finance, which are a derivation of Article 33 of the 1945 Constitution, consisting of Law no. 17 of 2003 concerning State Finances (State Finance Law), Law Number 1 of 2004 concerning State Treasury (State Treasury Law), and Law Number 15 of 2006 concerning the Supreme Audit Agency (Badan Pemeriksa Keuangan Law). The arrangements which are derived from Article 33 of the 1945 Constitution above show that there is a mixed conception of state finances in a broad sense[6]. In the end, the three laws have become objects of examination in a judicial review with the issue of the intersection between public law and private law, where SOEs as a legal entity is in the form of a limited liability company whose operations and legal basis are considered to be included in the private sphere. Until the end, The petitioned

3 Peter Mahmud Marzuki, Penelitian Hukum, (Kencana Prenada Media, Jakarta 2011), p. 35.
4 Ibid.,
5 Ibid.,
6 Mega Mendung: Puslitbang Mahkamah Agung RI, 2010, p. 50. The first view looks at state finances in a narrow sense using the keyword APBN. The second view looks at state finances in a broad sense by looking at the dichotomy between the public and private sectors. This is only known by looking at who is the organizer of the economic activity concerned. If the organizer is the government, it includes the public sector with all the wealth and profits from these economic activities.

for judicial review was not granted by the Constitutional Court as stated in Verdict Number: 48/PUU-XI/2013 and Number: 62/PUU-XI/2013 dated 18 September 2014. In other words, the court has affirmed Article 2 letter g and letter i Constitutional State Finance Law, which means that state finances that are separated in SOEs/BUMN and BUMD/ Local Government Owned Enterprise remain state finances. The contents of the article in full are:

a. The right of the state to collect taxes, issue and circulate money, and make loans;
b. The state's obligation to carry out public service tasks for the state government and pay third party bills;
c. State revenue;
d. State spending;
e. Regional Receipt
f. Regional Expenditures;
g. State assets/regional assets managed by themselves or by other parties in the form of money, securities, receivables, goods, and other rights that can be valued in money, including assets separated from state/regional companies;
h. The assets of other parties controlled by the government in the context of carrying out government duties and/ or public interests;
i. The wealth of other parties obtained by using the facilities provided by the government."

After the issuance of Verdict Number: 48/PUU-XI/2013 and Number: 62/PUU-XI/2013 dated September 18, 2014, it was reaffirmed that the assets of SOEs are state assets and are still the object of examination by the State Audit Board which is also the object of evidence in Article 2 and 3 Corruption Eradication Law. According to Djoko Sumaryanto[7], state financial losses are not state losses as in the corporate/commercial world, but rather a loss that occurs due to an act (against the law). The unlawful act is determined by other factors that cause state losses, namely the implementation of incorrect policies with the aim of enriching oneself, other people or corporations. Thus, unlawful acts in the criminal sense (*wederrechetlijkheid*) have special characteristics compared to unlawful acts in the civil sense (*onrechmatigedaad*) and state administration (*onrechtmatige overheidsdaad*).

Furthermore, it is interesting to note that the scope of SOEs is the consideration of the panel of judges of the Constitutional Court (MK) in 2019, in Verdict No. 01/PHPU-PRES/XVII/2019 dated 27 June 2019 the subject matter of the presidential election dispute, it is known that "***Anak Perusahaan BUMN bukan BUMN*** (a subsidiary of a SOEs is not a SOEs)". The Constitutional Court's decision is considered as strengthening the thinking on 5 (five) principles of the role of state control which does not only

7 Muhammad Djafar Saidi, Hukum Keuangan Negara (Jakarta: Raja Grafindo Persada, 2013), p. 109-110.

have to own and operate directly in managing state assets.

Judging from the capital, generally the capital of SOEs subsidiaries comes from BUMN/SOEs. In contrast to SOEs that have transformed into holdings, the form of the company remains Persero. SOEs -companies in the form of a limited liability company (Persero), whose capital has been converted into shares, most or all of which is placement capital sourced from the APBN. While the SOEs subsidiary has its capital sourced from the wealth of its parent company - SOEs. However, judging from the actual ownership of this SOEs subsidiary, it is still in the corridor of SOEs supervision, so that no principle of state control is violated.

