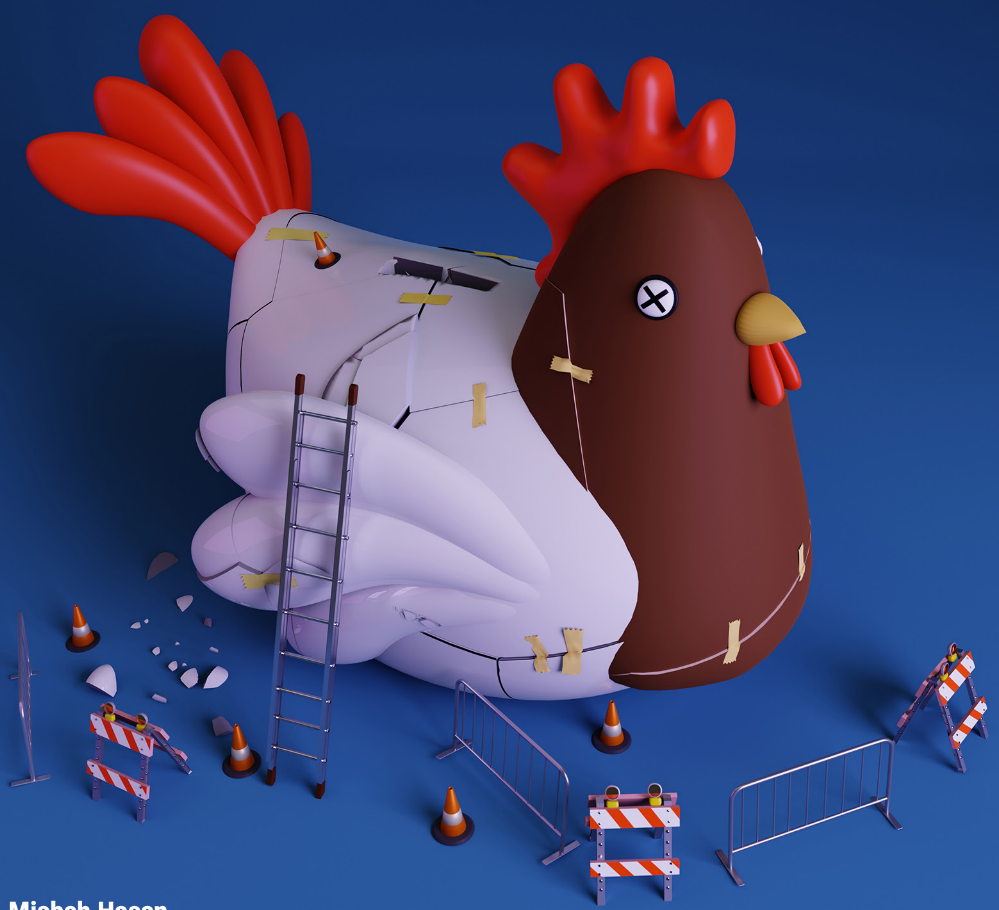
Critical Notes

National Economic Recovery Policy for BUMN



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2021
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INDONESIA CORRUPTION WATCH

2021

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List of Abbreviation

Covid-19	: Coronavirus Disease 2019
PEN	: National Economic Recovery
BUMN	: State-Owned Enterprises
Perppu	: Government Regulation in Lieu of Law
PP	: Government Regulation
PMN	: State Capital Participation
ICW	: Indonesia Corruption Watch
Fitra	: Indonesian Forum for Budget Transparency
INDEF	: Institute for Development of Economics and Finance
BPKP	: Financial and Development Supervisory Agency
GDP	: Gross Domestic Product
MSMEs	: Micro and medium enterprises
PNBP	: Non-Tax Revenue
KND	: Separated State Assets
PSBB	: Large-Scale Social Restriction
PPKB	: Community Activity Restriction
KPK	: Corruption Eradication Commission
BPS	: Central Bureau of Statistics
Pemda	: Local Government

PMK	: Minister of Finance Regulation
KMK PEN	: National Economic Recovery Capital Loan Insurance
PSO	: Public Service Obligation
PPNBM	: Tax on Luxury Goods
NPL	: Non-Performing Loans
LMAN	: State Asset Management Institute
DPR	: House of Representatives
ROA	: Return on Assets

Part I

Has the PEN stimulus for BUMN been Effective?

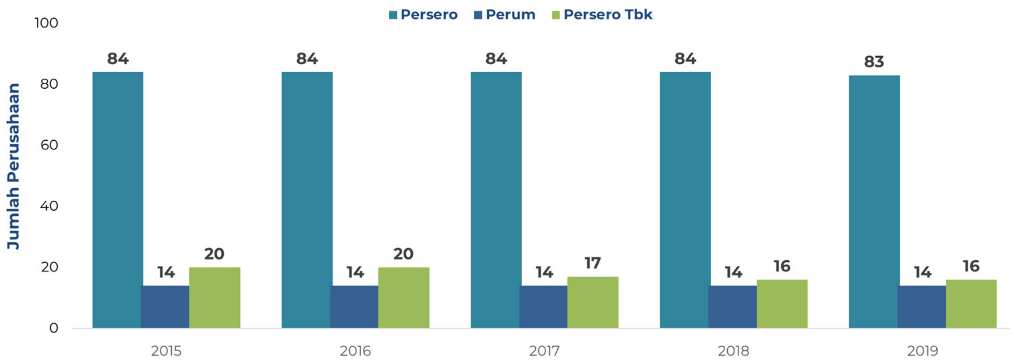
Has the PEN stimulus for BUMN been Effective?

Misbah Hasan
Secretary-General of FITRA

Current Overview of Our BUMN

State-Owned Enterprises (BUMN) are business entities whose capital is wholly or partly owned by the state through direct participation originating from separated state assets.[1] BUMN is part of economic actors in Indonesia, apart from private business actors, MSMEs, and cooperatives. As actors in the national economy, the role of BUMN is very important, namely as implementers of public services, producers of goods and services, balancing the role of the private sector in the market, and helping and encouraging the development of small, micro and medium enterprises (MSMEs).

Graph 1 - Number of BUMN in Indonesia 2015-2019



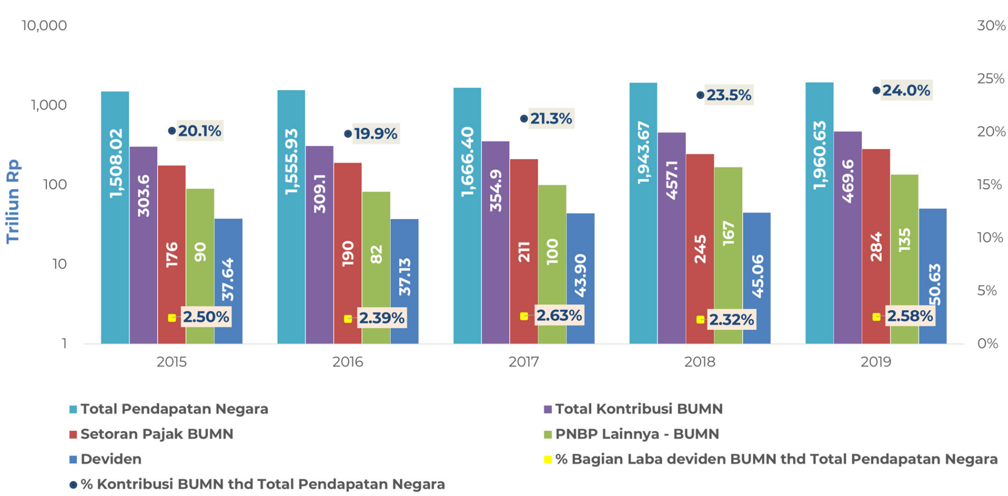
Source: Financial Statistics of BUMN and BUMD 2019, processed by FITRA

1 Law of the Republic of Indonesia Number 19 of 2003 concerning State-Owned Enterprises (BUMN)

The number of BUMN in Indonesia has decreased from 2015 to 2019. In 2015 and 2016 the number of BUMN was 118 companies consisting of 84 Persero, 14 Perum, and 20 Persero Tbk. In 2017 to 2019 the number of companies decreased to around 115 to 113 companies. Most depreciation is in BUMN in the form of Persero Tbk. The decline in the number of BUMNs is allegedly due to the merger of several BUMNs into one holding, especially BUMN in the mining sector.

BUMN is one of the sources of state revenue, although the percentage contribution of BUMN to state revenue is relatively low. In the 2015-2019 period, the average percentage of total BUMN contributions to total state revenue was only 22.2 percent. In fact, the average percentage of dividends to total state income in the same period was only 2.5 percent, with an average dividend growth of only eight percent. This is certainly a cause for concern considering the number of BUMNs in Indonesia is in the hundreds. If we look deeper, the profit generated by BUMN to Gross Domestic Product (GDP) has only been around ± 16 percent since 2018, much smaller than Singapore, for example. In the same year, Superholding Temasek Singapore's assets reached USD 227 billion and was able to contribute to Singapore's state revenue by 21.6 percent.

Graph 2 - Contribution of BUMN to State Income Fiscal Year 2015-2019



Source: LKPP 2015-2019 and IDX, processed by Fitra

Out of 113 SOEs, only 10 have consistently contributed profits to state revenues. Of the 145 BUMNs which subsequently underwent restructuring to become 113 BUMN, only ten BUMNs were consistently contributing profits (dividends) during the 2010-2019 period. The ten BUMNs were: 1) Pertamina, which contributed dividends amounting to Rp81.61 trillion; 2) Telkom Rp. 52.31 trillion; 3) BRI Bank amounting to Rp41.91 trillion; 4) Bank Mandiri amounting to Rp.33.59 trillion, 5) PLN amounting to Rp.25.74 trillion; 6) PGN, amounting to Rp15.98 trillion; 7) Bank BNI, amounting to Rp 14.81 trillion; 8) Indonesian fertilizer, amounting to Rp12.14 trillion; 9) Semen Indonesia Rp. 6.79 trillion; and 10) Mind ID of IDR 5.53 trillion.[2]

Of the ten BUMNs, only four BUMNs have a large contribution to state revenue. The four BUMNs are Pertamina, Telkom, Bank BRI and Bank Mandiri. The contribution of the four BUMNs in the last 10 years has reached Rp.209.43 trillion or 72 percent of the total contribution of the 10 largest BUMNs to the State Budget amounting to Rp.290.46 trillion, even PT Freeport Indonesia was only three times included in the list of 10 BUMNs that contributed to PNBP KND. Freeport Indonesia entered in 2010, 2011 and 2017, with total deposits of IDR 4.66 trillion (The government owns 9.36 percent of shares in Freeport since the 1991 Contract of Work II). [3]

Apart from the insignificant contribution to state revenue, BUMN also faces corruption problems. The Corruption Eradication Commission (KPK) noted that during 2015 to 2020, corruption in Indonesian BUMN agencies reached 64 cases. The highest number of cases occurred in 2019 with 17 cases. The second highest occurred in 2017 and 2020, each with 13 cases. A case that is still hot and is a topic of public discussion in early 2020 is the mega scandal of PT. Asuransi Jiwasraya Tbk (Persero). The Supreme Audit Agency (BPK) has found that the potential for state losses due to financial fraud by this state-owned company has reached IDR 17 trillion. In July 2020, the KPK again found a criminal act of corruption committed by

2 LKPP 2019
3 https://lokadata.id/artikel/ini-daftar-10-bumn-penyumbang-terbesar-apbn

PT. Waskita Karya (Persero) in the form of fictitious subcontracts on projects carried out by this company. There were at least 41 fictitious subcontracts on 14 projects during 2009-2015 with an estimated loss of up to Rp. 202 billion.[4]

The Impact of COVID-19 for SOEs

Many BUMNs have 'collapsed' due to the COVID-19 pandemic, especially BUMNs engaged in the energy, tourism and infrastructure sectors. COVID-19 has clearly had an adverse effect in various sectors, especially the health sector, the economy - including BUMN, and the social sector. BUMN, which is still facing various problems as previously reviewed, worsened when the COVID-19 pandemic hit Indonesia in early February 2020. BUMNs that were predicted to be pillars of the national economy were unable to hold back the contraction rate of company revenues. Many BUMNs recorded extraordinary profits in 2019 - before the pandemic, in 2020 they almost went bankrupt by laying off dozens of employees. BUMNs that have experienced a downturn due to COVID-19 are BUMN that work in the energy sector such as PT. PLN and PT. Pertamina, state-owned tourism sector, such as PT. Garuda Indonesia Tbk (GIAA) and state-owned hotels, as well as state-owned enterprises engaged in transportation infrastructure such as PT Kereta Api Indonesia (PT. KAI), Jasa Marga, PT. Waskita Karya which manages toll roads.

The PSBB and PPKM policies have indirectly been the cause of the decline in the financial performance of BUMN. Responding to the high level of COVID-19 transmission at the community level, the government then adopted a Large-Scale Social Restriction (PSBB) policy and a Community Activity Restriction (PPKM) Regulation. This policy had to be taken in the midst of a dilemma faced by the government to balance the handling of the health sector, economic recovery and the potential for social unrest due to increased poverty and unemployment. The impact was not in accordance with predictions. The level of daily exposure to

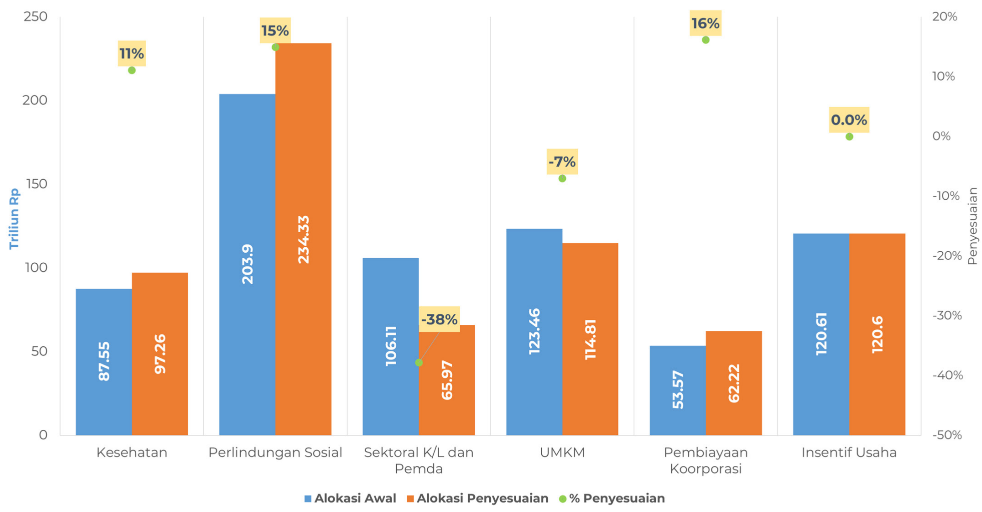
4 BPK RI, 2020

COVID-19 in the community has not decreased but has increased, at least until February 2021. Meanwhile, Indonesia's 'middle class' is still reluctant to spend their money on the market, still holds back from traveling to tourist attractions, and prefers to work from home (WFH) instead of going to the office. Indirectly, this also affects the deterioration of BUMN financial performance.

From the aspect of state finances, the government has adopted a budget reallocation and refocusing policy in order to save the national economy - including BUMN finances. This policy was marked by the issuance of Government Regulation in Lieu of Law (Perpu) No. 1 of 2020 which regulates policies for reallocation and refocusing of the budget for handling COVID-19 and the stability of state finances. This Perppu was eventually enacted as Law no. 2 of 2020 after going through discussions with the Indonesian Parliament. This regulation was then hacked down in the form of Government Regulations (PP), Ministerial Regulations / Decrees (Permen / Kepmen) as well as several further policies governing the budgeting mechanism for handling COVID-19 both at the central and regional levels (province, district and city), even to the village level. No less than 56 regulations derived from Law no. 2 of 2020 which regulates budget reallocation and refocusing of ministries / agencies and local governments, mechanisms for the use of transfer funds to regions, reallocation of Village Funds for Direct Cash Assistance (BLT), as well as the National Economic Recovery (PEN) policy, one of which regulates bailout funds for corporation (BUMN).

Corporations (BUMN) receive an injection of funds of up to IDR 62.22 trillion through the National Economic Recovery (PEN) scheme. The PEN program is regulated in Government Regulation 23/2020 concerning the Implementation of the National Economic Recovery Program in order to support state financial policies for handling COVID-19 and saving the national economy. This PP is an implementation of Article 11 of Perppu No. 1 Year 2020. As a consequence, the government is expanding the scope of the COVID-19 handling program through PEN. If at the beginning of the program the focus was on four areas, namely health, social protection, tax incentives and stimulus for people's business credit as well as financing economic recovery with a budget of IDR 405.1 trillion, then through PEN, the program scope was expanded to six areas, including health, social protection, sectoral ministries/agencies and loans to local governments, MSME support, corporate financing, and business incentives. The PEN budget reaches Rp.695.2 trillion. The details and changes are as follows:

Graph 3 - PEN Budget Scheme: Designation and Amendments Fiscal Year 2020



Source: Ministry of Finance 2020, processed by FITRA

State Capital Participation (PMN) in PEN will increase significantly in 2020 even though the performance of BUMN is still not optimal. State Capital Participation (PMN) is the separation of state assets from the State Budget or determination of company reserves or other sources to be used as capital for BUMN and/or other limited liability companies, and managed as a corporation.[5] State Capital Participation (PMN) or often referred to as government bailout funds rose sharply during the pandemic, where the government took a policy to increase state capital participation in a number of BUMNs, this figure is quite fantastic when compared to the PMN allocation in 2019, which has increased by 13, 68 trillion, to Rp31.48 trillion in the 2020 Revised State Budget, and that figure continues to rise.

5 Article 1 number 7, PP No.44 of 2005

Table 1 - Changes in PEN State Equity Participation for Corporations Fiscal Year 2020

PEN Scheme IDR 677.2 Trillion	PEN Scheme of IDR 695.2 Trillion as of 3 July 2020	PEN Scheme of IDR 695.2 Trillion as of 9 Nov 2020
Corporate Fundings IDR 44.57 Trillion	**Corporate Fundings IDR 53.57 Trillion**	**Corporate Fundings IDR 62.22 Trillion**
1. Fund Placement for Labor Intensive Restru IDR 3.42 Trillion	**1.** Fund Placement for Labor Intensive Restru IDR 3.42 Trillion	**1.** PMN BUMN (including additional PMN for PT Bio Farma) IDR 24.07 Trillion
2. Labor-intensive IJP expenditure of IDR 5 Trillion	**2.** PMN IDR 20.5 T (HK IDR 7.50 T, BPUI IDR 6 T, PNM IDR 1.5 T, ITDC IDR 0.5 T, PPA IDR 5 T)	**2.** Lending (Investment to BUMN) IDR 19.65 Trillion
3. Insurance for Work-Intensive Working Capital (Stop Loss) of IDR 1 Trillion	**3.** Bailout (Investment) for Working Capital IDR 29.65 T (Garuda IDR 8.50 T, KAI IDR 3.50 T, PTPN IDR 4.00 T, KS IDR 3.00 T, Perumnas IDR 0.65 T, PPA IDR 10.00 T)	Corporate Credit Guarantee of IDR 3.5 T, consisting of: **a.** IJP Expenditures (Potential Realization) IDR 1.5 T **b.** Stop Loss Guarantee IDR 2 T
3. PMN IDR 15,5 Trillion		**4.** SWF Funding IDR 15 Trillion
5. Bailout for Working Capital IDR 19.65 Trillion		

Source: Ministry of Finance 2020, processed by FITRA

12 BUMNs received stimulus for economic recovery during the pandemic, the distribution criteria are weak. When the PEN scheme for corporations was still IDR 53.57 trillion, there were 12 state-owned enterprises that were fortunate to receive additional budget stimulus, even though their financial performance reports were 'down', even before the pandemic. The stimulus for economic recovery for SOEs is weak in terms of criteria. The 12 BUMNs include:

Details of the Assistance Fund for BUMN	Amount of Fund (Trillion IDR)
Investment bailout funds fro working capital	
Garuda Indonesia (GIA)	**8,5**
Perum Perumnas	**0,65**
PT Kereta Api Indonesia (KAI)	**3,5**
PT Perkebunan Nusantara (PTPN)	**4**
Perum Bulog	**13**
PT Krakatau Steel (KS)	**3**
State Equity Participation (PMN)	
PT PLN (Persero)	**5**
PT Hutama Karya(HK)	**11**
PT Pengembangan Pariwisata Indonesia (ITDC)	**0,5**
PT Permodalan Nasional Madani (PNM)	**2,5**
PT Bahana Pembinaan Usaha (BPUI)	**6,27**
Compensation	
PT Pertamina (Persero)	**48,25**
PT PLN (Persero)	**45,42**
Perum Bulog	**0,56**

Source: Ombudsman RI, 2020

1. PT. Hutama Karya (HK) for the construction of the Trans Sumatra Toll Road;
2. PT. Permodalan Nasional Madani (PNM) to finance MSME credit;
3. PT Bahana Indonesian Business Development (BPUI) to guarantee people's business credit (KUR) and UMKM;
4. PT Indonesia Tourism Development Corporation (ITCD) for the development of the Mandalika tourist area and preparations for the 2021 MotoGP;
5. PT. Garuda Indonesia (GIA) due to a significant decrease in passengers during the COVID-19 pandemic;
6. PT. KAI for operating capital funds.
7. Perum Perumnas for working capital.
8. PT. Krakatau Steel (KS) as a relaxation fund for the downstream industry and industrial users.
9. PT. Perkebunan Nusantara (PTPN) worth IDR 4 trillion. Funds were provided due to lower prices for crude palm oil or Crude Palm Oil (CPO) and the volume of export demand.