The term subsidiary has been known and listed in the laws and regulations in Indonesia. The Limited Liability Company Law Number 1 of 1995 and Law Number 40 of 2007 as well as the Law Law Number 19 of 2003 concerning SOEs, mentions the term subsidiary in several articles. Elucidation of Article 29 of Law Number 1 of 1995 concerning Limited Liability Companies has provided an understanding of "subsidiaries" as seen from the composition of the share ownership structure and control over the running of the company. The following is the explanation of the article:

"… What is meant by a subsidiary is a company that has a special relationship with another company that occurs because:

a. more than 50% (fifty percent) of its shares are owned by the parent the company;
b. more than 50% (fifty percent) of the votes in the GMS are controlled by the parent company; and or
c. control over the running of the company, the appointment, and dismissal of the Board of Directors and Commissioners are strongly influenced by the parent company."

Actually, Law Number 40 of 2007 concerning Limited Liability Companies does not provide a complete understanding as described in Law Number 1 of 1995 concerning Limited Liability Companies, but only provides an explanation of the regulation of voting rights. Whereas in the SOEs Law, the term subsidiary is known in terms of its formation which is the authority of the Minister of SOEs who acts as the SOEs general meeting of shareholders (GMS). Thus, if you look at the subsidiary arrangements in the three laws, the three are in line, by providing an understanding of a subsidiary seen from the composition of the share structure and from the aspect of control over the company's operations.

In a number of other countries, the term holding actually has already been used. Companies that have transformed into holding companies are called holding companies or parent companies. M. Yahya Harahap is of the opinion that a parent or holding company is the creation of a company that is specially prepared

to hold shares of another company for investment purposes, either without or with real control. This term has been known for a long time in America and England. According to M. Yahya Harahap, what is regulated in sections 736 and 776 A 1989 of the British Act as well as the term in America regarding holding company actually has the same meaning as the Elucidation of Article 29 of Law no. 1 of 1995 as mentioned above[8].

The thought of Article 33 of the 1945 Constitution clearly states that the earth, water and natural resources contained in the earth are controlled by the State. The meaning of "controlled by the state" is a conception according to Bung Hatta:

The phrase "controlled by the state" in Article 33 of the 1945 Constitution of the Republic of Indonesia does not mean that the state itself becomes an entrepreneur, entrepreneur or ondernemer. However, the power of the state lies in the making of policies or regulations to smooth the way of the economy and prohibits the "sucking" by the investors of the weak.

In line with that, according to Emil Salim, complete control has 5 (five) roles referred to as state control, namely:

"The state controls the earth, water and natural resources contained in the earth and which are the main points for the prosperity of the people. In implementing this "right of control", it is necessary to maintain that the developing system does not lead to etatism. Therefore, the right to control by the state must be seen in the context of the implementation of the rights and obligations of the state as: (1) owner; (2) regulator; (3) planners; (4) implementer; (5) Supervisor. The ingredients of these five points with different weights can put the state in its position to control the natural environment so that the right to control can be exercised (1) by owning natural resources; (2) without owning natural resources, but showing the Controlling Rights through regulation, planning, and supervision. In the Pancasila economic system, the state does not need to own all natural resources, but can still control them through regulation, planning and supervision)". [9]

Strengthening thinking in the consideration of the Constitutional Court Decision No. 01/PHPU-PRES/XVII/2019 dated 27 June 2019, can be said to have been detailed by the Supreme Court through Circular Letter Number 10 of 2020. These two judicial institutions have the same view. In full SEMA No. 10 of 2020, the formulation of the criminal chamber number 4 which details is formulated in beshiking as follows:

8 M. Yahya Harahap, Hukum Perseroan Terbatas (Jakarta: Sinar Grafika, 2009), hlm. 51-52. Letezia Tobing, S.H., M.Kn., "Holding Company, Fungsi dan Pengaturannya", https://www.hukumonline.com/klinik/a/holding-company--fungsi-dan-pengaturannya-cl3562, diakses pada Selasa, 7 Juni 2022, pukul 21.49 WIB.

9 Dian Cahya Ningrum, Politik Hukum Pengaturan Privatisasi dalam Undang-Undang Nomor 19 Tahun 2003 tentang Badan Usaha Milik Negara. (Tesis, Pasca Sarjana Fakultas Hukum Universitas Indonesia, 2004), p. 28.