The allocation of PEN funds for corporations continues to increase - including SWF funding, in 2021 the budget will reach IDR 69.95 trillion, even though there is a minimum of evaluation. At the final determination of the 2020 PEN budget, the corporate financing budget increased 16 percent from IDR 53.57 trillion to IDR 62.22 trillion. This budget allocation is intended to provide an injection of additional capital for BUMN, especially PT. Bio Farma was appointed to manage the procurement of vaccines, lending (investment), corporate credit guarantees, and Sovereign Wealth Fund (SWF) financing. The additional budget for corporations appears to have been implemented because there has not been a comprehensive evaluation of the BUMN that received the PEN budget. Moreover, there is SWF or Indonesia Investment Authority (INA) financing which is still being debated, both from the institutional aspect, the integrity of the executor, as well as the investment development roadmap in Indonesia.

The PEN budget for corporate financing was minimal realization at the beginning of program implementation, but very high at the end of 2020. In the April to September period, the realization of the corporate financing budget was still zero, new realization occurred as of 26 October 2020 amounting to IDR 1 billion and IDR 2 trillion on 25 November 2020. PEN budget absorption for corporations increased at the end of the 2020 fiscal year where realization reached IDR 60.73 trillion or 97.6 percent. The biggest realization was in the sub-post budget for state capital participation in 8 BUMNs which reached IDR 39.07 trillion or 64 percent of the total realization of the proportionate financing budget. In addition, the government also provided loans to BUMN amounting to Rp. 19.65 trillion or 32 percent to 5 BUMNs, although it is known that PT. Garuda Indonesia and Krakatau Steel have poor financial performance and are heavily indebted. The very high absorption of the budget at the end of the year is questionable for its effectiveness and requires a comprehensive BPK audit.

Table 2 - Realization of PEN Budget for Corporate FinancingFiscal Year 2020

REALISASI SEMENTARA KLUSTER PEMBIAYAAN KORPORASI MENCAPAI **Rp 60,73 T**

PMN BUMN DAN LEMBAGA DALAM RANGKA PEN
REALISASI: **Rp 19,65 T**

LPEI **Rp 5 T**
Indonesia Investment Authority Rp 15 T

PT Hutama Karya	PT BPUI	PT PNM	ITDC	PT PII	PT Bio Farma
Rp 7,5 T	**Rp 7,5T**	**Rp 1,5 T**	**Rp 0,5 T**	**Rp 1,57 T**	**Rp 2 T**

PINJAMAN KEPADA BUMN DALAM RANGKA PEN
REALISASI: **Rp 19,65 T**

PT Hutama Karya	PT BPUI	PT PNM	ITDC	PT PNM
Rp 7,5 T	**Rp 7,5T**	**Rp 1,5 T**	**Rp 0,5 T**	**Rp 7,5 T**

PENJAMINAN KORPORASI
REALISASI: **Rp 2,01 T**

Melalui pembayaran IJP Rp 0,01 T (Akumulasi KMK Rp 287,5 M untuk 5 debitur) dan dana cadangan kalim loss limit Rp 2T

Source: Ministry of Finance, 2021

Instead of a labour-intensive program, State Capital Participation (PMN) during the pandemic still focused on state-owned enterprises in the capital-intensive infrastructure sector. The largest state equity participation (PMN) was given to PT. Hutama Karya amounting to Rp7.5 trillion to carry out the road construction program, specifically used to complete the construction of toll roads. PNM to PT. Hutama Karya is very large compared to PNM to Bio Farma which is used to help develop the COVID-19 vaccine, where PT. Bio Farma only received PNM of IDR 2 trillion. If the PNM grant to Hutama Karya is based on continuing the Trans Sumatra toll road program and is said to be a labor-intensive program, then this is very inappropriate, considering that toll road construction is more a capital-intensive program that uses more heavy equipment than human labor.

KOMISARIS TERINDIKASI RANGKAP JABATAN DI BUMN (2019)
Komisaris Asal Kementrian Mencapai 64%

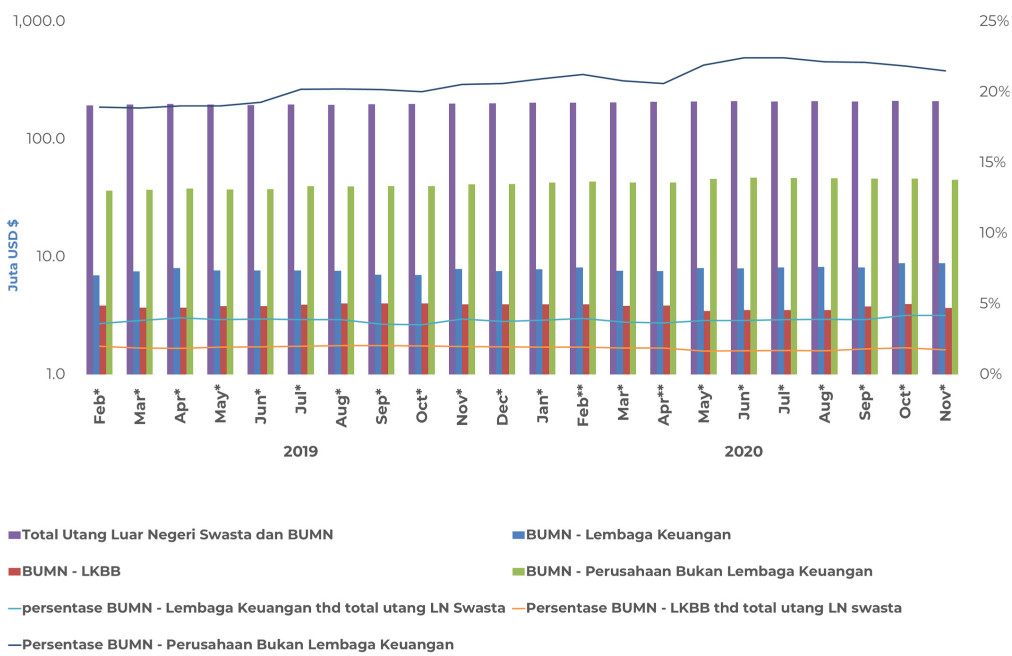
AKADEMISI (PERGURUAN TINGGI)	KEMENTRIAN	LEMBAGA NON KEMENTRIAN
12 (28%)	**254 (64%)**	**12 (28%)**

Source: Ombudsman RI, 2020

BUMN which is the land for the distribution of political seats. In terms of integrity and political interests, BUMN is an easy place for commissioners. As many as 397 state administrators are indicated to have concurrent positions as commissioners in BUMN and 167 people in BUMN subsidiaries in 2019. Of these, 254 or 64 percent are ministerial officials, 112 people or 28 percent are officials of non-ministerial institutions, and as many as 31 people or eight percent are officials from universities. BUMN as a bancakan is one of the weak factors of BUMN in implementing its business plan, and BUMN is a risk to political interests and "dairy cow" land for certain groups.

The position of BUMN debt continues to increase throughout the year, the burden of the State Budget is getting heavier. In November 2020, the position of BUMN foreign debt to total foreign debt of private and BUMN reached 27.44 percent or USD 57,644 million. Although BUMN contributes to state revenue both tax and non-tax revenue, if BUMN has low performance, it will eventually result in a burden on state expenditure.

Graph 4 - BUMN Debt Position 2019-2020



Source: Ministry of Finance, 2020, processed by FITRA

Conclusions and Recommendations

Indonesian SOEs have relatively acute internal problems, ranging from management issues, concurrent commissioner positions, to high levels of corruption cases. Therefore, a comprehensive reform in BUMN governance is needed. The BUMN Minister who is currently held by Erick Thohir has challenging homework. The various problems that have been mentioned require strong leadership to restore the image and spirit of BUMN to become one of the pillars of the Indonesian economy, especially during the COVID-19 pandemic. The signing of the Joint Agreement between 27 BUMN, the KPK, and the Witness and Victim Protection Agency (LPSK) regarding the handling of integrated corruption complaints or known as the Integrated TPK Whistleblowing System recently should be appreciated. However, the acute problems afflicting SOEs today need a more comprehensive governance reform.

The amount of PEN funds that have been disbursed to BUMN in 2020 needs evaluation and audit, considering that there is a provision of funds for several BUMNs that are deemed not on target. The government should be able to consider the urgency of providing support funds to several SOEs in the midst of the COVID-19 epidemic. For example, providing support funds for PT. Hutama Karya, for the construction of the Trans Sumatra Toll Road, is deemed not an urgent matter to be implemented when the pandemic is striking. Likewise with the provision of support funds for PT. The ITCD for the development of the Mandalika tourist area and the preparation for the 2021 MotoGP is also not quite right, considering that the tourism sector has not fully recovered. The government should prioritize giving its PEN stimulus to BUMN in the agricultural and marine sectors.

Providing support or stimulus funds to SOEs, which prior to the pandemic, their financial performance had been "down", it was feared that they would only be used to pay corporate debts. As is known before the COVID-19 epidemic, a number of these BUMNs were recorded as having poor financial liquidity conditions.[6]

6 https://www.viva.co.id/berita/bisnis/1219412-dpr-kritik-dana-pemulihan-ekonomi-nasional-yang-dikucurkan-untuk-bumn

The government should be able to consider the urgency of using funds for handling COVID-19 and for national economic recovery, which should be prioritized for the health sector in order to save the Indonesian population because after all human resources are the main driving factor for all economic sectors, encouraging the provision of capital stimulus for MSMEs, strengthening food security, provision of social safety net rather than prioritizing economic financing that does not reflect priority needs in handling the impact of the COVID-19 pandemic.