Losses that arise in BUMN/BUMD subsidiaries whose capital is not sourced from the APBN/APBD or capital participation from BUMN/BUMD and do not receive/use state facilities, are not included in state financial losses.

Based onthe formulation above, in terms of capital and facility receipts, then SEMA No. 10 of 2020, can be described as follows:

1. Losses incurred in subsidiaries of BUMN/BUMD whose capital is not sourced from the APBN/APBD or not equity participation from BUMN/BUMD

   And

2. Not receiving/using state facilities

Furthermore, SEMA No. 10 of 2020 has actually been confirmed through legal practice. The panel of judges at the Corruption Court at the Pangkal Pinang District Court through Verdict No. 1/Pid. Sus-TPK/2021/PN Pgp dated May 25, 2021 in the case of the defendant who is a stakeholder in PT Timah, Tbk as a subsidiary of SOEs -PT. Inalum (Persero) was released because the loss of PT Timah, Tbk was not included as an object of state financial loss. In consideration of the decision[10]. The basis for the consideration of the panel of judges has clearly relied on the decision of the Constitutional Court (MK) in the decision Number 01/PHPU-PRES/XVII/2019 dated 27 June 2019 and SEMA No. 10 of 2020, the panel of judges acquitted the defendant.

Thus, essentially there has been a paradigm shift, especially by the judiciary in looking at SOEs and state financial losses in SOEs. When compared to the past (about more than 10 years ago), the Corruption Court at the Bandung District Court through No. 77/Pid.Sus/TPK/2011/PN.Bdg dated February 13, 2012 still assesses the deposits of PT Elnusa, Tbk (a subsidiary of PT Pertamina (Persero)) as state assets. However in the clarification, one of public prosecutors, Prof. Asep Nana Mulyana[11] said, it is proven that the corruption case is caused, the prosecutor has proven the existence of bribery.

The clarification conveyed by him actually shows that there is consideration of guilty mind (*mens rea*) as a strong reason for the prosecutor to process this case trough a criminal court. This understanding of law enforcement officers makes us believe that the SOE's -company's financial losses are not only brought to the criminal court. This further strengthens the legal theory, there is no crime without mistakes and guilty mind, in Ducth it calls *Geen straf zonder schuld, ohne schuld keine strafe*[12].

The author will provide one more case example to show that malicious intent/ guilty mind is an important element to

10 See Pangkal Pinang Corruption Court Verdict No. 1/Pid.Sus-TPK/2021/PN Pgp dated May 25, 2022 p.364.
11 Asep Nana Mulyana on Talkshow and Book Launching "Potret Business Judgment Rule Pertanggungjawaban Pengelolaan BUMN, Borobudur Hotel, Jakarta, November, 2nd, 2022
12 Moeljatno, Asas-Asas Hukum Pidana, Jakarta:.PT Rineka Cipta, 2002, p 57.

resolve a SOE's loss through a corruption trial. In Indonesia, we have heard of two decisions on comparable cases in the field of financial investment carried out by SOE subsidiaries. Company of Pension Fund Pupuk Kaltim was aquitted because the judge did not see any guilty mind as evidenced (no criminal acts: fraud/ gratification) Supreme Court Verdict No.1101 K/Pid.Sus/2020 dated June 8th 2020. Different form the Company of Pertamina Pension which was convicted because the prosecutor was able to prove the fraud (Supreme Court Verdict No. 2088 K/Pid. Sus/2018 dated October 30th, 2018).

Referring to the consideration of the judges who rely on guilty mind, such as the PT Timah, Tbk, PT Elnusa, Tbk, and Pension Fund Case, it is estimated that there will be quite a big paradigm shift due to the SEMA No. 10 of 2020. In the future, the accuracy of law enforcement in responding to a case whether it is resolved trough a corruption court or an ordinary criminal court, it's not enough to just consider the guilty mind, but still have to pay attention at the status of the company whether it is SOEs or not. This condition is actually a dilemma condition where the transformation of SOEs has not been followed by clear alignment of regulations. Moreover, our corruption law has not accommodated gratituities in the private sector and the law is still prioritizing imprisonment.