The increase in the PEN budget for corporations (BUMN) in 2021 requires transparency and tighter control, both by the government itself, law enforcement agencies, and by the community. For this reason, transparency in the process of determining the budget and implementing the PEN budget for BUMN is imperative. Transparency can be started from the publication of the audit results of the use of the PEN budget for BUMN in 2020, so that the effectiveness or ineffectiveness of use, the amount of absorption, and the potential for budget irregularities can be identified. Control or supervision by the government and law enforcement should be carried out more closely, starting from the process, implementation to the final accountability for the use of the budget. Meanwhile, the supervision carried out by the community can be carried out collectively and reported to the existing complaint platform in the government (LAPOR!) and managed by the KPK (JAGA KPK).

Part II

The Effectiveness of PEN BUMN 2020

Indonesia Corruption Watch - 2021

The Effectiveness of PEN BUMN 2020

Enny Sri Hartati

Senior Researcher from Institute for Development of Economics and Finance (INDEF)

The Pandemic Stimulus

The Covid-19 pandemic has attacked all corners of the world, becoming a disease outbreak that has spread to more than 200 countries. The enormous impact of Covid-19 on the economy forced a number of countries to issue various fiscal stimulus packages. The government and the central bank of the United States (US), have prepared a total of 1.4 trillion US dollars in the form of fiscal stimulus. In addition to wage subsidies, bailouts and facilities, the US also purchases corporate debt securities. Total US stimulus reached US $ 2 trillion (10% of GDP), of which US $ 112.3 billion (0.5% of GDP) was for health.

Not only the US, almost all countries have also poured stimulus funds to mitigate the impact of the pandemic. Australia's total stimulus was AUD $ 189 billion (9.7% of GDP), of which AUD $ 2.4 billion (0.1% of GDP) to strengthen health systems. The UK also allocates a budget for the national health system of GBP 5 billion (0.23% of GDP). Also support from the business world 25 billion GBP (1.13% of GDP), Strengthening the social security system 7 billion GBP (0.32% of GDP), postponing VAT payments, and covering community salaries of up to 80% (max 2,500 GBP per employee per month) during the first 3 months.

Japan also issued an emergency package of 446 billion Yen (0.1% of GDP) to postpone tax payments for businesses affected by the pandemic. Also reallocate a stimulus of 2.6 trillion Yen (4.8% of GDP) in December 2019 to tackle COVID-19. China launched a 1.3 trillion RMB (1.2% GDP) stimulus package for the response to COVID-19. South Korea's fiscal stimulus was around KRW 16 trillion (0.8% of GDP). Among other things, allocations for health care, household support, business stimulus, strengthen local communities, maintaining community income.

Likewise, the European Union rolled out a EUR 37 billion stimulus package (0.3% of EU 27 GDP) to support the strengthening of health facilities, MSMEs, the labour market, and affected areas, among other things. The escape clause activation allows member countries to increase their fiscal deficit by more than 3% of GDP. The Italian government allocates € 25 billion (1.4% of GDP). The fund is to strengthen health care and community protection systems (€ 3.2 billion), to maintain jobs and support the incomes of laid-off and self-employed workers (€ 10.3 billion)), to support businesses, including tax breaks and payment delays. Utility bills in most cities affected by the pandemic (€ 6.4 billion), and to support credit financing (€ 5.1 billion).

Neighboring countries in the ASEAN region have also allocated a pandemic stimulus budget. Total Malaysian fiscal stimulus was RM 256 billion. The first package is RM 6 billion (27 February 2020), and in March 27, RM 250 billion (RM128 billion for welfare programs and RM100 billion for business support and MSMEs). Singapore's total fiscal stimulus was SGD 54.4 billion (10.9 percent of GDP), with first stimulus package of SGD 6.4 billion (18 February 2020). On March 26, additional budgets were announced totaling more than S $ 48 billion. Thailand's total fiscal stimulus is THB 518 billion (3% of GDP), including for health expenditures, provision of cash assistance and soft loans outside the social security system, and support for businesses through soft loans from financial institutions and social security offices.

The PEN Stimulus Program

At the beginning of entering the pandemic, the Central Bureau of Statistics (BPS) noted that Indonesia's economic growth in the first quarter of 2020 fell to only 2.97 percent (year-on-year / yoy). Even though it is still growing positively, it has decreased quite deeply. During the second quarter of 2020, Indonesian economy immediately contracted by minus 5.32%. The decline in economic growth will, of course, have a direct impact on the increase in the number of unemployed and poor people. It is proven that per August 2020 unemployment increased to 9.77 million and per September 2020 the number of poor people became 27.55 million. This means that the poverty rate per September 2020 was 10.19 percent, back to the conditions in March 2018.

In order to respond to and mitigate the impact of the Covid-19 pandemic, the Government made policy breakthroughs through the National Economic Recovery (PEN) stimulus program. The PEN program was launched in June 2020, with a total budget amounting to IDR 695.2 trillion. The details of the PEN budget allocation include IDR 99.5 trillion for health, IDR 230.21 trillion for social protection, and IDR 67.86 trillion for Sectoral Ministries/Agencies and Local Government (Pemda). In addition, the stimulus for Small and Medium Enterprises (MSMEs) is IDR 116.31 trillion, corporate financing of IDR 60.73 trillion, and business incentives of IDR 120.61 trillion. Of the PEN funds, which were channeled through State-Owned Enterprises (BUMN) amounting to IDR 121.73 trillion. The funds are divided into two groups: *First*, the Government has injected IDR 75.94 Trillion Fresh Funds. The remaining two are in the form of Government Investment loans in the context of National Economic Recovery (IP-PEN).

PEN BUMN

As a state-owned business entity, during the pandemic, BUMN is certainly expected to be able to move the economy. It is not wrong if the Government uses BUMN as an instrument to accelerate the fiscal stimulus mechanism. BUMN, as a business entity, can play a direct role in various sectors, especially as a driving force for the economy. Due to the pandemic, BUMN can also play a role in overcoming congestion in the business sector. These include breaking traffic jams in business activities, helping to access raw materials, capital, and efficient marketing. BUMN can also facilitate labour-intensive sectors so that they can survive. In short, the

Government can use BUMN to provide various facilities and distribute various incentives to help the cash flow of the business sector survive during a pandemic.

Moreover, the government has injected substantial funds into a number of SOEs in the midst of the Covid-19 pandemic. The total value of support or injection disbursed by the government to BUMN in 2020 will reach IDR 143.63 trillion. Where IDR 27.56 trillion has been listed in the 2020 State Budget posture, plus the one budgeted through the PEN program is IDR 121.73 trillion. Even more so, the search for government debt to SOEs amounted to IDR108.48 trillion.

In detail, the PEN budget through BUMN can be grouped into 4 types, namely (1) State Investment (PMN) of IDR 56.28 trillion, (2) Placement of Government Funds of 30 trillion, (3) Non-permanent Government Investments or bailout funds. IDR19.65 trillion, and (4) Government guarantees, including IDR 6 trillion for MSMEs and IDR 1.57 trillion for infrastructure guarantees.

Table 1 - Four (4) SOE PEN Program Schemes

1 State Investment (PMN)	**2 Placement of Government Funds**
PMN is aimed at improving the capital structure and/or increasing the business capacity of BUMN and/or BUMN subsidiaries that have been affected by the Covid-19 pandemic. Including carrying out special government assignments.	The objective of placing funds is to provide liquidity support to banks in order to carry out credit/financing restructuring and/or to provide additional credit/working capital financing.
3 Non-Permanent Government Investment	**4 Government Insurance**
Non-permanent Government investment is a loan scheme that functions as a stimulus for BUMN working capital in the short term and must be returned by BUMN to the Government along with the interest.	It is hoped that the government guarantee will encourage lending from the banking sector to business actors so that it will have a positive impact on national economic growth and recovery.

Source: Financial Notes and 2021 State Budget

The purpose of this very large budget injection through BUMN, of course, is not only to save BUMN due to being affected by Covid-19. More than that, it is mainly expected as an effort to accelerate economic recovery. Assignments to strategic SOEs are expected to be able to drive the performance of real sectors, not only in the health and infrastructure sectors, but also to encourage the various performances of micro, small and medium enterprises (MSMEs) to be able to survive amid the pandemic.

PMN BUMN

The total State Capital Participation (PMN) in BUMN is amounting to IDR 56.288 trillion. PMN is given to BUMN and their subsidiaries that require strengthening of capital, in order to carry out the function of accelerating the economy as well as special government assignments. In fact, PMN to SOEs given in 2020 can be categorized into two groups. *First*, a PMN which had actually been allocated prior to the Covid-19 Pandemic; *Second*, a PMN which is allocated as a response and mitigation by the government as a result of the pandemic.

The first category of PMN, which was decided before the pandemic, was given to six (6) BUMNs. (1) PT State Electricity Company (PLN) amounting to IDR 5 trillion. PMN to PLN on the pretext of ensuring the fulfillment of electricity needs to all people, plus assignments to PLN regarding the electricity subsidy program for the poor. (2) PT Sarana Multigriya Finansial (PT SMF) amounting to IDR 1.75 trillion. PMN is also given to PT Sarana Multigriya Finansial (PT SMF) to support the implementation of the Housing Finance Liquidity Facility (FLPP) program, including strengthening the capital of PT SMF. (3) PT Permodalan Nasional Madani (PNM) amounting to Rp1 trillion, (4) PT Hutama Karya amounting to IDR 3.5 trillion, PMN to PT Hutama Karya related to the implementation of the Trans Sumatra Toll Road construction. Finally, PMN to PT Hutama Karya increased by IDR 7.5 trillion. (5) PT Geo Dipa Energi amounting to IDR 700 billion. (6) PMN to LPEI in order to encourage the growth of national exports in new export markets. This includes

LPEI of IDR 5 trillion and non-cash PMN support to PT BPUI (Persero) of IDR 268 billion.

In the second category, PMN is also issued as the government's policy response to mitigate the impact of a pandemic. Among other things, it was given to PT Permodalan Nasional Madani (PNM) in the amount of IDR 2.5 trillion to increase lending to MSMEs. The first PMN was received on 29 July 2020 and has been distributed on 18 August 2020 to 342,555 PNM Mekaar customers (ultra-micro business actors) with an average ceiling below IDR 3 million. The second phase of PMN was received on December 4, 2020 and has been distributed entirely on December 23, 2020 to 599,962 customers with an average ceiling of less than IDR 3 million. In addition to financing ultra-micro business actors, PMN through PNM is expected to increase the company's bargaining position in finding other sources of financing to improve PNM's financial condition. Additional capital through PMN is expected to increase PT PNM's ability to leverage financing.

The next one is PMN to the Indonesian Export Financing Agency (LPEI) of IDR 5 trillion. The goal is to encourage MSME export financing. Unfortunately, the LPEI itself in 2019 suffered a loss of IDR 4.7 trillion and experienced a decrease in assets of around 10 percent. As a result, the LPEI asset value in 2019 is only around IDR 108.7 trillion. In addition, the findings of the Supreme Audit Agency (BPK) show that LPEI debtors have the potential to have problems.

PT Indonesia Tourism Development received a PMN of IDR 500 billion, to accelerate the work on infrastructure projects in the tourism sector, to complete the Mandalika Special Economic Zone (KEK) construction project in West Nusa Tenggara (NTB). The project is expected to provide a large multiplier effect to the surrounding economy.

The government plans to build a factory for vaccine manufacturing and production facilities for raw materials for primary drugs in the country. Therefore, the Government has also provided PMN to BUMNs engaged in the pharmaceutical and health sectors for handling Covid-19. The government provides PMN to PT Bio Farma amounting to IDR 2 trillion. PT Bio Farma is targeted to be ready to produce 250 million doses of Covid-19 vaccine by the end of 2020. Until early August 2020, the vaccine production capacity at Bio Farma is 100 million doses per year. With this assumption, it is hoped that the provision of PMN will produce a sufficient number of Covid-19 vaccines. However, the vaccines used in Indonesia are mostly fulfilled from imports.

Budget Allocations

The government has placed IDR 30 trillion through the PEN scheme to the Association of State-Owned Banks (Himbara). This placement of funds aims to encourage banks to distribute loans more quickly. The point is that state-owned banks are more aggressive in distributing new loans so that they can help the economy recover due to the pandemic. There are four (4) state-owned banks that received this assignment, namely Bank Mandiri, Bank BRI, Bank BNI and Bank BTN.

Bank Mandiri is expected to increase lending that focuses on productive, labour-intensive, food security and supports the national logistics system. Bank Mandiri's lending target is IDR 21 trillion. Bank BRI is intended to support business plans in the form of MSME credit expansion for six months until the end of 2020 with a target of IDR 122.5 trillion, while the composition of the micro segment is 88.87 percent, or around IDR 108.8 trillion.

Meanwhile, BNI Bank is expected to focus on boosting credit expansion in the real sector for corporations, medium and small businesses and consumer credit. The target of lending to BNI is within three months of receiving IDR 15.04 trillion in funds. Placement of funds at Bank BTN for lending, which is dominated by the housing sector, especially mortgage loans (KPR). The target of lending to BTN in July-December 2020 is IDR 30.03 trillion.

Investment Loans

Government Investment Loans for National Economic Recovery (IP PEN) are claimed to be one of the government's creative financing support. The claim was based on the Minister of Finance Regulation (PMK) Number 118/PMK/06/2020, concerning Government Investment in the framework of the National Economic Recovery program, namely the placement of a number of funds and/or financial assets in the long term for government investment, in the form of shares, debt securities, and / or direct investment. There are two schemes for placing fresh funds from the government. *First*, direct investment which is a loan with or without conversion rights and / or other equity rights; *Second*, debt securities are issued by BUMN, whether listed or traded on the Indonesia Stock Exchange (IDX) or not, provided that they can be in the form of debt securities with or without convention rights and/or other equity rights.

There are five state-owned companies that have received fresh funds of IDR 19.7 trillion. Among others, (1) PT Garuda Indonesia Tbk (GIAA) amounting to IDR 8.5 trillion; (2) PT Krakatau Steel Tbk (KRAS) worth IDR 3 trillion; (3) PT Perkebunan Nusantara (Persero) amounting to IDR 4 trillion; (4) PT Kereta Api Indonesia (Persero) IDR 3.5 trillion; (5) PT Perum Perumnas (Persero), namely IDR 700 billion.

There are 5 reasons for placing the fresh funds: *First*, the influence or impact on the livelihoods of the community; *Second*, exposure to the financial system; *Third*, the role of potential investment recipients; *Fourth*, government ownership in SOEs as potential recipients of investment; and *Fifth*, total assets owned by BUMN.

Government Insurance

To accelerate economic recovery, the Government launched working capital credit guarantees for Micro, Small and Medium Enterprises (MSMEs). PT Jamkrindo and PT Askrindo are assigned to guarantee MSME business actors for working capital credit provided by banks. After MSMEs are given the flexibility to carry out credit restructuring, they will be given easy access to working capital again. The government allocates support in the form of payment of guarantee fees, counter guarantees, loss limits, or other risk sharing support.

The main objective of the guarantee is (a) Payment Certainty, which is to provide payment certainty for Financial Institutions that have distributed KMK PEN if the debtor fails to pay. (b) Access to Financing, enlarging Debtor's access to sources of financing, (c) Reducing Risk, reducing the risks faced by KMK PEN channeling Financial Institutions for providing credit to KMK PEN Debtors, (d) Developing Productive Businesses, assisting the development of productive businesses undertaken by MSMEs during the Covid-19 pandemic. Through PT Bahana Indonesian Business Development (BPUI), the government has provided a guarantee of IDR 6 trillion, primarily for the guarantee of the KUR program. In addition to guarantees for MSMEs, the government also provides guarantees through PT Penjaminan Infrastruktur Indonesia of IDR 1.57 trillion, for the implementation of corporate guarantees.

The Effectiveness of PEN BUMN

In general, until the end of 2020, the performance of most BUMNs was still not optimal. The total assets of all state-owned companies are close to IDR 8,000 trillion, but their profits are only around IDR 150 trillion. This shows that the rate of return on company assets is still relatively small, which is below 2 percent. In fact, many BUMNs have problems. From a total of 107 state-owned companies, only a handful actually has a sound financial condition and good performance. This is because only about 18 BUMNs routinely pay dividends to the state and drive the people's economy.

Likewise, the performance of state-owned enterprises that receive funding from the government through PEN has not been optimal. Instead of contributing to the economy, BUMNs that receive an injection of funds still have underperformed. Indeed, the benchmark for BUMN performance is not merely profit, but also its socio-economic impact. Primarily for BUMNs that have a public service obligation (PSO). This means that even though the profit is not optimal, BUMN is expected to be able to become the motor of economic power. BUMNs are able to make breakthroughs and play an important role in optimizing services for community needs.

The effectiveness of financial injection through BUMN, can be evaluated from 4 PEN BUMN schemes, including the effectiveness of PMN BUMN. Housing Finance Liquidity Facility Program (FLPP) through PT Sarana Multigriya Finansial (PT SMF). The extent to which this program has effectiveness in providing housing loans, especially can be seen from the amount of bad credit (NPl) in the property sector and the growth in demand for housing loans. At least the initial indicator that can be used is that the Government is forced to re-issue the 0 percent DP policy and lower the PPNBM for housing. This means that the property sector remains severely affected by the pandemic and PEN through PT SMF has not adequately resolved the problem.

In fact, the easiest and most concrete way to evaluate the effectiveness of BUMN PEN is to see its impact on the performance of MSMEs. The reason is, from injection through PMN, placement of government funds, investment to guarantees, it is always narrated to grow MSMEs. Thus, indicators of effectiveness can be seen from their impact in encouraging credit financing, especially MSMEs.

However, in fact, credit growth until the end of 2020 still experienced contraction or negative growth of 2.7 percent. Banking industry lending until the end of December 2020 only reached Rp. 5,482.5 trillion. The contraction was due to a decrease in credit to corporate borrowers who had not made much investment. Likewise, the role of LPEI in encouraging the growth of MSME exports is still very limited.

Ironically, the availability of such large funds is allocated to MSMEs, but it is precisely MSMEs that are the worst affected. At least of the 60 million MSME players, 26 million MSMEs collapsed due to the impact of the Covid-19 Pandemic.

This means that MSMEs are reduced by 50 percent. Even though the overall PEN funds allocated for MSMEs reached 184.8 trillion.

As well as an increase in the portion of financing for MSMEs, in fact only 15 percent of MSMEs are able to access loans from financial institutions. Or only 12.5 percent of MSMEs affected by the pandemic have borrowed capital from banks. Pandemic pressure on MSMEs has also decreased financial profitability and solvency. In 2019, the net profit margin for MSMEs was around 39.33 percent, decreasing to 19.13 percent in 2020.

Furthermore, financing to 25 million MSMEs ends with the status of NPL (non-performing loans), aka failing to pay installments. This is because the turnover or sales of MSMEs has decreased drastically, the average sales are only 10-20 percent of normal turnover. Of course, this income is not enough to pay for salaries, bank interest and operating expenses. Around 93.2 percent of MSMEs had a negative impact on the sales side.

Even more ironic is PMN to encourage the manufacture of vaccines and production facilities for primary medicinal raw materials in the country. Until today, there is no clarity regarding the success of the red and white vaccine which is planned to be produced by PT Bio Farma. The need for vaccines is finally met from imports. The problem is, if you only rely on the supply of imported vaccines, it is predicted that the provision of vaccines for the entire community will only be completed around 2023. Not to mention if countries fight over vaccine supplies, the target time for completion of vaccines can be delayed again.

BUMN Receivables

The ineffectiveness of the injection of BUMN PEN funds is also inseparable from the consistency of the Government. This is because several BUMNs that have received special assignments, the operational costs must be borne by the SOEs that have received their own assignments. Even the compensation payments from these assignments have accumulated in the form of government debt. Until

2020, the Government's debt to 7 BUMNs carrying out assignments is not less than IDR 113.48 trillion. This is because the new government plans to disburse debts to Pertamina for only IDR 45 trillion and IDR 48.46 trillion to PLN. This is despite the fact that the government's accumulated debt to Pertamina has reached IDR 96.5 trillion. In fact, until early June 2020, the disbursement of government debt to Pertamina and PLN was only around IDR 14.3 trillion (9.8 percent).