2. SOEs Transformation as a Government Program

The transformation of SOEs into holding and subholding is an old government policy since the 1970s. This holding concept requires every SOEs to look for its own form that is expected by the SOEs through restructuring and business development in each of its subsidiaries. The National Medium-Term Government Development Plan for the period 2019-2024 as stated in the Minister of SOEs Regulation Number PER-8/MBU/08/2020 concerning the Strategic Plan of the Ministry of SOEs for 2020-2024. In the future until 2024, there will be a restructuring of at least 9 sectors, namely:

1. Pharmaceutical SOEs,
2. Insurance SOEs,
3. Survey Services SOEs,
4. Food Industry SOEs,
5. Manufacturing Industry SOEs,
6. Defense Industry SOEs,
7. Media Industry SOEs,
8. Port Services SOEs,
9. Transportation and Tourism Services SOEs.

PT Pertamina (Persero), one of the SOEs oil and gas sector which has just finished carrying out a complete restructuring starting in September 2021. To be able to achieve the goals of the government program, PT Pertamina (Persero) has set 7 (seven) targets, namely[13]:

13 In the original text it is stated (i) Lean, agile and efficient organization, (ii) Operational excellence, increased

i. The formation of an organization that is focused, Lean, agile and efficient.
ii. Increased competitiveness through Operational excellence, increased competitiveness and best-in-class capabilities within the industry.
iii. Acceleration of current and new businesses.
iv. Increased flexibility in partnership and financing
v. Organizational renewal, work culture, mindset, talent, and transparency (Rejuvenated organization, talent, culture, and mindset in line with world-class energy company).
vi. Complying with the national energy agenda as energy security and an agent of national development (Fulfilling nation-building mandate to reach national energy sovereignty)

Paying attention to 6 (six) achievement targets including increasing competitiveness through operational excellence, increased competitiveness and best in class capabilities within industry, acceleration of business development both in terms of existing and new, as well as some improvement in partnerships of course through the making of the right and fast business decisions. However, if it is related to the condition that there are still fears / doubts from SOEs stakeholders in making decisions, it would not be an exaggeration for the legal sector to also contribute to creating signs. Even the thought of strengthening the paradigm shift into a norm through legal reform in order to create legal certainty that is in line with government programs, especially for SOEs as a driving force for the economy to realize social justice.

3. Comprehensive Integral Law Update

Criminal law policy is identical with penal reform in a narrow sense, because as a legal system, there are three known criminal acts consisting of cultural, structure, and substantive (although there are those who interpret Friedman's theory mentioning 4, legal impact[14]). The law is part of the legal substance, the renewal of criminal law, in addition to updating the legislation also includes the renewal of basic ideas and knowledge of criminal law.The paradigm of the judiciary (MK Decision Number 01/PHPU-PRES/XVII/2019 and SEMA No. 10 of 2020) that is currently happening is considered to have touched the basic idea of both the basic idea of SOEs development and the basic idea in the field of criminal law.

In criminal law, the application of crime is the final instrument (known as

competitiveness and best-in-class capabilities within industry, (iii) Acceleration of current and new businesses, (iv) Flexibility in partnership and financing, (v) Rejuvenated organization, talent, culture, and mindset in line with world-class energy company, (vi) Fulfilling nation-building mandate to reach national energy sovereignty,https://www.jccp.or.jp/international/conference/docs/LP2-4_RiniWidiastuti-Indonesia.pdf,accessed on July 15, 2022, at 11.30 WIB.

14 Ahmad Ali, Menguak Tabir Hukum, Ghalia, Bogor, 2008, P. 97.

the "*ultimum remedium*") that needs to be re-examined, so that these two sectors become a linear proposition and are in line with legal principles.[15] Judging from the legal structure, the existence of the judicial institution paradigm shows that the legal structure was first present but has not been followed by adequate legal substance. To create a legal culture that is certain, the legal substance needs to be a priority for reform.

However, reform of criminal law, especially the Anti-Corruption Law, is still considered difficult to implement at this time. The occurrence of pros and cons in the community in terms of implementing non-penal efforts - criminal acts of corruption need to be dealt with. Through increasing the confidence of law enforcers to be humanists and realizing legal certainty through policies. Even though it is only a policy (*beshickking*), legal culture can still be formed due to legal impact, so that in the future it will show significant results in reducing contradictions in society.