Here are the details of the Government's debt to the BUMN that received the assignment. *First*, the debt to Pertamina. That is the government's compensation for the difference in retail selling price (HJE) from 2017 to 2019. Debt in 2017 amounted to IDR 20.78 trillion, then in 2018 IDR 44.85 trillion, and in 2019 it was IDR 30.86 trillion. In 2020 the government promised to pay IDR 45 trillion, meaning that IDR 51.5 trillion remains unpaid. In fact, Pertamina really needs these funds to help Pertamina's working capital during the Covid era. Where there was a very significant decline in Pertamina's sales, per day on average it decreased by about 25 percent nationally.

Second, the Government's debt to PLN is IDR 48.46 trillion. That is the government debt for electricity subsidies and compensation. It consists of an electricity tariff compensation fee of IDR 45 trillion, of which in 2018 it was IDR 23.17 trillion, and in 2019 it was IDR 22.25 trillion. Meanwhile, the IDR 3 trillion debt is in the form of an additional subsidy for the household tariff discount policy. Namely, a 100 percent discount subsidy on electricity rates for 450 VA household customers and a 50 percent discount for subsidized 900 VA customers.

Third, collectively, the Government's debt to BUMN Karya is IDR 12.16 trillion. The debt is through the State Asset Management Institute (LMAN) for land acquisition for toll road construction. There are several lands that have been acquired since 2016-year, but the collection process is still due. Among other things, Hutama Karya IDR 1.88 trillion, which is the remaining payment for land purchases or bailout funds from 2016-2020. In addition, Hutama Karya also had to bear the difference in cost of funds of IDR 959 billion, but only received compensation of IDR 466 billion, a shortage of IDR 493 billion. Apart from Hutama Karya, the Government also owes Wijaya Karya IDR 59.9 billion in the form of a shortage of replacement of land acquisition for the Serang-Panimbang toll road project from 2018-2020. The largest is the debt owed to Waskita Karya totaling IDR 8.9 trillion, including for land acquisition for toll roads of 3.71 trillion.

Fourth, the Government's debt to Pupuk Indonesia is IDR 6 trillion. Most of it comes from the debt compensation for fertilizer subsidies provided through Pupuk Indonesia. Of course the delay in disbursing these subsidies can pose a big risk to the timely availability of fertilizers that are needed by farmers. If fertilizer distribution is constrained, food productivity will also be directly affected. As is known, since March 2020 in several areas farmers have had difficulty obtaining subsidized fertilizers.

Fifth, the Government's debt to PT Kimia Farma is IDR 1.13 trillion. This includes the debt to BPJS Kesehatan, including the assignment for handling Covid-19, in which as of April 30, 2020, the debt reached IDR 1.13 trillion. The debt debtors include BPJS Health, Health Service, Government Hospital, TNI Hospital, and Police Hospital. As a result of unpaid receivables, Kimia Farma experienced cash flow difficulties. Including Kimia Farma's debtors, whose role is very much needed in facing the pandemic.

Sixth, the Government recorded that its debt to Perum Bulog was Rp. 560 billion. Meanwhile, Perum Bulog recorded government debt of IDR 2.6 trillion. Among others, the assignment debt since 2018 amounted to IDR 3.1 trillion, new payments of IDR 566 billion, so that the debt is IDR 2.6 trillion. The debt consists of the 2019 Sugar Food Price Stability Reserve (CSHP) activity of IDR 1.35 trillion; Procurement of Government Rice Reserves (CBP) for Supply Availability and Price Stabilization (KPSH) in the fourth quarter of 2019 IDR 369 billion, including the KPSH rice program for the first quarter of 2020 of IDR 837.84 billion, distribution of rice for 2018 natural disasters of IDR 8.01 billion, and 2019 natural disaster assistance of IDR 39.01 billion.

Seventh, the Government's debt to PT Kereta Api (KAI) is IDR 300 billion. Around IDR 257.87 billion debt is due to the government's shortage of payment for KAI passenger ticket subsidies. Meanwhile, government debt related to PSO in accordance with the

2015 BPK Audit Results Report (LHP), the government underpayments amounted to IDR 108.27 billion. Then, in 2016, the underpayments amounted to IDR 2.22 billion, and for 2019 underpayments of IDR 147.38 billion.

Food Sector: Not a Priority

Food is one of the sectors that is most seen growing to drive the economy. The agricultural sector, which is quite resilient or able to survive a pandemic, is even still recording positive growth. The contribution of the agriculture, forestry and fisheries sectors to gross domestic product (GDP) has even increased amid the Covid-19 pandemic. BPS noted, the agricultural sector contributed 13.7 percent in the 2020 national economy. This contribution has increased compared to 2019 which amounted to 12.7 percent.

On the other hand, this sector, which is relatively Tangguh, does not receive adequate attention by the Government. In fact, during 2020 the Government has reduced the amount of fertilizer subsidies. The need for subsidized fertilizer is around 23 million tons, but the Government only allocates around 9 million tons of subsidized fertilizer or there is a shortage of around 14 million tons. As a result, it is not only difficult for farmers to get subsidized fertilizers, even finding non-subsidized fertilizers. Meanwhile, the Government is actually discussing rice imports, which has resulted in a fall in the purchase price at the farmer level.

In fact, the government has many state-owned companies operating from upstream to downstream that are able to protect farmers, as well as to encourage productivity and efficiency in the agricultural sector. Among others: First, Bulog Corporation. The role of Bulog should remain consistent as an off taker for farmers, especially in absorbing farmer's grain / rice. However, Bulog must also be given an instrument to distribute the "non-commercial" rice to the public. Previously, Bulog was given tasks with both public service obligation (PSO) and commercial schemes. Throughout 2020, Bulog realized domestic procurement of 1.257 million tons, equivalent to rice. Previously, the realization of procurement throughout 2019 amounted to 1.201 million tons, equivalent to rice. In 2020, Bulog distributed 1.027 million tons of government rice reserves for market operations, the 2020 Sembako Beras program (316,906 tons), and rice social assistance (450,000 tons). The stock at the end of 2020 is around 990,000 tons of rice equivalent. With the position of Bulog stocks that are still safe, Bulog should be used as a reference for making rice import policies and protecting farmers.

Perum Perikanan Indonesia (Perindo), it should be optimized to expand the number of partnerships with fishermen networks, fisher cooperatives, and cultivators. Fish absorption is targeted to increase by 151.51 percent annually, from 5,143 tons in 2020 to 12,917 tons in 2021. The number of cultivation partnerships is targeted to increase by 217.6 percent from 551 partners in 2020 to 1,750 partners in 2021. This BUMN should be optimized to increase productivity and welfare of fishermen and fish cultivators.

PT Berdikari (Persero) is tasked with maintaining food prices, especially chicken meat, so as not to boil and harm farmers. Stand alone in bringing together breeders with a regional partnership pattern. In each region, there are local integrators who have access to farmer groups, slaughterhouses and sales channels. Unfortunately, PT Berdikari was not able to play much role when there was an oversupply of domestic poultry. The low purchasing power of the people has caused demand to fall so that the price of ungags has fallen. Finally, to stabilize prices, the Government was forced to implement a policy of "cutting" live chicken slaughter to prevent oversupply. State-owned enterprises, such as voting, should play an optimal role in maintaining increased productivity and stabilizing prices.

In the future, BUMN food clusters are planned to form a holding, which is likely to be chaired by PT Rajawali Nusantara Indonesia (Persero). The goal is to integrate the food business from upstream to downstream in one business governance. Under the umbrella of the BUMN food cluster, the upstream business will be under the responsibility of PT Pertani (Persero) which will be merged with PT Sang Hyang Sri (Persero), including integrating the warehouse business of PT Bhanda Ghara Reksa (Persero) or BGR, the trading and distribution business of PT Perusahaan Perdagangan Indonesia (Persero) or PPI.

Part III

Ensuring an Accountable National Economic Recovery Policy

Indonesia Corruption Watch - 2021

Ensuring an Accountable National Economic Recovery Policy

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This paper is a legal study regarding the National Economic Recovery (PEN) policy implemented by the Government of Indonesia in the face of the Covid-19 pandemic. The main questions of this study are; how to ensure the accountability of the National Economic Recovery policy from a legal and statutory perspective? This paper finds three things; *First*, there has been (oversized) authority in changing the state budget by the government; *Second*, the impunity for a number of economic instruments and structures in the PEN argument; *Third*, the lack of internal and external supervision in the use of state budgets. Using the normative juridical study method, this paper emphasizes the importance of checks and balances in the implementation of PEN to avoid unnecessary deviations by means of salvage.

Keywords: Economic Recovery, Covid-19, State Owned Enterprises

Introduction

In a Cambridge Econometric discussion, it was emphasized that economic rescue is of secondary importance in a pandemic. Indeed, there is a tendency to pay more attention to the economy and this is often seen as a misguided obsession with Gross Domestic Receipts. In a pandemic, the top priority of a policy should be to ensure as many people as possible are saved by reducing suffering as much as possible.[7]

Even though the economic impact is considered a secondary factor, it still plays an important role in overcoming the pandemic. The existence of a pandemic allows side effects on the economy which also have an impact on increasing community problems. The existence of a pandemic not only causes problems in terms of supply and demand or a reduction in labor which has an impact on the welfare of the country.

The classic study of the Kermack and McKendrick traditions shows the relationship between community interaction and transmission rates.[8] However, this model would not be sufficient because it generally does not allow for the interaction between community economic decisions and the level of transmission. This absence of interaction limits their usefulness for forecasting and policy analysis. So for Ecihenbaum, et al, (2020) there is a need for a trade-off between the economy and health policy in the face of the Covid-19 pandemic.[9]

The form of trade off between health and economy carried out by the Indonesian Government in dealing with Covid-19 was clearly seen in the issuance of Government Regulation in lieu of Law No.1 of 2020 concerning State Financial Policy and Financial System Stability for Handling the Corona Virus Disease (Covid-19)

7 Hector Pollitt, Coronavirus: how to model the economic impacts of a pandemic, https://www.camecon.com/blog/coronavirus-how-to-model-the-economic-impacts-of-a-pandemic/ published date 10th March, 2020, diakses pada 28 Februari 2021.

8 Kermack, W; McKendrick, A (1991). "Contributions to the mathematical theory of epidemics – I". Bulletin of Mathematical Biology. 53 (1–2): 33–55. doi:10.1007/BF02464423. PMID 2059741.

9 Martin Eichenbaum, Sérgio Rebelo, Mathias Trabandt , The trade-off between economic and health outcomes of the COVID-19 epidemic, 20 July 2020https://voxeu.org/article/trade-between-economic-and-health-outcomes-covid-19-epidemic, diakses pada 28 February 2021. https://nasional.kompas.com/read/2020/05/13/13550511/perppu-nomor-1-tahun-2020-untuk-tangani-pandemi-covid-19-resmi-jadi-uu?page=all

Pandemic and / or in the Context of Facing Threats that Endanger the National Economy and / or Financial System Stability on March 31, 2020.

Criticism of the 2020 Perppu 1 also arose in the opinion of the factions before discussing the Perppu of Covid-19 stability. Almost all factions provide notes on this Perppu, but in making decisions 8 out of 9 factions approved this Perppu to become Law Number 2 of 2020 concerning Stipulation of Government Regulations in Lieu of Law Number 1 of 2020 Concerning State Financial Policy and Financial System Stability for Handling Pandemic Coronavirus Disease 2019 (Covid-19) and/ or in the Context of Facing Threats that Endanger the National Economy and / or Financial System Stability to Become Law (Law 2 of 2020) at Plenary Session III 2019-2020 Session, 12 May 2020.[10]

Through Perppu 1 of 2020 which was passed into Law 2 of 2020, a new legal term was born called the National Economic Recovery (PEN). Although it does not provide a clear definition of what is meant by PEN, the existence of Article 11 of Law 2 of 2020 is a reference in the formation of other regulations in Indonesia. A number of irregularities, such as the absence of a clear definition of PEN in the law, oversized authority, unusual impunity and the possibility of weakening supervision became separate notes in the birth of the PEN.

This paper will discuss the issue of PEN from the perspective of constitutional law. The main question in this study is how to ensure the accountability of the National Economic Election policies in the perspective of law and legislation? At least, every act in the 'emergency' consolidation as born in the context of handling Covid-19 must still be reasonably accounted for.

Based on the background as mentioned above, this paper will be presented in five parts. The first part is a background section that explains financial policies in times of a pandemic or emergency. Furthermore, the second part describes the construction of state policies - related to PEN - which allow oversized authority in the financial sector. The third part discusses the practice of impunity given by Law 2 of 2020 for PEN so that it will be difficult to pursue policy accountability with the

10 https://nasional.kompas.com/read/2020/05/13/13550511/perppu-nomor-1-tahun-2020-untuk-tangani-pandemi-covid-19-resmi-jadi-uu?page=all

PEN argument. The fourth section discusses supervision in the concept of checks and balances in the implementation of PEN in Indonesia. The fifth part will discuss the conclusions and suggestions in this study.

PEN and Oversized Practices of State Budget Authority

The proposition of '*Salus populi suprema et sola lex esto*' or what can be interpreted as saving the people must be the highest law as argued by Cicero[11] often used by the government in making policy exceptions during the Covid-19 pandemic. One of them is by issuing a government regulation in lieu of law through reference to the authority of Article 22 of the 1945 Constitution.[12]

Constitutionally, in presidential states, the President is given a little authority to formulate legislation in a situation of urgent urgency. This is because, in practice, the formation of laws needed to respond to a condition that is deemed urgent cannot be carried out by an ordinary legislative process. In this condition, Perppu 1/2020 was born.

Like a product of legislation in the form of a perppu is not an argument to lose principle in the preparation of good legislation. A number of principles must still be used in the making so as not to cause multiple interpretations and still guarantee legal certainty for stakeholders.

Suppose that '*Necessitas non habet legem*'[13] – as lawless emergencies is actually a classic view. The use of emergency law nowadays has emphasized more on the form of the *exante* approach which emphasizes in limiting the authority of the exceptions given during an emergency. The construction of an exemption with certain limitations provides assurance that powers conferred in an emergency will not amount to what Rossiter fears is a dangerous constitutional dictatorship.

11 Cicero, Marcus Tullius . de Legibus . III . Teks lengkap gratis dari Perpustakaan Latin . lihat Ollis salus populi suprema lex esto, https://i5rbldvwknjaggpbreueyx6ocy-nqtbbxgkbb4p4-thelatinlibrary-com.translate.goog/cicero/leg3.shtml.

12 Article 22 of the 1945 Constitution
(1) In compelling circumstances, the President has the right to stipulate government regulations in lieu of laws.
(2) This government regulation must obtain the approval of the House of Representatives in the following sessions.
(3) If there is no approval, the government regulation must be revoked.

13 https://www.oxfordreference.com/view/10.1093/acref/9780195369380.001.0001/acref-9780195369380-e-1429

Perppu 1 of 2020, which was ratified as Law 2 of 2020, has given a large number of powers to the government with the argument of an emergency. One of them is the National Economic Savings (PEN). The clause regarding the National Economic Recovery was first encountered in the fourth part of Law 2 of 2020, namely the Implementation of the National Economic Recovery Program. Article 11 of Law 2 of 2020 concerning PEN states;

(1) In order to support the state financial policy as referred to in Article 1 paragraph (4) and in order to save the national economy, the Government shall carry out a national economic recovery program.

(2) The program as referred to in paragraph (1) is aimed at protecting, maintaining and enhancing the economic capacity of business actors from the real sector and the financial sector in carrying out their business.

(3) The national economic recovery program as referred to in paragraph (1) and paragraph (2) can be implemented through State Equity Participation, Government funds and / or investment, and / or guarantee activities with a scheme stipulated by the Government.

(4) State Equity Participation as referred to in paragraph (3) shall be conducted through appointed State Owned Enterprises (BUMN).

(5) Placement of Government funds and / or investments as referred to in paragraph (3) can be carried out directly by the Government and / or through financial institutions, investment managers, and / or other appointed institutions.

(6) The guarantee scheme as referred to in paragraph (3) can be carried out directly by the Government and / or through one or several designated guarantee business entities.

(7) The implementation of the national economic recovery program shall be further regulated by a Government Regulation.

This provision then becomes the legal umbrella for all PEN policies carried out by the government. Some of the PEN programs mentioned in the Law are State Capital Participation, placement of Government funds and / or investments, and / or guarantee activities with a scheme stipulated by the Government.

Then, in a slumping economy, how do you pay for PEN? The answer to this question can be found in Article 19 paragraph (1) of Law 2 of 2020. This provision states that Bank Indonesia can purchase long-term Government Securities and / or Sharia Securities on the primary market which are designated as a source of funding for the Government. Funding sources for the Government are used in the context of national economic recovery, including maintaining the sustainability of state financial management, providing loans and additional capital to the Deposit Insurance Corporation, as well as funding for banking restructuring during times of crisis.

A glance at reading a legal text, it appears that there is no problem in the clause above. However, in the context of statutory regulations, it is necessary to have clarity of definition in each clause which becomes a reference in the formation of other regulations under it.

The definition of PEN, and many other definitions, is not found in Law 2/2020. As a law class product, the absence of general provisions containing the construction of the definition of the terms used is very unusual. Law Number 12 of 2011 concerning the Formation of Legislative Regulations provides standards regarding the formation of legislative products by including general provisions. Law 12 of 2011 states that general provisions contain academic formulations regarding the meaning of terms and phrases. It is through these general provisions that the construction of the conceptual boundaries used in the derivative regulations is formed.

The definition of the new PEN can be found in Government Regulation Number 23 of 2020 concerning Implementation of the National Economic Recovery Program in the Framework of Supporting State Financial Policy for Handling the Corona Virus Disease 2019 (COVID-19) Pandemic and / or Facing Threats Endanger the National Economy and / or Stability Financial System and National Economy Rescue. Through the title alone, two different clauses related to the national economy can be found. First, there is a clause "National Economic Recovery" and second, there is a clause "National Economic Recovery".

According to the general provisions in PP 23/2020, the definition of the concept of National Economic Rescue has begun to be constructed.

> **'The National Economic Recovery Program, hereinafter referred to as the PEN Program, is a series of activities for the recovery of the national economy which is part of the state financial policy implemented by the Government to accelerate the handling of the Coronavirus Disease 2019 (COVID19) pandemic and / or face threats that endanger the national economy - and / or financial system stability as well as saving the national economy '.**

Through a delegation from Article 11 paragraph (7) of Law 2 of 2020, PP 23 of 2020 was formed which then gave a number of powers for the Government to divert a number of economic policies with the PEN argument. So that the government then added funds to BUMN in the PEN 2020 program worth 75 trillion with details, namely 56 trillion state capital participation and 15 trillion bailout loans. Furthermore, in 2021 the allocation of PEN in the PMN category will be at 42.38 trillion.

Then, where did these hundreds of trillions of figures come from? The 2020 State Revenue Expenditure Budget does not recognize the PEN scheme. This is because the APBN and Revised APBN were passed in the context of non-Covid19. The presence of these figures is the result of government policy to change the APBN independently. This is where the constitutional conflict arises.

Perppu 1 of 2020 which has been passed into Law 2 of 2020 provides the authority for the Government to amend the APBN without the need for involvement from the House of Representatives (DPR). The fifth part of Article 12 of Law 2 of 2020 states;

Article 12

(1) The implementation of state financial policies and measures as referred to in Article 2 to Article 11 shall be carried out with due observance of good governance.

(2) Changes in posture and / or details of the State Revenue and Expenditure Budget (APBN) in the framework of implementing state financial policies and steps as referred to in Article 2 to Article 11 shall be regulated by or based on a Presidential Regulation.

Article 12 paragraph (2) of Law 2 of 2020 provides the authority to amend the APBN with a Presidential Regulation. Whereas the authority to change the APBN is contained in the constitution, namely Article 23 of the 1945 Constitution which states;

Article 23

(1) The state revenue and expenditure budget as a form of state financial management is stipulated annually by law and implemented openly and responsibly for the greatest prosperity of the people.

(2) The President proposes a draft law on state revenues and expenditures to be discussed with the House of Representatives by taking into account the considerations of the Regional Representative Council.

(3) If the House of Representatives does not approve the draft state revenue and expenditure budget proposed by the President, the Government shall implement the State Revenue and Expenditure Budget for the previous year.

The construction of the 1945 Constitution requires that the APBN (including the revised APBN) be ratified by law and with the approval of the DPR. This is a form of the representation function of the DPR as the legislature. This concept is used in the slogan 'no taxation without representation' where the people must be involved in making state financial policies through representative institutions.[14] Unfortunately, Perppu 1 of 2020 which was passed into Law 2 of 2020 deliberately and firmly regulates the permissibility of changing the APBN through Presidential Regulation, namely Number 54 of 2020 concerning Posture Changes and Details of the State Budget for Fiscal Year 2020. This certainly violates the basic concept representatives in the management of state finances.