This effort can be started from the SOEs environment itself. It is necessary to proactively collaborate with law enforcement and SOEs stakeholders to strengthen SOEs internal rules/ guidelines in the framework of preventing corruption. The Indonesian Attorney General's Office is one of the law enforcers who has complete prevention and security functions and duties (Deputy of Attorney General for Civil and State Administration (JAM Datun), Intelligence (JAM Intel), and Special Crimes (JAM Pidsus)) compared to peer agencies. others, are expected to be able to take a role in realizing legal certainty in the midst of the government's efforts to restore and improve the economy through the SOEs sector.

Law as a tool of social engineering need to be embodied not only law as law but also including policies. This is in line with the thought of W. Friedman which states, Legal Substance is called a substantial system that determines whether or not the law can be implemented. Substance also means the products produced by people who are in the legal system which includes the decisions they make, the new rules they make.

Social change through policies that are able to reach the smallest social groups (BUMN/SOEs organizations) must begin immediately. The initial step is carried out by mapping the internal rules in SOEs companies, it is an urgent thing to do, especially since there are already many SOEs that are transforming and will transform, of course, they require acceleration and security by adequate regulations. The output of the mapping results is addressed quickly oriented

15 The legal system, including laws and regulations that are built without legal principles, will only be a pile of laws. Legal principles provide the required direction. In the days to come, the problems and areas to be regulated are bound to increase. So when the law or legislation is developed, the legal principle provides guidance on how and in which direction the system will be developed.

to operational excellence, increased competitiveness and best in *class capabilities within industry,*Acceleration of business development both existing and new/future as well as increasing partnerships that can be embodied in the internal regulations of SOEs and their subsidiaries has become a necessity as a form of adaptive attitude to world demands.

Moreover, still in the social environment of SOEs organizations, mapping and updating of regulations ideally also covers the regulation of the field of internal financial supervision in SOEs and its subsidiaries. This paradigm change (legal culture) needs to be understood thoroughly in order to realize the harmony of mind and the same spirit to achieve the goal of SOEs transformation to prosper the Indonesian people. Internal control units, both the legal function and the financial auditor function, which can be referred to as legal culture need to be harmonized based on their respective competencies.

Looking at the criminal justice process, in fact there is no function that has absolute authority, the prosecution process to the implementation of court decisions is analogous to a clockwork system that works in one direction in a stable and constant rhythm. Thus, this system can be understood and imitated by the SOEs internal supervisory unit, both the legal function and the financial auditor, in responding to a finding and determining the resolution mechanism, which is oriented towards efficiency and effectiveness, not just a penal effort.

D. Closing

Based on the discussion above, it is known that there is a paradigm shift by the judiciary which is seen as a (legal culture) which is linear with the demands of economic development through the SOEs sector to realize social justice for all Indonesian people. This change needs to be followed in the subsystem of legal culture and legal substance. In completing this system, it is necessary to have a pro-active role and support for law enforcement officials through policies and direct assistance to SOEs stakeholders. The Indonesia Attorney General's Office and other law enforcers are expected to further strengthen non-penal efforts through their respective functions and authorities. The great authority that exists in law enforcement officials is expected to be able to be at the forefront of guarding legal reform that realizes social welfare and social defense. Moreover, this writing is author contribution (sensing)[16] and responding (responding) to the dynamics of legal developments, especially corruption related to the accountability

16 Sensing dan respond are two components of the requirements to make an organization agile in an organization. Rick Dove, "Response Ability: The Language, Structure, and Culture of the Agile Enterprise", Information System, Volume 7, (Maret 2001), p. 35-50. Lihat juga Rick Dove, Response Ability: The Language, Structure, and Culture of the Agile Enterprise (New York: John Wiley & Sons, Inc., 2001), p. 30-87.

and management of SOEs, are expected to produce a reference that will enrich the treasures of knowledge or legal knowledge in line with changing times which require SOEs to move more agilely, adaptively, innovatively, and responsive so as to be able to compete in the international world.

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Curriculum vitae:

Dr. Tatu Aditya, S.H.,MH, The author holds a Bachelor of Law (S1) education from Tarumanagara University, Master of Law Education (S2) from Padjadjaran University and Doctor of Law (S3) from Brawijaya University. The author is a prosecutor who has served in various places in the jurisdictions of West Sumatra, Banten, North Maluku, the Attorney General's Legal Bureau, the Deputy Attorney General for General Crimes, and was also assigned to the National Counterterrorism Agency and at PT Pertamina (Persero) at the time writing this essay.

Email: tatuaditya@yahoo.com

Hp: +62 812-8181-6293