The danger point that may arise with the issuance of Law 2 of 2020 is that there is no clear definition of the clause in it. This also includes PEN (as previously explained). The government (without any approval from the legislative body) can easily change its budget posture only by unilaterally Presidential Regulation with the argument of Covid-19, the threat of economic stability or PEN. The absence of adequate legislative construction makes government actions in the management of state finances difficult to justify. On the other hand, the construction of legislation creates potential protection (impunity) in abusing state finances in a very neat manner.

Questioning PEN for BUMN has indeed been amended several times by the Minister of Finance.[15] So it is very easy for state finances in the amount of hundreds of trillions to be transferred only by policies from the ministry or government. The government's authority to disburse funds to BUMN must be carried out with extreme caution. Because according to Toto Pranoto, the performance of BUMN in 2019 with assets of around IDR 8,000 trillion only got a profit value of IDR 150 trillion. This indicates that disbursing funds to BUMN is basically not very profitable because the ROA value is only around 3 percent.[16]

According to the author, the location of the potential problem caused by PEN BUMN is one of the many potential irregularities due to improper legal construction. The birth of the text in Perppu 1 of 2020 which was later passed into Law 2 of 2020

14 https://constitutioncenter.org/blog/250-years-ago-today-no-taxation-without-representation#:~:text=The%20Stamp%20Act%20Congress%20met,lacked%20representation%20in%20British%20Parliament.

15 https://ekonomi.bisnis.com/read/20200616/9/1253300/naik-lagi-dana-pemulihan-ekonomi-nasional-hampir-tembus-rp700-triliun-

16 https://bumninc.com/evaluasi-kinerja-bumn-dalam-pemulihan-ekonomi-nasional-pen/?more=4

has given excessive authority to the Government to change state finances based on the Covid-19 argument and state financial instability (which may not be related to Covid-19). The construction of this law also does not provide an adequate oversight mechanism.

Not a few experts, even researchers from Australia, Tim Lindsey and Tim Mann, think that Jokowi's government policies emphasize economic issues rather than health issues.[17] For the author, this can be seen clearly from the posture and design of government policies through the material components in Law 2 of 2020. The content of health issues seems lame compared to economic issues; almost 90 percent of the contents of the law contain content related to state finances, even though it is necessary to have a statutory instrument for the protection of health workers and legal protection of health policies. However, this is not reflected in Law 2 of 2020.

The government's oversized power practice seems to focus on finance. So that the regulatory component starting from the taking of authority to change the APBN from the DPR was also prepared in the Perppu 1 of 2020 which was passed in Law 2 of 2020. Furthermore, the practice of oversized power is also carried out in various changes in budget posture which ultimately results in a lack of representation, supervision and justification for financial use. country.

17 Tim Lindsey and Tim Mann, Indonesia was in denial over coronavirus. Now it may be facing a looming disaster. https://theconversation.com/indonesia-was-in-denial-over-coronavirus-now-it-may-be-facing-a-looming-disaster-135436. Diakses pada 28 februari 2021

PEN and Impunity

In addition to giving a large amount of authority to the government to self-regulate state finances, Law 2 of 2020 also provides a large amount of impunity to various institutions and state apartments with the argument of **National Economic Recovery**. It is stated in Article 27 paragraph (1) of Law 2 of 2020 as follows:

> 'The costs that have been incurred by the Government and/or KSSK member institutions in the context of implementing state revenue policies, including policies in the field of taxation, state expenditure policies including policies in the regional finance sector, financing policies, financial system stability policies, **and the national economic recovery program, are part of the of the economic costs of saving the economy from the crisis and not of a loss to the state** '

Article 27 of Law 2 of 2020 is one of the clauses that has received a lot of reactions from the public. This Perppu then gets pros and cons in the community. Not a few of the people submitted applications for the judicial review of Perppu 1 of 2020 to the Constitutional Court. The main reason for the birth of this judicial review is the various granting of powers given to the government based on the Covid-19 argument and the national economy. Some of the arguments presented are: the possibility of cartel practices, mal-administration of the state budget, abuse of power, moral hazard due to the existence of legal immunity from government officials such as KKSK. In addition, there are provisions regarding the elimination of the DPR's budgeting authority / APBN which can be amended by the government itself.

The practice of immunity or impunity from possible criminal acts that cause state losses is a separate question mark for the community. Why is impunity given only in the economic sector? Why not the protection of health workers and the application of health protocols in more detail? There is a tendency to protect economic measures - and not health measures or health protocols - so that there are many suspicions about this Perppu / UU.

Although it is often used in the human rights literature, impunity technically means ‘release from punishment or loss or escape from a fine’. According to Paul Avakian, impunity usually occurs in corrupt governments, weak judiciary and impunity against the law.[18]

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18 Avakian, Paul (2018). “Penolakan dalam Bentuk Lain” . Studi dan Pencegahan Genosida . 12 (1): 3–23. doi : 10.5038 / 1911-9933.12.1.1512 . ISSN 1911-0359 .

Supervision of the Implementation of PEN

How to supervise PEN and what are the sanctions for irregularities that may occur in it? Continuing to discuss the practice of impunity and not severe penalties for deviating PEN during a pandemic (non-natural disasters), the authors consider that supervision and legal settlement are minimal.

The simple corruption crime, such as the case of Social Minister Juliari in the Covid Bansos Fund Corruption case, is one of the simple cases.[19] However, in the provision of PEN, the existence of policies with the argument of saving may also arise, such as in the case of the BLBI mega corruption. This is because, the existence of financial irregularities does not involve one or two simple parties, but the national financial policy.

In addition to the constitutional issue as explained in the second part of this paper, the issue of supervision may also be a saviour in protecting state money in PEN in BUMN. Specifically, BUMN has two sides in a development concept. On the one hand, SOEs organize their businesses independently to provide finance to the state. On the other hand, SOEs are also included as state administrators because they have the duty to carry out state functions in the constitution (for example regarding the fulfillment of welfare).

State-owned enterprises are also bound to act as state administrators. This provision can clearly be seen in the explanation of Article 2 point 7 of Law Number 28 of 1999 concerning State Administrators who are Clean and Free from Corruption, Collusion and Nepotism which states;

> *What is meant by "other officials who have a strategic function" are officials whose duties and authorities carry out the administration of a country prone to practices of corruption, collusion and nepotism, which include:*
>
> 1. ***Directors, Commissioners, and other structural officers at State-Owned Enterprises and Regional-Owned Enterprises;***
> 2. *Chairman of Bank Indonesia and Chairman of the Indonesian Bank Restructuring Agency;*

19 https://www.cnnindonesia.com/nasional/20201221083701-12-584563/korupsi-dana-bansos-mengalir-sampai-jauh

3. Leaders of State Universities;

4. Echelon I Officials and other equalized officials within the civil, military and National Police of the Republic of Indonesia;

5. Prosecutors;

6. Investigators;

7. Clerk of the Court; and

8. Project leaders and treasurers.

PEN supervision regulated in PP 23/2020 is contained in Article 24 paragraph which basically regulates internal supervision which then further regulates it with a Ministerial Regulation. Article 25 PP 23 of 2020 gives authority to the Financial and Development Supervisory Agency to carry out internal supervision of the implementation of the PEN Program.

There is no clarity regarding the indicators of success in this surveillance. The supervision is basically only administrative in nature. The absence of supervisory indicators and administrative sanctions that may arise will clarify the looseness of the PEN policy (loose policy). However, this concession should not be made during a pandemic emergency, because the government should work with high indicators to restore conditions to normal conditions.

The author feels it is necessary to involve other branches of power to pay special attention to supervision as a form of checks and balances. Another branch of power is in the legislative power, namely the power held by the DPR. Based on the 1945 Constitution, the DPR has the authority to carry out a supervisory function as well as a budget function.

Article 20A

(1) The House of Representatives has a legislative function, a budgetary function and a supervisory function. **)

(2) In carrying out its functions, apart from the rights stipulated in other articles of this Basic Law, the House of Representatives has the right to interpellation, the right to inquiry and the right to express an opinion. **)

(3) Apart from the rights stipulated in other articles of this Basic Law, every member of the House of Representatives has the right to ask questions, submit suggestions and opinions as well as the right to immunity. **)

(4) Further provisions regarding the rights of the House of Representatives and the rights of members of the House of Representatives are regulated in law. **)

The importance of parliament in providing oversight to PEN is an effort for the legislature to carry out its functions as mandated in the constitution. The author provides a special note for the supervision of the DPR during a pandemic, where the DPR tends to use a business as usual approach where the DPR does not give priority and special supervision to strengthen the implementation of handling pandemics and PEN. On the contrary, the parliament quickly passed bills that were not closely related to Covid-19 or PEN.

Evidence of the concentration on health recovery and economic recovery is a priority that parliaments are not aware of. So it is important for the DPR to carry out tighter supervision in implementing PEN and handling Covid-19. The accountability of government actions in PEN and BUMN as implementers of PEN does not actually result in state losses as predicted. Or if there is a form of state loss, it can still be accounted for fairly in the eyes of the law.

Conclusions and Recommendations

Based on the study as described in sections 1-4, the authors conclude that there is a potential state loss that must be accounted for. The authority to change the APBN through a presidential regulation must be reviewed immediately. In a pandemic condition that shows signs of gradual improvement, the authority to end the formation of the APBN independently by the Government must be returned to the provisions in Article 23 of the 1945 Constitution.

The existence of PEN, which is specifically intended for BUMN, must be held accountable and accountable. The existence of a clause in Article 27 of Law 2 of 2020 which provides impunity should be specifically regulated regarding what is considered not a loss and what is not considered a loss to the state.

The DPR as a branch of power is capable of providing checks and balances for the Government. Therefore it is important for the DPR to carry out special supervision with the agenda of handling Covid-19 and PEN. Therefore, the roles of DPR and DPD are very important in the context of supervision that is not accommodated in laws and regulations.

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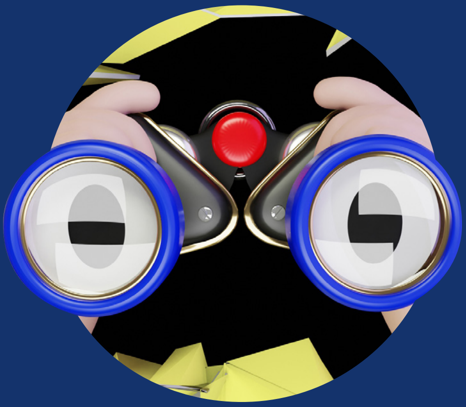

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